

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

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 Summer Village of Rochon Sands, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the County of Stettler No. 6.

BEFORE:

Members:

T. Helgeson, Presiding Officer
T. Golden, Member
D. Thomas, Member

Secretariat:

Richard Duncan, Case Manager
Rhea Shelton, Assistant Case Manager

SUMMARY

After careful examination of the submissions from the Summer Village of Rochon Sands, The County of Stettler No. 6, affected landowners, and other interested parties, the Municipal Government Board (Board) makes the following recommendation for the reasons set out in the Board report, shown as Appendix A of this Board Order.

Recommendation

That the annexation not be approved as applied for by the Summer Village of Rochon Sands.

Dated at the City of Edmonton, in the Province of Alberta, this 26th day of August 2011.

MUNICIPAL GOVERNMENT BOARD

(SGD.) T. Helgeson, Presiding Officer

APPENDIX A

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE
MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE SUMMER VILLAGE OF ROCHON SANDS PROPOSED
ANNEXATION
OF TERRITORY FROM THE COUNTY OF STETTLER**

Contents

EXECUTIVE SUMMARY	3
INTRODUCTION	8
PART 1 PRE-HEARING PROCESS	10
Background to the Application	10
Role of the Board, the Minister and the Lieutenant Governor in Council.....	11
Preliminary Hearings	11
PART 2 ANNEXATION HEARING.....	13
Annexation Hearing Notification Process	13
List of People Making Submissions to the Board at the Merit Hearing.....	13
For the Summer Village:.....	13
For the County	14
Landowners/Public (Written and/or Oral Submissions).....	14
Overview of the Municipalities' Submissions.....	15
Summary of Landowner Submissions	16
Issues.....	27
1. Application and Hearing Process	28
2. Growth and the Need for Land	32
3. Community and Planning.....	38
4. Financial Impact	48
PART 3 FINDINGS SUMMARY AND RECOMMENDATION.....	58
List of Exhibits.....	60

EXECUTIVE SUMMARY

[1] The Summer Village of Rochon Sands (Summer Village) is located on the south shore of Buffalo Lake (Lake), approximately 80 kilometers northeast of Red Deer and 180 kilometers southeast of Edmonton. The Summer Village was founded in 1929 and the main attraction in the area is the Lake. As of 2006 there were 66 permanent residents in the Summer Village with the seasonal population estimated to be 602. The municipality has approximately 172 residential properties, of which about 33 are occupied year round.

[2] Pursuant to s. 116 of the *Municipal Government Act* (Act), on November 6, 2007, the Municipal Government Board (Board) received a notice of intent from the Summer Village to annex lands from the County of Stettler No. 6 (County). In accordance with s. 118 of the Act, on January 2, 2009, the Board received the Report on Negotiations from the Summer Village with a request to proceed with the annexation. The Summer Village believes the proposed annexation will provide land for future growth and will recognize the existing community.

[3] The Report on Negotiations identified the Summer Village and the County had not reached an agreement regarding the proposed annexation. After reviewing the documentation provided by the Summer Village, the Board determined that there was “No General Agreement” with the proposed annexation, thus triggering proceedings under s. 121 of the Act.

[4] In accordance with that section, the Board conducted a preliminary hearing to address jurisdictional issues, establish document exchange dates, and set the merit hearing dates. A second preliminary hearing was scheduled, but it proved unnecessary and was cancelled at the two municipalities’ request. The Board conducted a merit hearing from May 30 to June 3 to hear from all parties involved in the proposed annexation.

Issues

[5] During the course of the merit hearing, the Board received written and oral submissions from the Summer Village and the County as well as many affected landowners and members of the public. The major issues identified by the parties included: the annexation process, growth and the need for land, community and planning, and financial impacts. Each of these issues is discussed briefly below followed immediately with a summary of the findings of the Board.

Annexation Process

[6] S. 117 of the Act indicates if municipal authorities cannot negotiate an agreement they must attempt mediation. The Summer Village stated that the County refused to negotiate in good faith and failed to engage in a mediation process in this proceeding. The County responded it does not support the proposed annexation and maintained it is illogical to expect a municipality to negotiate an agreement for parts of an annexation when there is no support for annexation of

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

any lands proposed to be annexed. In the County's view, the Act recognizes that not all annexation applications will be the subject of an agreement between the municipalities.

[7] The Board finds mediation was attempted by the parties; however, mediation failed. The Board acknowledges that the County attended only one negotiation / mediation meeting despite numerous requests from the Summer Village to continue the discussions. The Board is somewhat disappointed additional negotiation / mediation meetings between the two municipalities did not take place, as this might have allowed the two municipalities to reach agreement or reduced the number of issues brought before the Board. Every effort should be made for the municipalities to reach agreement. Negotiations are in keeping with the Act and the Provincial Land Use Policies. The fifteen annexation principles outlined in previous Board Orders also reflect the importance of cooperation and negotiation between municipalities. The Board considers mediation to be an important component of the annexation process, in that it facilitates open communication and cooperation between municipalities in all possible areas. As such, mediation should not be taken lightly. Although municipalities involved in the annexation process are encouraged to cooperate and collaborate, the Act does contemplate a situation where the affected municipal authorities or the public are not in agreement with the proposed annexation.

Growth and the Need for Land

[8] The Summer Village argued it is growing and needs land to accommodate future growth. The Summer Village emphasized that its situation is unique in that the undeveloped land in the municipality has been owned by an developer that has been unwilling to develop it throughout most of its history. Therefore, a unique growth study was required, rather than the traditional method of using the historical growth projections from within the Summer Village. The Summer Village argued historical development in the surrounding areas demonstrates there will be growth in the area immediately surrounding the municipality in the near future. Furthermore, the projections detailed in the Summer Village of Rochon Sands 2007 Growth Study, prepared by Austrom Consulting Ltd. (Austrom Report), which looked at the 2010 Buffalo Lake Intermunicipal Development Plan (2010 BLIDP), demonstrated growth will occur. The County stated the Austrom Report is not a helpful analysis because no attempt is made to evaluate demand in order to provide a basis for projecting the rate of consumption of lots. The County argued, based on historical growth rates in the area, the Summer Village has enough developable land for the future.

[9] The Board accepts that the 2010 BLIDP designates the South Shore Growth Node as a significant growth area, and therefore the land around the Summer Village is likely to develop sometime in the future. Furthermore, the proposed annexation would provide the municipality with additional land for growth. At the same time, the Summer Village already has 106 acres of undeveloped land within its current borders. The Board is not convinced that land is currently frozen. Rather, the 106 acres will likely be developed given appropriate market conditions.

Community and Planning

[10] The Summer Village submitted that a key consideration of the proposed annexation application is that it would recognize officially the existing Summer Village community. The proposed annexation would allow residents in the proposed annexation area to be more involved in the administration of the municipality, both socially and politically. The County submitted community ties between the Summer Village and the residents within the proposed annexation area have not been impeded by the current boundary. In addition, those ties will continue even if the annexation is not approved.

[11] The Summer Village argued the proposed annexation would allow it to have more control over development in the area, which would be in keeping with its desire to preserve its vision of a Lakeshore community. The Summer Village stated the future Area Structure Plan (ASP) between the three municipalities in the South Shore Growth Node, which is required by the 2010 BLIDP, is not an adequate solution to the issues presented in this application. The three municipalities in the South Shore Growth Node are the Summer Village, the County and the Summer Village of White Sands. The Summer Village stated that it would not be able to substantially influence development along its borders through the ASP. The County argued the 2010 BLIDP and, in turn, the future ASP will address the planning concerns expressed by the Summer Village in this application for annexation.

[12] The Board acknowledges community is not explicitly listed as one of the fifteen principles of annexation recognized in its previous recommendations. However, community can be seen as an implied component of planning and is therefore a relevant issue. That said, community is only one of many factors the Board considered in determining the reasonableness of this application. In order for an annexation to be allowed, community factors must be supported and complemented by other important factors, such as the provision of services, reasonable growth projections and financial viability.

[13] The Board notes it is possible the proposed annexation could assist in supporting the fundamental administration of the Summer Village and unite the community. Allowing the Summer Village residents and the residents in the proposed annexation area to become one legal entity will increase the sense of community and lead to a positive impact on volunteer and community involvement. The annexation would also allow landowners in the proposed annexation area to have more political and financial input into the Summer Village, which could also contribute to the sense of community. However, the Board also recognizes that the sense of community around the Summer Village already exists. Furthermore, the Board heard no evidence to suggest this kinship would be negatively impacted if the annexation were not allowed.

[14] The Board recognizes the Summer Village's desire to maintain the unique culture or character of the community and, therefore, acknowledges its concern over the compatibility of uses in the surrounding area. The Board accepts that the Summer Village has a greater

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

understanding of the function of its community than the County would have, which gives the Summer Village more insight into how that function can be cultivated and sustained within its jurisdiction. The Board also acknowledges the concerns from the Summer Village and the affected landowners over Lake stewardship and protection of the environment. The Board notes that the County has significant development standards with regard to the environment; however, the Board finds that the Summer Village would be more aware of the potential impacts of development on the environment, given its proximity to the area and local knowledge of the region. At the same time, the Board finds that a future IDP between the two municipalities and the future ASP, required by the 2010 BLIDP, will guide development and address many environmental issues identified by the Summer Village. The 2010 BLIDP will give the Summer Village an opportunity to articulate its concerns and apply its distinctive knowledge. In addition, the Board concludes since there are three municipalities bordering the south side of the lake, the ASP would be a better planning tool in that it will contribute to a more regional land use perspective and will result in a more cohesive planning effort.

Financial Impacts

[15] The Summer Village stated it has always been financially stable. It submitted the proposed annexation is likely to result in a positive financial impact and it can service the area in a financially prudent manner. The Summer Village also indicated that it currently provides a spectrum of recreational services and the residents in the immediate area around the Summer Village use these facilities; therefore, it makes sense that their tax dollars go towards maintaining these facilities. In oral submissions, the Summer Village stated that the County did not supply enough information to demonstrate the financial impact on the County if the annexation is approved; therefore, the Summer Village argued that the Board does not have sufficient evidence before it to grant a standard compensation order.

[16] The County submitted the annexation would have a small negative impact on the Summer Village in the short term, and would create financial risk for the Summer Village in the long term. The County stated that servicing the proposed annexation area is feasible; however, servicing cannot be accomplished without cost to the Summer Village, due to the nature of providing infrastructure for new development. The County indicated that the Summer Village's concerns over the use of recreational services by non-residents can be addressed by alternative methods, such as user fees or cost sharing. The County submitted it will lose 3.2% of its current assessment as a result of the annexation, which it argues is not an insignificant loss. In addition, the reduction in costs incurred if the annexation is approved is difficult to quantify. The County argued the purpose of compensation is to give the responding municipality time to replace lost assessment and taxes; therefore, the Board should follow its normal procedure when it comes to compensation.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[17] The Board acknowledges (and both municipalities agree) that the Summer Village is now financially stable, which clearly demonstrates the Summer Village has operated in a fiscally responsible manner. Additionally, the Board accepts that the Summer Village would be able to service the proposed annexation area when regional services are extended to the south lake area. However, the Board acknowledges that while servicing the proposed annexation area is feasible, the Summer Village may be required to accept certain infrastructure costs for a period of time due to the nature of development.

[18] The Board notes a discrepancy in the Summer Village's submissions concerning the rate at which the properties proposed for annexation will be taxed in the future. The Report on Negotiations submitted by the Summer Village states the annexed lands will be taxed by the Summer Village at the lower of the two municipal tax rates. The Board notes that the Summer Village has the lowest tax rate. Moreover, the *Projected Revenues Generated Through Taxation* document contained in the Report on Negotiations as well as the two updates to this document use the Summer Village municipal tax rate to calculate municipal revenue. In contrast, oral submissions from the Summer Village and a number of affected landowners argued the annexed lands were to be taxed at the County's tax rate. Based on the conflicting evidence, the Board is uncertain whether all the affected landowners are aware of, and in agreement with, the change proposed by the Summer Village during the hearing. Therefore, the Board is reluctant to recommend moving away from the original statement made in the Report on Negotiation upon which some of the affected landowners may still be relying.

[19] The Board finds that the financial impact on the County is substantial and, therefore, compensation for the County would be necessary if the annexation were allowed. The Board finds the declining balance method of compensation would be appropriate in this case, since it alleviates the financial disadvantage experienced by the municipality from which land is removed and gives it time to adjust to the change. The Board calculated the amount of compensation to be paid by the Summer Village to the County in the first year to be \$192,700.09.

[20] Given the amount of taxes levied by the Summer Village to support its municipal operations in 2009 was \$117,400, the Board finds that the obligation to provide compensation would place the Summer Village in a precarious financial situation. While the Board acknowledges the Summer Village could make policy changes or increase municipal tax rates to mitigate the impact, this financial commitment would be a significant obligation for the municipality and its existing taxpayers. It seems that this obligation would have to be discharged by raising taxes, depleting the existing municipal surplus and/or drastically reducing services. In the Board's view it would be unfair to recommend an annexation that would leave the existing Summer Village residents subject to these consequences without having been adequately consulted by their municipality.

Conclusion

[21] The Board recognizes the Summer Village is likely to grow in the future. Although the proposed annexation would provide the Summer Village with land for growth, the Summer Village currently has 106 acres of developable land within its boundary. The annexation would have a positive impact on volunteering and political involvement, but it is not anticipated that the existing high level of community spirit would be diminished if the annexation were not approved. From a financial point of view, the proposed annexation would have a dramatic effect on the Summer Village. The Board finds that the declining balance method of compensation is appropriate in this case to ensure the Summer Village is not enriched at the expense of the remaining County residents. This financial obligation would place a significant financial burden on the Summer Village and, in turn, its taxpayers. Therefore, the Board recommends the Minister deny the annexation application of the Summer Village.

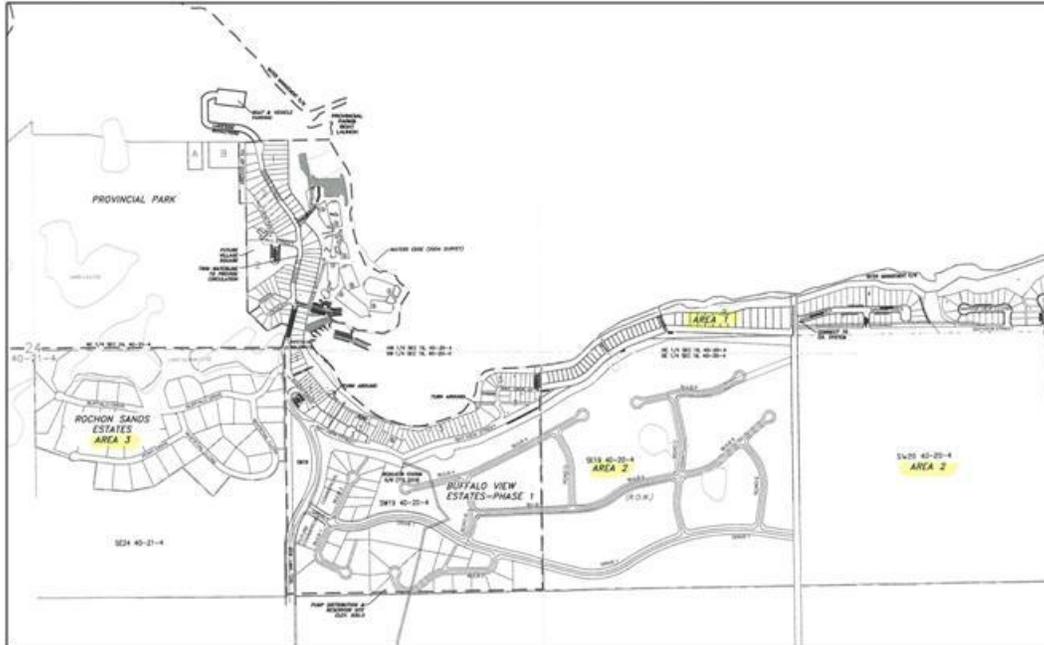
INTRODUCTION

[22] The Summer Village of Rochon Sands (Summer Village) is located on the south shore of Buffalo Lake (Lake), approximately 80 kilometers northeast of Red Deer and 180 kilometers southeast of Edmonton. The Summer Village was founded in 1929 and the main attraction in the area is the Lake. As of 2006 there were roughly 66 permanent residents in the Summer Village with the seasonal population estimated to be 602. The municipality has about 172 residential properties, of which around 33 are occupied year round.

[23] Pursuant to s. 116 of the *Municipal Government Act* (Act), on November 6, 2007, the Municipal Government Board (Board) received a notice of intent from the Summer Village to annex lands from the County of Stettler No. 6 (County). In accordance with s. 118 of the Act, on January 2, 2009, the Board received the Report on Negotiations from the Summer Village with a request to proceed with the annexation. The Summer Village believes the proposed annexation will provide land for future growth and will recognize the existing community.

[24] The proposed annexation areas are located south, west and east of the current Summer Village boundaries, involving approximately 454 acres (184 hectares) of land. Area 1 of the proposed annexation area is a strip of about 21 acres of developed land along the Lakeshore to the east of the Summer Village. Area 2 includes about 346 acres of mostly undeveloped land to the east of the Summer Village. Area 3 includes about 84 acres of subdivided land to the west of the Summer Village. Map 1 shows the proposed annexation area.

Map 1: Summer Village of Rochon Sands and Proposed Annexation Area



Source: Summer Village of Rochon Sands Annexation Application

[25] The Report on Negotiations submitted by the Summer Village stated that the two municipalities had not reached an agreement regarding the proposed annexation. The documentation also identified objections from affected landowners. Therefore, the Board determined that there was “No General Agreement” with the proposed annexation. In accordance with s. 121 of the Act, the Board conducted a preliminary hearing in order to address jurisdictional issues, establish document exchange dates, and set the merit hearing dates. The Board scheduled a second preliminary hearing; however, due to changing circumstances and at the request of the two municipalities, the second hearing was cancelled. The Board conducted a merit hearing from May 30 to June 3, 2011 to hear from all parties involved in the proposed annexation.

[26] In most annexation applications received by the Board, 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 a large number of affected landowners in the County support the annexation as presented by the Summer Village.

[27] The following report fulfills the obligations of the Board under the Act. S. 123 of the Act, which requires the Board to prepare a written report of its findings and recommendations for the Minister of Municipal Affairs (Minister). The report has been divided into three parts. Part one addresses 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 Board regarding the proposed annexation.

PART 1 PRE-HEARING PROCESS

[28] Part 1 is subdivided into three sections. The first section will provide a brief summary of the background to the application. The second section will give an overview of the role of the Board, the Minister and the Lieutenant Governor in Council (LGC). The third section will summarize the preliminary hearings.

Background to the Application

[29] The Summer Village filed an initial annexation application on October 10, 2003. The Summer Village and the County engaged in an extensive mediation process concerning the 2003 application, including 14 meetings. On August 23, 2006 the County Council rejected the motion to accept the annexation agreement. The Summer Village contends that the main impediment at the time was an issue relating to the reserve lands in the proposed annexation area.

[30] The Summer Village filed its Report on Negotiations from the 2003 application on April 5, 2007, which became its formal annexation application. A preliminary hearing was held by the Board on July 12, 2007. At this hearing the Board instructed both municipalities to exchange additional information prior to the main hearing. As part of this process, the Summer Village retained a consultant to produce a formal growth study. The Summer Village of Rochon Sands 2007 Growth Study, prepared by Austrom Consulting Ltd. (Austrom Report) was received on October 27, 2007. As a result of this study, the Summer Village withdrew the 2003 application and filed a new notice of intent to annex on November 6, 2007 for a larger area, which still included the lands contemplated by the 2003 application. The 2007 application is the subject matter currently before the Board and will be considered in this report.

[31] The County filed an application for costs in relation to the 2003 application. In a June 8, 2008 decision, the Board dismissed the costs application, finding that the Summer Village had acted in good faith and should not be penalized for recognizing the need for additional lands.

[32] On April 7, 2008, the Summer Village and the County began mediation regarding the lands in the 2007 application. On April 22, 2008, at the second meeting, the County withdrew from mediation. The Summer Village proceeded with its application.

[33] On January 2, 2009, the Board received the Report on Negotiations from the Summer Village with a request to proceed with the application.

Role of the Board, the Minister and the Lieutenant Governor in Council

[34] A municipality seeking annexation must 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 Board, 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.

[35] 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 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.

[36] The report is then submitted to the Board. 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 Board is satisfied that the affected municipalities and public are generally in agreement, the Board notifies the parties of this finding. Unless it receives objections to the annexation by a specific date, the Board will make its recommendation to the Minister without holding a public hearing. On the other hand, if the Board finds that there is no general agreement, it must notify the parties of its finding and conduct one or more public hearings.

[37] The Board has the authority to investigate, analyze and make findings of fact about the annexation, including the probable effect on local authorities and on the residents of an area. If a public hearing is held, the Board must allow any affected person to appear and make a submission. After hearing the evidence and submissions from the parties, the Board must prepare 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 Board. The Minister may bring a recommendation forward for consideration to the LGC. After considering the recommendation, the LGC may order the annexation of land from the one municipality to the other.

Preliminary Hearings

[38] On January 2, 2009, the Board received the Report on Negotiations from the Summer Village. After reviewing the application, the Board determined there was “No General Agreement” between the two municipalities. For annexations where the Board has deemed there

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

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 proposed annexation. The Board scheduled a preliminary hearing for May 14, 2009.

[39] In keeping with the Board’s practice, hearing notification letters were sent to all known landowners and affected parties on April 8, 2009. The Board was then informed that the former Minister of Municipal Affairs, Ray Danyluk (Minister Danyluk), had started a dialogue with municipalities and their associations regarding sustainability. On April 17, 2009 the Board notified all parties that the May 14, 2009 preliminary hearing would be postponed while these discussions continued.

[40] On July 7, 2010, the Summer Village requested the Board to proceed with the annexation process. An investigation by the Board determined that that LGC had recently ordered other Summer Village annexations. On July 19, 2010, the Board informed the two municipalities it would proceed with the annexation process. The County identified that the municipal sustainability process was not complete and requested the Board to reconsider proceeding with the proposed annexation process. The Board advised the County that a fair and effective forum to deal with the postponement request would be a preliminary hearing, where the affected parties could share and comment on the best way to proceed.

[41] A preliminary hearing was set for September 22, 2010. The County’s solicitor indicated through correspondence she did not intend to provide any substantive submissions at the September 22, 2010 hearing, but would be requesting the Board to set another preliminary hearing so the issue of moving forward with the annexation could be considered. The Summer Village’s solicitor agreed that the County was entitled to raise this issue at the September 22, 2010 hearing. The Summer Village’s solicitor stated if the Board decided to hear further submissions on the issue a subsequent preliminary hearing should be set so the parties could fully argue the matter.

[42] At the September 22, 2010 hearing, there were two main issues before the Board. The first issue was whether the Board should conduct a preliminary hearing to determine if this matter should proceed prior to the completion of the municipal sustainability process initiated by Minister Danyluk. The Board found they should hear submissions regarding this matter and set another preliminary hearing for November 9, 2010.

[43] The second issue to be determined was whether the Board should set a document exchange timeline and merit hearing dates for the proposed annexation. After hearing submissions from the parties, the Board set a tentative merit hearing date for May 30, 2011, continuing May 31 to June 3, 2011, if deemed necessary by the Board. Document exchange timelines were also established. Both parties were involved in setting these dates and had opportunities after this preliminary hearing to bring potential conflicts to the attention of the Board.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[44] On November 4, 2010, Alberta Municipal Affairs released the Municipal Sustainability Strategy. At the request of the solicitors from the Summer Village and the County, the Board agreed to cancel the second preliminary hearing, as the release of the report eliminated the reason for that hearing. The Board also noted the written submissions received from the affected landowners and the public supported continuing the annexation application without delay. No other preliminary matters were identified by any party. Given the short notice of the cancellation, the Board also accepted the offer by the municipalities to have their representative present at the hearing facility on November 9, 2010 to communicate the cancellation to the landowners and the public.

PART 2 ANNEXATION HEARING

[45] Part two is subdivided into five sections. First is a description of the annexation hearing notification process. Second, is a list of the individuals that made submissions to the Board at the merit hearing. Third, is an overview of the hearing. Fourth, is a summary of the landowner/public submissions. Lastly, the issues that were brought before the Board by the two municipalities during that annexation hearing are addressed and evaluated, and the findings of the Board are provided.

Annexation Hearing Notification Process

[46] In accordance with decision letter 005/10 the Board convened a merit hearing on May 30, 2011 to review submissions regarding the proposed annexation. On March 22, 2011, the Board sent out a notice of public hearing to all interested parties. The notice provided the date and location of the merit hearing. It also confirmed, in accordance with the Board's Decision Letter 005/11, written submissions from the affected landowners and public were to be received by the Board prior to 12:00 noon on Friday, April 8, 2011. The notice advised that copies of the submissions received would be forwarded to the Summer Village and the County prior to the hearing and may be available to the public. The notice provided the contact information of the Board, the Summer Village and the County for enquiries.

List of People Making Submissions to the Board at the Merit Hearing

[47] The following is a list of the people who provided oral and/or written submissions to the Board at the May 30 to June 3, 2011 merit hearing.

For the Summer Village:

- Mayor Miller, Mayor, Summer Village of Rochon Sands
- Alan Willis, Chief Administrative Officer, Summer Village of Rochon Sands
- Brian Lynn, Area Resident and Realtor
- Eric Petersen, Chartered Accountant, Gitzel Krejci Dand Peterson: Chartered Accountants
- Brian Austrom, Professional Planner, Austrom Consulting Ltd.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

- Wes Williams, Professional Engineer, Tagish Engineering Ltd.
- Ed Bennett, Area Resident
- Del Tweit, Area Resident, former Chief Administrative Officer of the Summer Village of Rochon Sands, Former Development Officer for the County of Stettler No. 6

For the County

- Tim Fox, Chief Administrative Officer, County of Stettler No. 6
- Johan Van Der Bank, Director of Planning and Development, County of Stettler No. 6
- Jeff Fetter, Professional Engineer, Associated Engineering
- Olga Lovatt, Professional Planner, Lovatt Planning Consultations Inc.
- Peter Nichols, Economic and Management Consultant and Financial Analyst, Nichols Applied Management: Management and Economic Consultants
- Gerry Fardoe, Nichols Applied Management: Management and Economic Consultants

Landowners/Public (Written and/or Oral Submissions)

- Edward and Vivian Bennett
- Del and Lucille Tweit
- Glenn and Julie Ruttan
- Brent and Colleen Carr
- Robert and Sheila Kirk
- Richard and Penny Gaffney
- James and Laural Lockhart
- Steve and Cathy Fix
- Chris Fix
- Glen and Carrie Turgeon
- Kathy Hankins
- Karl Grollmuss (on behalf of Mr. Grollmuss' family)
- Kim and Jim Donaghy
- Gregory Jackson
- Shane Menard
- Linda Nelson
- Ralph and Doris MacLainePont
- Ed Reiersen and Donna Arseniuk
- Margaret Cassidy
- D.A. Wood
- Don Albers and Linda Bergstrom
- Sandy Berg and Jim Jenkins
- Armand and Denice Wiart
- Gordon Donald Millar and Dorothy F. Miller
- Florence Dolores Shanks
- Dixie Lovell
- Peter Chitrenky
- Randall and Kathleen Brown

- Carolyn Angus
- Yvonne Gray (on behalf of Lynne Fraser and family, Don Gray and Family, Allison Malone and family, Carol Borschneck and family)
- Glen Robinson
- Lorna Watts
- Gil Poulin
- Susan and Peter Cartmell
- Mark and Donna Tustian
- David Rose
- Arthur and Jeannette LaRose
- Jean Gilbert
- M. Doris Gitzel and Leo E. Gitzel

Overview of the Municipalities' Submissions

[48] During the course of the merit hearing, the Board heard submissions from the Summer Village, the County and numerous affected landowners and members of the public. The following provides a brief overview of the positions of the two municipalities. The specifics of each issue will be reviewed in the issues section. To reduce repetition, the positions of the landowners have been summarized in the next section.

[49] In relation to the annexation process, the Summer Village submitted the County did not follow the negotiation and mediation process properly, as required by the Act.

[50] In relation to growth and the need for land, the Summer Village argues that it is growing and needs land in order to accommodate future growth. The Summer Village highlighted that its situation is unique, given the fact that the undeveloped land within the Summer Village has been frozen for most of its history; therefore, a unique growth study was required, one which considered the historical growth in the entire region and the capacity for growth.

[51] In relation to planning and community, the Summer Village argued that the proposed annexation would legalize its existing community and allow residents in the proposed annexation area to be more involved in the administration of the municipality. The proposed annexation would allow the Summer Village to have more control over development in the area, in an effort to preserve its vision of a Lakeshore community. The Summer Village maintained that the future Area Structure Plan (ASP) between the three municipalities in the South Shore Growth Node, which includes the Summer Village, the County and the Summer Village of White Sands, as required by the 2010 Buffalo Lake Intermunicipal Development Plan (2010 BLIDP), would not solve these community and planning issues.

[52] The Summer Village contended it is financially stable and the proposed annexation is likely to result in a positive financial impact, which could lead to a decrease in taxes or an increase in services. The residents in the immediate area use the Summer Village's facilities

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

extensively and, therefore, it makes sense that their tax dollars go towards maintaining them. In relation to compensation, the Summer Village argued the County did not supply enough information to demonstrate the financial impact on the County if the annexation were approved; therefore, the Summer Village argued the Board does not have sufficient evidence before it to grant a standard compensation order.

[53] The County stated it does not support the proposed annexation and maintains it is illogical to expect a municipality to negotiate an agreement for parts or elements of an annexation when there is no support for annexation of any lands proposed to be annexed. In response to the Summer Village's growth projections, the County submitted the Austrom Report is not a helpful analysis because no attempt is made to evaluate demand in order to provide a basis for projecting the rate of consumption of lots. In addition, the Summer Village has enough developable land for the foreseeable future.

[54] The County submitted that the community ties between the Summer Village and the landowners within the proposed annexation area have not been impeded by the current boundary and the existence of community connections is not one of the criteria that has been accepted for an annexation. Furthermore, the ASP, required by the 2010 BLIDP will address the planning concerns expressed by the Summer Village in this application for annexation.

[55] The County argued that, in the short term, the annexation would have a small negative impact on the Summer Village and, in the long term, it would create financial risk. Servicing the proposed annexation area is feasible; however, infrastructure costs may have to be born by the Summer Village for a certain period of time, due to the nature of development. In addition, the Summer Village's concerns over the use of recreational services by non-residents can be addressed by alternative funding methods, such as user fees. In relation to compensation, the County will lose 3.2% of its current tax base as a result of the annexation, which it argued is not an insignificant loss. The County requested the Board to follow its normal procedure when it comes to compensation.

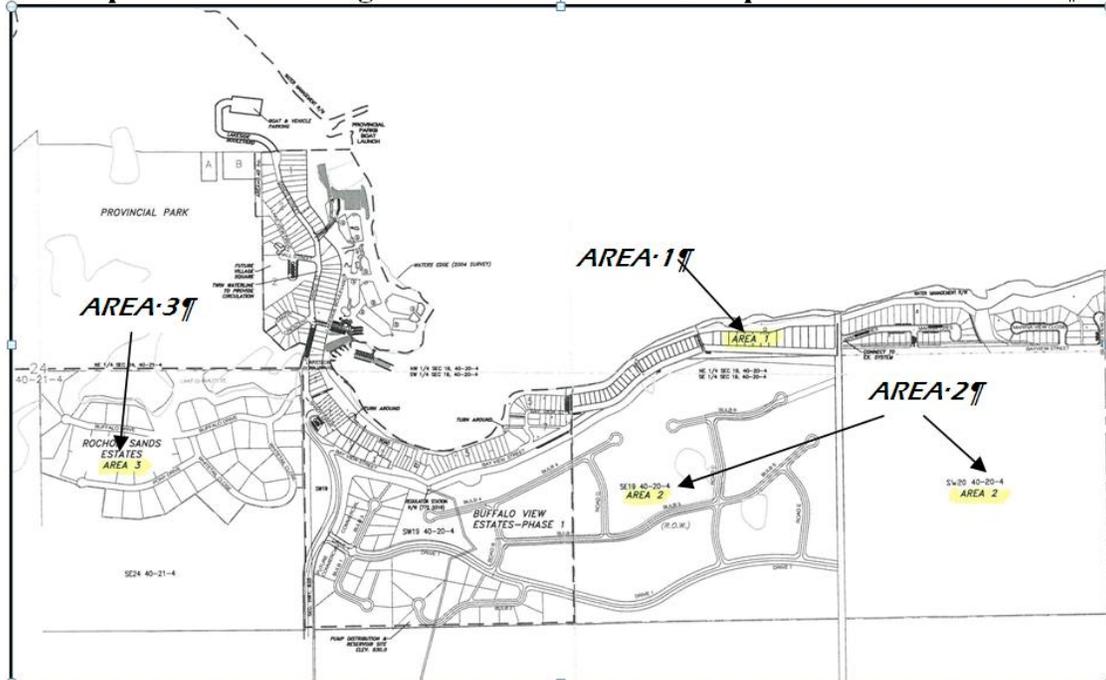
Summary of Landowner Submissions

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

[57] In an effort to be comprehensive yet succinct, the Board concludes it is necessary to provide a summary of the affected landowners' positions in this section and then give a brief summary of the main issues brought forward by the landowners as a group within the issues section. Due to the number of landowner submissions, the mixture of written and oral submissions and the overlap between positions – all of which the Board considered with equal care - this arrangement best ensures clarity and brevity. The following summarizes the

submissions of the landowners expressing support for the proposed annexation as well as the submissions from the landowner expressing opposition to the proposed annexation.

Map 1: Summer Village of Rochon Sands and Proposed Annexation Area



2008 Annexation Servicing Study: Summer Village Rochon Sands , Tagish Engineering Ltd.

Summary of the Submissions of Edward and Vivian Bennett

[58] Edward and Vivian Bennett stated they support the proposed annexation. Mr. and Mrs. Bennett own Lot 16 Block 8 Plan 2772TR in the County of Stettler No. 6. They have owned land in the proposed annexation area since 1990 and have been permanent residents of the area since 1997. Mr. Bennett contended he is part of the Summer Village. He wants to be part of the development of the community and to be able to vote in the Summer Village’s Municipal elections.

[59] Mr. Bennett stated the proposed annexation area is more urban than rural and, therefore, the area would be better represented by the urban Summer Village Council, which understands urban needs. He indicated that the County’s submissions show it did not talk to the people who were affected by the proposed annexation.

[60] With regard to reserve lands, Mr. Bennett indicated that he respects the public areas and would expect to follow the policies of the Summer Village if the annexation were approved. The idea that the Summer Village might be more lenient on enforcing its reserve land policies is not a fair characterization of why the landowners support the annexation. The County should not

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

criticize the Summer Village for its past policies on reserve lands when the County's past actions on reserve lands have not been positive.

Summary of the Submissions of Del and Lucille Tweit

[61] Del and Lucille Tweit state they support the proposed annexation. Mr. and Mrs. Tweit own land in the proposed annexation area. They contended that they are part of the Summer Village rather than the County and they want their taxes to be spent locally. Mr. Tweit was the Chief Administrative Officer (CAO) for the Summer Village between 1996 and 2001. As CAO, he approached the owner of the 106 acres of undeveloped land in the Summer Village, asking if he would be willing to subdivide. The owner refused. In addition, he identified that Kathy Hankins, who is opposed to the annexation, does not represent the Rochon Sands Estates community as a whole and her opposition is due to past dealings with the Summer Village.

Summary of the Submissions of Glenn and Julie Ruttan

[62] Glen and Julie Ruttan advised that they are in favour of the proposed annexation. Mr. and Mrs. Ruttan are landowners in Area 1 of the proposed annexation area. They contended the Summer Village will be more able to implement long term plans, manage growth pressures and ensure long-term sustainability if it can rely on a more predictable source of property tax revenue.

[63] They indicated the proposed annexation would provide new Summer Village residents with the right to vote and run for Council, which would give them a voice on how their tax dollars are managed. The proposed annexation also makes sense from a geographic perspective because the proposed annexation lands can only be accessed through the Summer Village.

[64] Mr. and Mrs. Ruttan indicated that they did not like the way the County handled the issue over encroachment onto reserve lands in the past. They believed the County has a combative approach to negotiations and would be unable to effectively manage the reserve lands in the future. The Summer Village has more credibility when it comes to Lake affairs. Having the beach community under one jurisdiction would be effective and efficient.

[65] In oral submissions, Mr. Ruttan spoke about the Summer Village's capabilities of servicing the proposed annexation area. He emphasized that the Summer Village will gain more expertise overtime. If the annexation is approved, the Summer Village can use its larger tax base to fund a larger administration and create a capital fund that can be used to bridge the gap between estimated costs and unforeseen costs. The Summer Village's use of contractors is a strength not a weakness because it brings down operating costs and provides critical expertise. In addition, the Summer Village has access to many volunteers, which will continue if the annexation is approved.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[66] In oral submissions, Mrs. Ruttan identified the main motivation for the annexation is to give the Summer Village more control over the kinds of growth that occur in the area. She did not want the 106 acres currently in the Summer Village to be developed because it is filled with trees, wetlands and valleys, which contribute to a picturesque view of the Lake. The Summer Village needs the annexation in order to have land to develop other than those 106 acres. The County has a different view on development, environmental protection and beach access.

Summary of the Submissions of Brent and Colleen Carr

[67] Brent and Colleen Carr stated that they are both in favour of the proposed annexation. They own land in Area 3 of the proposed annexation area. Mr. and Mrs. Carr stated they use many of the facilities offered by the Summer Village and they want their tax dollars to go towards maintaining those facilities. They emphasized that the County is out of touch with their needs. They are especially concerned with the maintenance of roads in Area 3.

[68] In oral submissions, Mr. Carr stated the roads have deteriorated over time and that the County will not act until it receives a complaint. The County does not care about their concerns and the Summer Village has a more dedicated Council. The Carr's recognized the County has plans to pave their roads, however they were worried about the costs that would be imposed upon them for this project. Mr. and Mrs. Carr submitted that the only reason the County is opposed to the annexation is to keep their tax dollars.

[69] In oral submissions, Mrs. Carr stated the County gives the Hall Association \$5,400, which is not enough to pay for its projects. The Hall Association often looks to grants in order to pay for projects and where grant money is not enough, they look to membership fees. In addition, Kathy Hankins' views do not represent the views of the entire Rochon Sands Estates community.

Summary of the Submissions of Robert and Sheila Kirk

[70] Robert and Shield Kirk indicated that they are in favour of the proposed annexation. They own land in Area 1 of the proposed annexation area. Mr. Kirk stated the Summer Village has many volunteers who are willing to help out. The Summer Village has made it clear that the reserve land regulations will be enforced and the Summer Village never promised the landowners lower taxes. The main reason the County opposes the annexation is that it would lose revenue.

[71] Mrs. Kirk spoke about the importance of community spirit and the family values of the Summer Village. She indicated that the Summer Village holds an annual gathering on Boxing Day which includes a bonfire, sleigh rides and an ice rink. The annexation would also enable Mrs. Kirk to have a mailbox in the Summer Village, rather than having to drive all the way to another community for her mail.

Summary of the Submissions of Richard and Penny Gaffney.

[72] Richard and Penny Gaffney submitted that they support the proposed annexation. Mr. and Mrs. Gaffney live on 135 Bayview St., Rochon Sands. They stated the annexation is a key step to sustaining a healthy and vibrant Lake community for future generations. They participate in many community events; however, they are not included in community planning and cannot be included in voting or sitting on the Summer Village's Council. The annexation will be important for Lake stewardship, among other needs. Mr. Gaffney noted the annexation process would be better if it were less confrontational and did not take as long.

Summary of the Submissions of James and Laurel Lockhart

[73] James and Laurel Lockhart stated that they are in favour of the proposed annexation. Mr. and Mrs. Lockhart own land in both the Summer Village and Area 3 of the proposed annexation area. In oral submissions, Mr. Lockhart stated the main benefit of the annexation is that it would enable landowners to have a say in their community and be represented by people who understand their regional problems. All the properties in the Summer Village and the proposed annexation area are accessed through one road, Highway 835. Mr. Lockhart had concerns over the Lake environment, new development and fire protection costs. He argued that the Summer Village is better at communicating with the community than the County. The County has not put any new gravel on the road near his land in Area 3 since 2002.

Summary of the Submissions of Steve and Cathy Fix

[74] Steve and Cathy Fix submitted that they support the proposed annexation. Mr. and Mrs. Fix live in Area 1 of the proposed annexation area and both grew up in the Summer Village. Mr. Fix stated there is no downside to the application and most people affected support the proposed annexation. His taxes have increased over time with no corresponding increase in services. His taxes far exceed the taxes paid by landowners in the Summer Village, who get more services, such as garbage facilities and a community hall. Most of the services he uses, other than roads, come from the Summer Village. Mr. Fix had concerns over environmental stewardship. Specifically, he was concerned over the way the Buffalo View Estates subdivision was handled by the County because it did not fully consider the environmental impacts. He argued that he lacks a political voice in the County and has little in common, both politically and socially, with the residents of the County, who are mostly farmers.

Summary of the Submissions of Chris Fix

[75] Chris Fix stated that he supports the proposed annexation. He owns land in Area 2 of the proposed annexation area. He would have liked to live in the Summer Village; however, there were no lots available when he wanted to buy property. Mr. Fix wanted his tax dollars to go to

the Summer Village because he uses the Summer Village's services extensively. Even though he is a County resident, the only boat launch he would use is the one in the Summer Village.

Summary of the Submissions of Glen and Carrie Turgeon

[76] Glen and Carrie Turgeon indicated they are in favour of the annexation. Mr. and Mrs. Turgeon live in Area 3 of the proposed annexation area. They indicated they are part of both the community and the Summer Village. Because there are so few County residents in the Lake area their voices are not heard by the County and their concerns are not met. Mr. Turgeon had concerns over the County's maintenance of roads in the area. There were times this winter he could not make it up the hill by his property because the roads had not been plowed. He submitted he is not getting enough value for his tax dollars from the County.

Summary of the Submissions of Kathy Hankins

[77] Kathy Hankins submitted that she is not in favour of the proposed annexation. Mrs. Hankins lives in Area 3 of the proposed annexation area. Mrs. Hankins stated the Summer Village has not changed much over the last 35 years and is not likely to change much over the next 35 years. The Summer Village has approximately 100 acres of undeveloped land, which can be developed and, therefore, she does not understand why the Summer Village wants to take land from the County. She contended that the purpose of the annexation is to gain tax revenue.

[78] Mrs. Hankins believed the Summer Village was not truthful to the residents and landowners in the area about their taxes increasing because of the annexation. The landowners want to join the Summer Village because they are upset with the County over the reserve land issue. She was doubtful that the Summer Village will be able to handle the costs of the annexation and emphasized that the Minister of Municipal Affairs should consider abolishing Summer Villages.

Summary of the Submissions of Karl Grollmuss (on behalf of his family)

[79] Karl Grollmuss and his family submitted that they are in favour of the proposed annexation. Mr. Grollmuss acquired several properties within the Summer Village over 30 years ago. Mr. Grollmuss stated, from a social perspective, he considered the Summer Village and the proposed annexation area to be the same entity. He noted that the residents of the proposed annexation area are involved in the Summer Village socially, but not politically.

[80] Mr. Grollmuss stated the area would be better serviced under one jurisdiction because of greater administrative efficiency. From a geographic perspective, access to the annexation area is gained through the Summer Village and, therefore, road services would be more effective if they were under one municipality. The population increase due to the annexation would be a positive step towards moving forward with sewage collection and disposal systems in the area, as well as other services. Furthermore, the proposed annexation will increase the amount of grant money

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

the Summer Village will be eligible for. Sewage collection is important in order to ensure the protection of the Lake. An increase in protection services is also necessary. With an increase in population, the community may be able to create a volunteer fire department.

[81] Mr. Grollmuss stated he was under the impression that the County saw the proposed annexation area as not a profitable revenue source and would be happy to give it up. He stated the Summer Village is willing to step up to the plate.

Summary of the Submissions of Kim and Jim Donaghy

[82] Kim and Jim Donaghy supported the proposed annexation. They are landowners in Area 3 of the proposed annexation area. They believed the proposed annexation would benefit the proposed annexation area and the Summer Village. The Summer Village provides them with many amenities and the residents have been very welcoming.

[83] In oral submissions, Mrs. Donaghy stated the roads in Area 3 are much worse than other roads in the area. Although the County has recently agreed to pave the roads in Area 3, she would rather be annexed into the Summer Village, even if it meant keeping a gravel road. She was never told by the Summer Village that her taxes would decrease if the annexation were approved.

Summary of the Submissions of Gregory Jackson

[84] Gregory Jackson is a County Councilor. Mr. Jackson stated he was interested in all the landowner's views and was saddened that he was not available to hear all the submissions. Mr. Jackson declared the County has been operating as efficiently as possible when it comes to snow removal. Last winter saw an abnormal amount of snow, which created issues across the County, as well as in other municipalities. Mr. Jackson noted that the County did not receive any complaints from the School Division about their inability to clear the roads. He thanked everyone for showing an interest.

Summary of the Submissions of Shane Menard

[85] Shane Menard submitted that he is in support of the proposed annexation. Mr. Menard contended the residents of the Summer Village and the residents of the proposed annexation area live and associate together as one community. They have a common interest in the facilities, recreational opportunities and stewardship of the Lakeshore. He emphasized that it is important to allow for the growth of viable communities and to recognize the near unanimous support for the annexation.

Summary of the Submissions of Linda Nelson

[86] In an earlier written submission Linda Nelson expressed support for the proposed annexation. However, in a later written submission, Mrs. Nelson withdrew her previous support. Mrs. Nelson owns a lot in Area 2 of the proposed annexation area. She stated it was in her best interest to remain part of the County.

Summary of the Submissions of Ralph and Doris MacLaine Pont

[87] Ralph and Doris MacLaine Pont submitted they support the proposed annexation. Mr. and Mrs. MacLaine Pont own Lot 14 Block 6 Plan 6407/KS in the proposed annexation area and they want to live within the Summer Village. They have more in common with the Summer Village residents than other County residents. In addition, it would be beneficial to share the same laws as the Summer Village in order to avoid confusion. Furthermore, they currently cannot vote for the political representatives of the Summer Village and, therefore, they do not have a voice. All the residents in the proposed annexation area use the recreational facilities maintained by the Summer Village. Mr. and Mrs. MacLaine Pont identified that they want to be part of a complete community.

Summary of the Submissions of Ed Reiersen and Donna Arseniuk

[88] Ed Reiersen and Donna Arseniuk indicated they support the proposed annexation. They own Lot 1 Block 8 Plan 2772TR in the proposed annexation area. Mr. Reiersen and Ms. Arseniuk stated the Summer Village offers a shared vision of future development and the County has a different agenda, which will create future issues. In addition, they have more in common with the Summer Village residents than other County residents, due to the Lake community atmosphere. They do not have a political voice in the Summer Village and want to be fully part of the Rochon Sands community. They noted that the residents in the proposed annexation area use the facilities in the Summer Village. Furthermore, it is confusing to determine which laws apply to what area. The proposed annexation would create uniform laws for the entire area.

Summary of the Submissions of Margaret Cassidy

[89] Margaret Cassidy stated that she is in favour of the annexation. Mrs. Cassidy is a landowner in the proposed annexation area. She stated the County is not in touch with the needs of her community and the proposed annexation area fits in better with the Summer Village.

Summary of the Submissions of D. A. Wood

[90] D. A. Wood is a landowner in the proposed annexation area and submitted that he is in favour of the proposed annexation. D.A. Wood stated the County is not in touch with the needs of the Community and the proposed annexation area fits in better with the Summer Village.

Summary of the Submissions of Don Albers and Linda Bergstrom

[91] Don Albers and Linda Bergstrom stated that they supported the annexation. Mr. Albers and Ms. Bergstrom live in Area 3. They take part in the Community of Rochon Sands. They use many of the facilities offered by the Summer Village and want their tax dollars to go towards maintaining these facilities. They submitted that their needs are very different than the needs of other residents in the County and, therefore, their concerns would be better addressed by the Summer Village.

Summary of the Submissions of Sandy Berg and Jim Jenkins

[92] Sandy Berg and Jim Jenkins identified that they are in favour of the proposed annexation. They are landowners and full-time residents of the Summer Village. Ms. Berg and Mr. Jenkins indicated the Summer Village's facilities are used extensively by residents in the proposed annexation area and that the Summer Village tax payers should not bear the costs of maintaining those facilities alone. In addition, the County residents in the proposed annexation area would get more for their tax dollars if they were part of the Summer Village. They would welcome the additional landowners as contributors to local governance.

Summary of the Submissions of Armand and Denice Wiart

[93] Armand and Denice Wiart supported the proposed annexation. Mr. and Mrs. Wiart own Lot Plan 6407KS Block 6 Lot R in the proposed annexation area. They have always felt part of the Summer Village's community and have always used its services. They do not want to be governed by an outside body. They emphasized that preservation of a unique society should be taken into consideration in this annexation application and the Summer Village is responsive to preserving the cottage lifestyle.

Summary of the Submissions of Gordon Donald Millar and Dorothy F. Miller

[94] Gordon Donald Millar and Dorothy F. Miller identified that they are in support of the proposed annexation and wished to join with the Summer Village.

Summary of the Submissions of Florence Delores Shanks

[95] Florence Delores Shanks indicated that she is in favour of the proposed annexation. Ms. Shanks owns lot 10 Block 6 Plan 6407KS in the proposed annexation area. She contended she is part of the community of Rochon Sands.

Summary of the Submissions of Dixie M. Lovell

[96] Dixie M. Lovell submitted that she is in favour of the proposed annexation.

Summary of the Submissions of Peter Chitrenky

[97] Peter Chitrenky supported the proposed annexation. Mr. Chitrenky is a landowner in the area and stated the annexation will benefit both the landowners in the proposed annexation area, as well as in the Summer Village.

Summary of the Submissions of Randall and Kathleen Brown

[98] Randall and Kathleen Brown identified that they are in favour of the proposed annexation. Mr. and Mrs. Brown own property in Area 3 of the proposed annexation area. They plan on constructing a house on their property within the next couple of years and they want to have a close connection with the Summer Village. They see the annexation as part of the Summer Village's evolution as an urban municipality.

Summary of the Submissions of Carolyn Angus

[99] Carolyn Angus stated she is in support of the proposed annexation. Ms. Angus is a summer resident of the Summer Village. Ms. Angus argued having a single entity managing development around the Lake area makes sense and will provide a consistent vision of development. She submitted the residents in the proposed annexation area have the right to be part of the Summer Village community.

Summary of the Submissions of Yvonne Gray on behalf of Carol Borschneck and family, Don Gray and Family, Lynne Fraser and family, Allison Malone and family

[100] Yvonne Gray, Carol Borschneck and family, Don Gray and Family, Lynne Fraser and family, Allison Malone and family all supported the proposed annexation. Ms. Gray stated they have family property in Area 1 of the proposed annexation area. She has a long established connection with the Summer Village and no social relationship with the County. The annexation is a way for her family to participate in the decisions that affect them. She indicated that her family's tax dollars should go towards the facilities in the Summer Village since they use these services.

Summary of the Submissions of Glen Robinson

[101] Glen Robinson stated he is in favour of the proposed annexation. Mr. Robinson owns Lot 21, Block 6, Plan 640KS in the proposed annexation area. Mr. Robinson argued he does not have representation in the County and the County is confrontational and negative towards his concerns. He contended that the County did not enter into discussions over the proposed annexation in good faith. The Summer Village residents and the residents in the proposed annexation area have the same concerns due to the fact that they are both physically and recreationally connected. Mr. Robinson submitted he does not have a connection to the County, which focuses on farming and would like his tax revenue to go to the community he identifies with.

Summary of the Submissions of Lorna Watts

[102] Lorna Watts indicated that she is in favour of the proposed annexation. Ms. Watts owns a home in Area 3 of the proposed annexation area. She submitted she is part of the Summer Village community. She volunteers in various Summer Village associations and uses many Summer Village amenities.

Summary of the Submissions of Gil Poulin

[103] Gil Poulin submitted that he is in support of the Proposed annexation. Mr. Poulin owns land in Area 3 of the proposed annexation area. He plans to build a home on the land and retire there someday. The Summer Village provides him with many amenities and he looks forward to being part of a vibrant community. He contended that the proposed annexation would benefit the Summer Village and Rochon Sands Estates.

Summary of the Submissions of Susan and Peter Cartmell

[104] Susan and Peter Cartmell identified that they are in support of the proposed annexation. Mr. and Mrs. Cartmell own property in the Summer Village. It is important to them that the Summer Village Council is able to govern land use in a consistent fashion. Having two separate governing bodies for residents who share the same geographic area does not make sense.

Summary of the Submissions of Mark and Donna Tustian

[105] Mark and Donna Tustian stated that they are in favour of the proposed annexation. Mr. and Mrs. Tustian own property in Area 3 of the proposed annexation area. They stated they have seen an increase in taxes from the County without any corresponding increase in servicing. The roads in Area 3 are not maintained properly by the County. Moreover, since they use the facilities in the Summer Village it makes more sense for their taxes to be used in supporting those facilities. They are connected to the community of Rochon Sands rather than the County.

Summary of the Submissions of David Rose

[106] David Rose indicated that he is in favour of the proposed annexation. Mr. Rose owns land in the Summer Village. He stated the residents of the proposed annexation area are an integral part of the Summer Village. The proposed annexation would strengthen the municipality.

Summary of the Submissions of Arthur and Jeannette LaRose

[107] Arthur and Jeannette LaRose live in Area 3 of the proposed annexation area. They submitted in writing that they planned to attend the annexation merit hearing on May 30 to June 3, 2011. Mr. and Mrs. LaRose made no submission at the merit hearing.

Summary of the Submissions of Jean Gilbert, on behalf of the Rochon Sands Hall & Recreation Association

[108] Jean Gilbert, on behalf of the Rochon Sands Hall & Recreation Association, supported the proposed annexation. Mr. Gilbert stated the residents in the proposed annexation area have become an integral part of the Summer Village community and the Hall Association. These residents use the Village's amenities. Given the close proximity and relationships developed between the Summer Village and the proposed annexation area residents, it is important they become one community.

Summary of the Submissions of M. Doris Gitzel and Leo E. Gitzel

[109] M. Doris Gitzel and Leo E. Gitzel stated they are in favour of the proposed annexation. Mr. and Mrs. Gitzel live in the proposed annexation area. They use the Village's amenities and are welcome socially by the Summer Village. They submitted that the next logical step is to make this association legal.

Issues

[110] During the annexation hearing, the parties presented numerous reports and submissions for the Board to consider. The key issues in this annexation have been grouped into four broad categories: the application and hearing process, growth and the need for land, community and planning, and financial impacts. Each of these issues will be addressed below. A summary of the positions of the Summer Village, the County and the landowner/public will be followed by the findings of the Board.

1. Application and Hearing Process

Summer Village Position

[111] The Summer Village stated it filed a previous annexation application with the Board on October 10, 2003. In relation to this earlier application, it engaged in an extensive mediation process with the County, which included 14 meetings. However, on August 23, 2006 the County Council rejected the motion to accept the annexation agreement. The main impediment was an issue relating to the reserve lands in the proposed annexation area.

[112] In relation to this earlier application, the Summer Village contended it filed its Report on Negotiations on April 5, 2007, which became its formal annexation application. At a preliminary hearing before the Board, the County raised issues that the Summer Village believed were far beyond the scope of the issues raised prior to that date. At this preliminary hearing, the Board directed the two municipalities to exchange additional information prior to the main hearing. In order to fulfill this requirement, the Summer Village commissioned the Austrom Report, which demonstrated that the proposed annexation area would not meet the Summer Village's long term growth needs. As a result, the 2003 application was withdrawn and the Summer Village filed a new application, which included the lands requested in the initial application as well as additional lands. This new application is the matter that is presently before the Board.

[113] The Summer Village indicated that the County filed an application for costs with the Board in relation to the annexation application that was withdrawn by the Summer Village. In a June 8, 2008 decision, the Board dismissed the cost application, finding the Summer Village acted in good faith and should not be penalized for recognizing the need for additional lands.

[114] In December 2007, the Summer Village requested meetings with the County to discuss the current annexation application. However, the County initially refused to meet until the cost application was decided by the Board. Ultimately, the two municipalities agreed to five mediation meeting dates between April 7 and May 26, 2008. However, at the second meeting on April 22, 2008, the County representatives arrived to deliver a letter advising it was ending negotiations and would not engage in further discussions with the Summer Village until the annexation application was dropped. At that stage of the process, the Summer Village contended that there had not been any substantive discussions about the 2007 application, as the mediation protocols had not even been finalized. The Summer Village wrote letters to the County requesting the two municipalities continue discussions, however, the County refused.

[115] The Summer Village indicated it does not accept the County's characterization of the obligations created under s.117 of the Act. S.117 identified that if agreement cannot be reached, mediation must be attempted. The Summer Village stated that the County refused to negotiate in good faith and failed to engage in a mediation process in this proceeding. Moreover, the Summer Village expressed concern that the County's interpretation of s. 117 will set a negative precedent.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[116] The Summer Village submitted it remained confident the annexation application was well founded and necessary to meet its growth needs. The Summer Village repeatedly suggested the County return to the mediation process; however, all offers were declined. The Summer Village remained of the view that there were many details of the annexation application that could have been addressed by way of mediation. The Summer Village commented that, at a minimum, the two municipalities could have reached consensus on compensation, revenue sharing from future development, and shared services.

[117] The Summer Village indicated it proceeded with public consultation in the normal course. In developing its annexation application, the Summer Village communicated with the Board and consulted with the following agencies: Alberta Infrastructure and Transportation, Clearview Public Schools, David Thompson Health Region, and Shirley McClellan Regional Water Services Commission. The Summer Village advised that it did not receive a response from any of these agencies.

[118] At the start of the annexation process, the Summer Village sent a notice to landowners, which included an invitation to attend a landowner information meeting to discuss the proposed annexation. Moreover, following the County's withdrawal from mediation, the Summer Village held a public meeting concerning the proposed annexation. A majority of landowners at this meeting supported the proposed annexation.

[119] The Summer Village indicated a formal public meeting was held on May 31, 2008. In addition, the annexation was on the agenda of its Annual Ratepayers Meeting on August 4, 2008. The Report on Negotiations was presented to the public at a Public Open Information Meeting held on October 18, 2008. The Summer Village was satisfied this consultation process brought out all concerns and that the overwhelming majority of the public support the proposed annexation.

[120] Following these public meetings, the Summer Village prepared a letter requesting the affected landowner's opinions concerning the annexation and requesting approval. Over 78% of the landowners responding were in favour of the proposed annexation, 1% were opposed and 20% did not respond. Individual meetings and phone calls took place with landowners after the public meeting in order to answer further questions.

[121] Once the Report on Negotiations was completed, the Summer Village forwarded the Report to the County. The Summer Village indicated that the County refused to sign the Report and ignored its obligation to provide reasons for not signing the Report on Negotiations, contrary to s. 118(3) of the Act. The Summer Village contended that the County's interpretation of s. 118(3) would render this section meaningless and would create an unfortunate precedent.

[122] The Summer Village indicated it requested that the County share its comments on the Austrom Report; however, the County did not respond. In a May 9, 2008 letter, the Summer Village requested copies of any consultant or planning reports the County would rely on in an

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

annexation hearing, in an effort to narrow the issues prior to the preliminary hearing. In a June 26, 2008 letter, the County declined to provide any information to the Summer Village, indicating it would provide any reports or evaluations as part of the exchange process used by the Board in the annexation hearings.

County Position

[123] The County confirmed that the current annexation application was commenced in late 2007, following the Summer Village's withdrawal of an earlier annexation application initiated in 2003. During the 2003 annexation, each municipality established a committee that was instructed use mediation to negotiate an annexation agreement. The committees were instructed to return to their respective Councils with the results of their negotiations. The County wanted a complete annexation package and considered the joint ownership of the reserve land to be a major consideration that needed to be addressed as part of any annexation agreement. After the negotiations, the Committees reported back to their respective Councils. The Summer Village held a public meeting to discuss the proposed agreement and afterward advised the County that there were concerns regarding the joint ownership of the reserve lands. The County requested the two municipalities obtain a legal opinion; however, the Summer Village was reluctant to pursue this option. The Summer Village requested the County to move forward with a partial agreement, which included everything but the joint ownership of the reserve lands. The County refused, so the Summer Village submitted its annexation application anyway.

[124] The County stated that the two municipalities began mediation negotiations regarding the current annexation application in April of 2008. The County argued that the aim of such mediated negotiations was for the municipalities to reach their own mutually acceptable settlement of the proposed annexation.

[125] The County indicated annexation negotiations are to be in good faith. Since it does not support the Summer Village's application to annex developed and undeveloped lands from the County, it could not, in good faith, continue to pursue negotiations. The County contends that it is illogical to expect a municipality to negotiate an agreement for parts or elements of an annexation when there is no support for annexation of any lands proposed to be annexed. The Summer Village was advised of this position. The County noted that the Act recognizes not all annexation applications will be the subject of an agreement between the municipalities.

[126] The County stated that s. 118(2) of the Act does not require the responding municipality to sign the Report on Negotiations unless it agrees with the Report. Furthermore, s. 118(3) indicates the responding municipality does not have to provide its reasons for not signing the Report on Negotiations.

Landowner Submissions

[127] Certain landowners highlighted that the County did not consult with the residents of the proposed annexation area concerning the annexation application. One landowner stated the County did not approach the negotiations over the annexation application in good faith.

Board Findings

[128] The Board finds the Summer Village consulted with the affected agencies. The Board accepts that the Summer Village consulted Alberta Infrastructure and Transportation, Clearview Public Schools, David Thompson Health Region, and Shirley McClellan Regional Water Services Commission and that no concerns were brought forward.

[129] The Board concludes the Summer Village consulted effectively with the affected landowners and the public. The Summer Village held at least two public meetings where the proposed annexation was addressed. The Summer Village also sent out a letter to affected landowners informing them of the proposal and asking for their opinions and support. Although the Board notes that the majority of the landowners that responded to this letter were in favour of the proposed annexation. The application provided by the Summer Village contains two letters of objection. Although the Board is unsure if the Summer Village was able to address these objections, the Board is convinced the public and landowner consultation process undertaken was reasonable.

[130] The Board accepts that the County did not consult with the residents regarding the proposed annexation. While consultation is good practice, the Act does not require the municipality from which the land is to be annexed to undertake a consultation process.

[131] It is true that the Act provides an appeal process for annexations where the municipalities are unable to agree through negotiation or mediation. However, every effort should be made for the municipalities to reach agreement in a collaborative fashion. Negotiations are contemplated by the Act and in keeping with the Provincial Land Use Policies. The fifteen annexation principles highlight the importance of cooperation and negotiation between municipalities. The Board has found over the years that mediation facilitates communication and openness, which encourages the municipalities to find common ground on contested issues. It also allows for candid discussions in a non-adversarial environment, which cultivates compromise and collaboration. In addition, even if full agreement cannot be reached, the mediation process often narrows the issues, which allows for a more structured and efficient hearing process and makes the annexation process more efficient and effective for all parties. The Board considers mediation to be an important component of the annexation process, in that it facilitates open communication and cooperation between municipalities in all possible areas. As such, mediation should not be taken lightly.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[132] Mediation was attempted in this case, but soon failed. The Board acknowledges that the County attended only one mediation meeting despite numerous requests from the Summer Village to continue the discussions. The Board is disappointed additional negotiation or mediation meetings between the two municipalities did not take place, as this might have allowed the two municipalities to reach agreement or reduced the number of issues brought before the Board. However, despite the abrupt conclusion of the mediation, the Board notes that the County's withdrawal did not preclude the Summer Village from continuing with the development and submitting its Report on Negotiations. Given the situation, the Board finds the actions of the Summer Village to complete and submit the Report on Negotiation were reasonable and prudent. The Board also notes that the delay caused by the Municipality Sustainability Report was beyond the control of any party.

[133] The Board agrees that the County did not have to sign the Summer Village's Report on Negotiation or provide reasons for not signing. S. 118(2) of the Act states the Report on Negotiations must be signed by the municipal authorities from which the land is to be annexed "that are prepared to sign". Thus, if the responding municipality is not prepared to sign, it is not required to do so. Furthermore, s. 118(3) of the Act states a municipal authority that does not sign the Report on Negotiations "may" include in the Report its reasons for not signing. The Board finds the word "may" implies giving reasons for not signing the Report on Negotiations is discretionary. However, the Board emphasizes if the responding municipality does not sign and does not give reasons for not signing the Report on Negotiations, this should not impede the initiating municipality from filing the Report on Negotiations and requesting the Board to proceed with the application.

[134] Given the adversarial relationship between the two municipalities regarding the proposed annexation, the Board finds the document exchange process established at the first preliminary hearing was an appropriate manner for the County to make known its specific concerns regarding the proposed annexation. The exchange process provided enough time for the Summer Village to develop a response to the issues raised by the County. The merit hearing dates were selected and mutually agreed upon by both parties. Moreover, the second preliminary hearing, set for November 9, 2010, was cancelled at the request of both parties. If there was an issue with the document exchange timeline, merit hearing dates or any other matters, the second preliminary hearing provided the opportunity for each party to request amendments.

2. Growth and the Need for Land

Summer Village Position

[135] The Summer Village highlighted the Provincial Land Use Policies, which recognize the ability of all municipalities to pursue growth. In addition, the Board has recognized the ability of all municipalities to grow in the City of St. Albert annexation recommendation.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[136] The Summer Village submitted the fifteen principles of annexation used by the Board in annexation matters do not state there is only one acceptable method for projecting growth. In response to the County's critique of the Austrom Report, the Summer Village stated that the Board should consider the totality of the evidence, including evidence of growth presented in oral submissions.

[137] The Summer Village emphasized that its situation is unique in that the undeveloped land in the municipality has been owned by developer that has been unwilling to develop it throughout most of its history. Therefore, a unique growth study was required, rather than the traditional method of using the historical growth projections from within the Summer Village. The Summer Village argued historical development in the surrounding areas demonstrate there will be growth in the area immediately surrounding the municipality in the near future. The Summer Village pointed to the historical development in the neighboring Summer Village of White Sands, which created 42 new lots between 2005 and 2010 and 55 new cottages between 2005 and 2010. It is reasonable to assume that if a willing developer had existed in the Summer Village, there could have been similar development within its borders; therefore, the Summer Village of White Sands can be used as an indicator of potential future growth in and around the Summer Village.

[138] The Summer Village also cited the development in Buffalo View Estates, which had 63 lots created between 2006 and 2007, and Rochon Sands Estate, which had 40 lots created in 1999. Buffalo View Estates is included in Area 2 of the proposed annexation area and Rochon Sands Estates is part of Area 3. Buffalo View Estates and Rochon Sands Estates demonstrate a growth rate of 12.8 lots per year. Based on the historical growth of these two areas, the Summer Village contended Area 2 of the proposed annexation area will be built out in 11-52 years.

[139] Based on the Austrom Report, the Summer Village maintained there will be approximately 18-27 lots developed per year. The Austrom Report's land consumption projection is rooted within the Buffalo Lake Wastewater Study. The Austrom Report also looked at the 1997 Buffalo Lake Intermunicipal Development Plan (1997 BLIDP), which recognizes the South Shore Growth Node is likely to have the greatest demand for development. If the Board accepts this account, the growth horizons would be significantly shorter than looking at the historical rates of the surrounding area.

[140] The Summer Village stated the land on its borders will develop before the 106 acres of undeveloped land within its borders will develop. The landowner of the 106 acres has confirmed he plans to develop his land in the County before he will develop his land in the Summer Village. Furthermore, although a subdivision was approved for about 14 lots within the 106 acres, that subdivision approval lapsed in 2009 because the landowner chose not to renew the application. All 106 acres are owned by the same landowner. This means the municipality will be frozen for at least another 15 years if the annexation is not granted.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[141] The Summer Village argued, even if the 106 acres were to develop first, that land would not be sufficient for the Summer Village's long term growth. Due to its topography, the maximum number of new lots that could be developed on the 106 acres is approximately 70. In addition, the Summer Village indicated that, even with maximum density of 2 lots per acre, the 106 acres will be built out between 3.8 to 17 years.

[142] The Summer Village observed it is possible the proposed annexation area will provide for more than 20 years of growth. However, the Summer Village wanted to ensure it has enough land so it does not have to seek another annexation in the near future. The Summer Village stated that in the Town of Strathmore recommendation the Board recognized that a history of opposition can be a relevant consideration for using a longer timeframe for growth. Furthermore, the County's IDP indicates its support for annexations that consider a timeline of 30 or more years of growth.

[143] The Summer Village explained that the term backlots is used to describe sections of land that are not directly adjacent to the Lake. The Summer Village contended the history of development in the area demonstrates development of "backlots" has occurred in the past and pointed to Rochon Sands Estates as an example. This is evidence that the undeveloped land in the proposed annexation area will develop in the future.

[144] The maps provided by the Summer Village identified that the largest tracts of vacant land within the proposed annexation area are located in Area 2 (SE 19-40-20 W4 and SW 20-40-20 W4). In response to questioning during the hearing by the County, the Summer Village indicated that the two numbered companies that own the vacant 106 acres currently within the Summer Village also own much of the vacant land within the SE 19 -10-20 W4. The Summer Village also indicated Mr. Anderson owned much of the vacant land within the SW 20-40-20 W4. The annexation application submitted by the Summer Village identifies Mr. Anderson did not respond to the Summer Village's request for a consent letter. Upon questioning, the Summer Village indicated that it had discussed the proposed annexation with Mr. Anderson and that he had informed them that he wished to continue farming the land.

[145] The Summer Village reiterated that if the annexation is not approved, it will be frozen with nowhere to grow in the future. The area around the Summer Village will continue to develop, which will effectively cut off future growth opportunities. This will make it even harder for the Summer Village to meet the fifteen principles of annexation in the future because it will be surrounded by development. Furthermore, expanding south of its current border is not a viable option in the future, because it would alter the character of the municipality given that the land to the south is far removed from the Lake.

[146] The Summer Village stated the 2010 BLIDP is a unique IDP in that it involved five municipalities. The five municipalities included are the Summer Village, the County, the Summer Village of White Sands, the County of Lacombe and the County of Camrose. The Summer Village maintained that the 2010 BLIDP encourages growth in an orderly and efficient

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

manner in an effort to protect environmentally sensitive areas around the Lake and the Lake as a whole. The purpose of the 2010 BLIDP is to regulate overall density levels and is not meant to give an upper limit on future growth for individual municipalities. In addition, the 2010 BLIDP does not refer to annexation and, therefore, does not exclude the possibility of an annexation in the South Shore Growth Node.

[147] While recognizing its Municipal Development Plan (MDP) has no authority beyond its borders, the Summer Village submitted the MDP suggests how the Summer Village would like to see the land outside its boundary developed in the future. The annexation would help to address issues set out in its MDP, specifically the areas of access to the Lake, future development, road access, municipal reserves, walking trails and other development issues.

County Position

[148] The County stated the analysis used in the Austrom Report is not helpful because no attempt is made to evaluate demand in order to provide a basis for projecting the rate of consumption of lots. The Austrom Report is based on the 1997 BLIDP and the Associated Engineering (AE) 2006 Wastewater Study, neither of which contain an analysis of demand. Furthermore, the Austrom Report contains no analysis of growth rates that have occurred in nearby areas of the County, or the Summer Village of White Sands.

[149] The County indicated the Summer Village did not evaluate how the projected consumption of land is influenced by the fact that the lands proposed to be annexed are backlots and the fact that current development is on, or very near to, the Lake. The County emphasized that this fact may influence the rate of growth in the area.

[150] The County concluded that, looking at the absorption rates for the Summer Village and the annexation area, the average consumption is the construction of two dwellings per year. In addition, looking at the broader area, including the Summer Village of White Sands and lands west of the Summer Village, the Services and Financial Assessment of the Proposed Annexation of Lands by the Summer Village of Rochon Sands, prepared by Nichols Applied Management (Nichols Report) shows 24 lots are created per year for the entire area. Considering those 24 lots are spread over a large area, the County asserted that most of those lots would not end up being developed in the Summer Village.

[151] The County argued the Summer Village has enough developable land for the future. Currently the Summer Village has 106 acres of undeveloped land within its borders, which offers enough land for future growth. The County emphasized that the owner of the 106 lots is not unwilling to develop, but rather is willing to develop when the market conditions support development. The fact that the owner received approval from the Summer Village to subdivide a portion of the 106 acres is proof that he is willing to develop when it makes economic sense. The 106 acres would result in a doubling of the Summer Village's size in terms of the number of

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

cottages. Furthermore, the Austrom Report used by the Summer Village did not raise the issue that the 106 acres of undeveloped land currently in the Summer Village is owned by developer that is unwilling to develop the land.

[152] The County added that the 2010 BLIDP sets maximum limits on numbers of units, being capacity. The maximum for the Summer Village is 172 existing lots, plus 144 new lots. While the identified capacity for the Summer Village is almost double the number of current lots, this capacity can be accommodated by the Summer Village's existing undeveloped 106 acres.

[153] The County argued the Summer Village is attempting to annex existing development from the County, along with undeveloped land and annexation should avoid annexing existing development. The County submitted that the proposed annexation area includes 105 developed and/or subdivided Lakeshore lots and 40 country residential lots that cannot accommodate new growth. The County stated that approximately 312 acres of the proposed annexation area is undeveloped farmland. The County contended that the vacant farmland is best left under the jurisdiction of an agricultural municipality until such time as the use of the land has some likelihood of change.

[154] The County submitted that if the annexation is not allowed, the Summer Village would have other opportunities to expand its borders in the future. The area to the south of the Summer Village is identified in the 2010 BLIDP as part of the South Shore Growth Node and the Summer Village can expand in that direction at a later date. This would help avoid the annexation of previously developed lands.

Landowner Submissions

[155] A number of landowners submitted that the 106 acres currently in the Summer Village has been frozen for most of its history, due to an unwilling owner, which has influenced development within the boundaries of the Summer Village. One landowner observed the Summer Village has not changed in many years and will probably not change much in the future.

Board Findings

[156] The Board finds there is nothing to prohibit the Summer Village from annexing land from the County. The current Act does not contemplate the formation of Summer Villages (see s. 77); however, the Act is silent on whether Summer Villages can or cannot annex land. S. 5(a) states a municipality has the powers given to it by the Act and other enactments, of which the ability to apply for annexation is one. The Provincial Land Use Policies recognize all municipalities have the right to grow. Furthermore, it is noted that in past decisions, the Board has recognized the right of all municipalities to grow.

[157] In previous recommendations, the Board has clearly articulated that an annexation must demonstrate a need for land and be supported by growth projections. The Board acknowledges

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

the difficulty of predicting growth in the Summer Village. Given this difficulty, the Board finds that a broader perspective is required when considering growth in the Summer Village. Even though there has not been much growth directly in the Summer Village, looking at the entire Lake area, the Board is satisfied there has been significant growth over the past few decades. In light of difficulties associated with the growth study in terms of quantifying demand, the Board places a greater emphasis on the BLIDP, which designates the South Shore Growth Node as a significant growth area. The 2010 BLIDP states there is significantly more existing development and potential for further development in the South Shore Growth Node than in any of the other nodes in the area. The 2010 BLIDP is an indicator that there will be growth around the borders of the Summer Village in the future.

[158] The Board notes the 2010 BLIDP is unusual in that it involves five municipalities rather than two. As s. 631 of the Act is permissive, in that an IDP may provide for future land use within the area, the 2010 BLIDP did not have to address individual communities, as is common in other IDPs. The 2010 BLIDP gives a broad framework for the five municipalities to use when planning for growth around the Lake. The purpose of this IDP is to protect sensitive areas around the Lake and protect the Lake as a whole. The 2010 BLIDP is concerned with overall capacity around the Lake, not with the boundaries of specific communities. The MGB finds that if the 2010 BLIDP were meant to freeze the boundaries of all the municipalities involved, it would have done this expressly. Since it does not expressly prohibit boundary changes, the Board concludes that this cannot be its intention and that the 2010 BLIDP does not preclude annexation.

[159] The Board accepts that the Summer Village's MDP contemplates annexation. Since the 2010 BLIDP is silent as to annexation, the Summer Village's MDP is not inconsistent with the 2010 BLIDP on this issue. Moreover, s. 632 requires the Summer Village's MDP to address the coordination of land use, future growth patterns and other infrastructure with adjacent municipalities if there is no IDP with respect to those matters in those municipalities. Having said this, the MGB recognizes the Summer Village's MDP only applies to the Summer Village. Furthermore, the Board finds the BLIDP does not restrict the growth of any of the participating municipalities.

[160] The Board finds, given the Summer Village's unique function as a recreational lakeshore village, there are limited alternative future growth directions for the Summer Village. Annexing land farther to the south of its border in the future, as suggested by the County, would alter the character of the community, due to that land's distance from the Lake; therefore, this is not a viable alternative to the current annexation application.

[161] As noted above, the Board recognizes there are indications of growth in the area around the Summer Village, and that the municipality will likely grow in the future. The proposed annexation would provide the municipality with additional land for growth. At the same time, the Summer Village already has 106 acres of undeveloped land within its current boundaries. The Board is not convinced that this land is currently frozen. Rather, the 106 acres will likely be

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

developed under suitable market conditions. The fact that the landowner (or co-owners) obtained approval to subdivide part of the 106 acres but allowed that approval to lapse in 2009 suggests that the current owner (or co-owners) are prepared to develop when the market is suitable. Therefore, the Board concludes that the Summer Village does have developable land within its boundary for future development and growth.

[162] The Board acknowledges the Summer Village's concern that the 106 acres is not enough land, even if it is available for development. However, given the unique and tentative growth projections presented by both sides, the Board is not convinced that the 106 is inadequate to accommodate growth for a reasonable amount of time. Therefore, the Board finds is not enough reliable evidence to demonstrate the 106 acres, if developed first, are insufficient to accommodate growth.

[163] A large portion of the vacant land within the SE 19-40-20 W4 is co-owned by the same numbered companies that own the 106 acres of undeveloped land within the Summer Village. Since the Board has already found that the two numbered companies that own the 106 acres of vacant land within the Summer Village are willing to develop when the market conditions are right, the Board must accept these landowners are willing to develop the large tract of vacant land in the proposed annexation area. The Board notes that Mr. Anderson, the owner of the large tract of vacant land in the SW 20, did not provide the Summer Village with an annexation consent letter. Although Mr. Anderson advised the Summer Village he wished to continue farming, he did not object to the proposed annexation. The Board therefore concludes both these large tracts of land could be made available for development if they were annexed to the Summer Village. However, given these lands are located south of the developed area and the position of the Summer Village was that growth to the south would negatively impact the sense of community, the Board must question if this is a viable option.

[164] The Board recognizes the proposed annexation area includes a large number of developed lots. While many annexations include developed land, the developed land is usually relatively small compared to the size of the proposed annexation area and is usually included as a byproduct of accessing larger tracts of vacant developable lands. The portion of the proposed annexation area that is already developed is relatively large, given the small permanent population of the Summer Village. Therefore the Board does not consider this as land that is available to accommodate future growth.

3. Community and Planning

[165] The Board acknowledges, in the present case, the issues of community and planning are intertwined; therefore, it is best to address the arguments and findings on these two issues in the same section.

Summer Village Position

[166] The Summer Village argued the benefit of uniting the community under one jurisdiction is very relevant to the annexation, as it gives reasons for why the developed land was included in the proposed annexation application. The Summer Village contended the annexation will bring together the entire community of Rochon Sands, creating a larger, more sustainable municipality.

[167] The Summer Village submitted a key consideration of the annexation application is the manner in which it will officially recognize the existing Summer Village community. While the owners of the developed lots within the annexation area are technically County residents, for all practical purposes they are members of the Summer Village community. The residents in the Summer Village and the residents of the proposed annexation area are highly involved in the community, through volunteer and social activities as well as community organizations. Such organizations include the Hall and Recreation Association, the Golf Course Committee and the Marina Association. The landowners in the proposed annexation area have helped build the community over the years. However, only through the expansion of its jurisdiction can the residents of the proposed annexation area gain representation on the Summer Village Council and the opportunity to run for Council in the Summer Village.

[168] The Summer Village stated there are planning benefits to having the Summer Village and the proposed annexation area under one municipal jurisdiction. The area would be better serviced by one cohesive municipality, which would offer consistent planning and development. The geography of the area is such that the beachfront ties the community together. At the present time, part of the beachfront is under the jurisdiction of the Summer Village, while the other part is under County jurisdiction. The Summer Village also indicated that a trail system was being developed for the beachfront area. The proposed annexation will mean uniform rules and policies governing all lakefront properties in the area that are linked by beach access from their lots. Uniform rules, policies and bylaws are important when dealing with such issues as development standards, fire protection, unsightly premises, dog control, disaster services, noise abatement, and sanitary facilities. In response to the County's submissions, the Summer Village stated this argument is not based on a desire to have the entire South Shore Growth Node under one jurisdiction, but rather to have the area that is geographically and socially linked under one jurisdiction.

[169] The Summer Village contended the proposed annexation is a logical extension of its municipal boundaries, due to the layout of existing roadways. Access to the proposed annexation area is currently only available through roads within the Summer Village's jurisdiction. Therefore, it makes sense that the entire community be under one jurisdiction, in order to service the area in an efficient and logical manner.

[170] In response to an issue raised during the hearing regarding only having one road access into the area, the Summer Village stated the proposed annexation would place two potential

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

secondary accesses under one jurisdiction. Having these potential secondary accesses under the same jurisdiction may make it easier in the future to create a new access.

[171] The Summer Village argued that its residents and the residents of the proposed annexation area have similar urban needs and that the Summer Village would be more able to meet these needs than the County, which has a more rural focus. The Summer Village provided a comparison of services provided to its residents and the proposed annexation area. Public works services included street lights, solid waste site, street signage, road maintenance, snow removal, road maintenance, weed inspection, grass cutting, public beach maintenance, public area maintenance. Of these, the County did not provide public beach maintenance and public area maintenance – trash pick-up. Recreation services and amenities included pathways/trails, public parking, public boat launch, public marina, picnic/day use area, playground, golf course, winter recreation activities and tennis courts. The County did not provide parking lots, boat launches or public marinas. The Summer Village listed a number of its other village programs and communication services as well as community services that were only minimally provided by the County. With regard to public health and safety, the residents from the annexation area would benefit from enhanced policing, maintenance of designated swimming areas, a municipal shoreline plan, and public beach water testing.

[172] The Summer Village stated that it provides no water or wastewater services to its residents; however, it does inspect the septic tanks on a regular basis. The existing Summer Village is serviced by private wells and pressure systems for water supply and holding tanks for sewage disposal. The sewage holding tanks are pumped out and trucked to an acceptable sewage treatment facility at Red Willow located in the County.

[173] The Summer Village indicated development and maintenance of roads in the area should be under one jurisdiction. The Summer Village argued that the County appears to have a different approach to road maintenance and snow clearing. The evidence presented by the residents in the Summer Village and the surrounding area demonstrated the Summer Village offers more prompt snow clearing and is more responsive to the needs of the local residents.

[174] The Summer Village argued the proposed annexation would allow it to have more control over development in the area, which would be in keeping with its desire to preserve its vision of a Lakeshore community. The municipality sought to exercise more control over the planning and development of the lands surrounding its current boundary in order to ensure attractive and aesthetically pleasing development.

[175] The Summer Village contended good planning encourages involving the community in planning decisions. Its approach to planning facilitates meaningful consultation with affected landowners. The Summer Village stated that the County has a different approach to planning, which includes less public consultation. For example, the County did not effectively consult with the surrounding community over environmental and Lake access issues when developing Buffalo View Estates.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[176] The Summer Village stated it is committed to Lake stewardship and to preserving the unique nature of the lakeshore community. The Summer Village noted that the County appears to have a different approach when it comes to preserving the Lake community. For example, the County has been willing to consider developments on the border of the Summer Village that are not consistent with the character of the area.

[177] The Summer Village indicated the County and the Summer Village have similar policies governing reserve lands and the reserve lands are no longer an issue in this annexation application.

[178] The Summer Village submitted the annexation would not change the character of its community. Past practice and documents indicate its strong commitment to maintaining the nature of the current community, even with growth. Its Land Use Bylaw and the Summer Village of Rochon Sands Community Sustainability Plan are examples of this ongoing commitment.

[179] The Summer Village argued the proposed annexation would allow them to plan for the future in a rational and structured manner. If the annexation is approved, it will have time to plan for all issues, including infrastructure, in a proactive way. Therefore, when the next financial boom comes, it will be prepared for increased development demands.

[180] The Summer Village stated the future ASP between the three municipalities in the South Shore Growth Node, which is required by the 2010 BLIDP, is not an adequate solution to the issues presented in this application. This would simply download the current dispute between the two municipalities to the ASP process, which would generate other inter-municipal disputes. The Summer Village maintained that this is not an efficient use of the two municipalities' resources or the Board's time. The ASP is a potentially positive planning tool; however, given the different approaches to planning between the two municipalities, the Summer Village would not be able to substantially influence development along its borders through the ASP.

[181] The Summer Village stated that the two municipalities have worked together on various committees and boards, including: the 2010 BLIDP, the Buffalo Lake Integrated Shoreline Management Plan, the County of Stettler Recreation Board, the County of Stettler Housing Authority, the Shirley McClellan Water Commission, the Stettler Waste Management Authority, and the Stettler regional Fire Commission. The Summer Village looks forward to working with the County, and other municipalities in the region, on future projects.

[182] The Summer Village submitted that it is committed to the Buffalo Lake Shoreline Management Plan. The plan will guide land use decision making and support municipal planning processes to ensure the ecological integrity (and natural quality) of the area's shoreline. The plan will also ensure a high quality Lake environment will continue to be maintained, now and in the future. The Summer Village stated it is a good steward of the Lake. Moreover, the annexation area is not in any of the environmentally sensitive areas identified in the 2010 BLIDP.

County Position

[183] The County submitted community ties between the Summer Village and the residents within the proposed annexation area have not been impeded by the current boundary. In addition, those ties will continue even if the annexation is not approved. Furthermore, these community bonds are not uncommon in other resort areas in the province and in other urban municipalities in the County.

[184] The County cited the Nichols Report, which indicated the existence of community connections is not among the criteria that have been accepted for an annexation. The fact that the Act was changed in 1995, so as not to allow residents to initiate an annexation, is evidence that the Province does not see such community bonds as a reason for the approval of an annexation.

[185] The County submitted the Summer Village supplied no reasons for why one jurisdiction governing the area would be better. Not all areas identified for residential development in the South Shore Growth Node would be under one jurisdiction if the annexation was approved. In addition, the 2010 BLIDP does not anticipate all land within the South Shore Growth Node being in one municipality.

[186] The County argued the 2010 BLIDP requires a joint ASP between the three municipalities within the South Shore Growth Node. The 2010 BLIDP and, in turn, the future ASP will address the planning concerns expressed by the Summer Village in this application for annexation. This future ASP will address proposed land use, distribution of density, transportation requirements, recreation, strategies for protecting water bodies, and public access. The 2010 BLIDP and the future ASP in large part mean the annexation is not necessary.

[187] In response to the issue of only having one road access into the area brought up at the hearing, the County states it understood the issue to be the lack of a second access road, being a north-south access road, which did not lead back to Highway 835. This would be an access road that would take traffic south, to an east-west road. In response to the issue regarding road maintenance, the County explained that the photographs provided to the Board were taken after a major rain. Furthermore, the County stated that that County Council had approved the paving of the road in Area 3 in this year's budget.

[188] The County stated it provides various services to the proposed annexation area, such as road maintenance, snow removal and fire protection services. The County also provides weed and pest control, as well as management of the communal water and sanitary system in the Buffalo View Estates subdivision, which is part of Area 2 of the proposed annexation area. The County identified that it provided wastewater treatment services to the region at its Red Willow facility. The County's consulting engineer indicated that he had reviewed the trucking logs at the Red Willow facility and was somewhat surprised the volume attributed to the Summer Village was quite low. In response to questions, the consulting engineer stated that he did not know where, what he termed, the "fugitive wastewater" was going.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[189] The County stated it has a longstanding firm commitment to the stewardship of the Lake and has successfully protected the integrity of the lake from inappropriate development along half of the entire Lakeshore that is under its jurisdiction. Examples were provided to illustrate how the County balanced public enjoyment without jeopardizing environmentally sensitive areas. The County maintained that the Buffalo Lake Integrated Shoreline Management Plan pertains to the Provincially owned right of way that extends along the entire shoreline. This plan is administered by Alberta Sustainable Resource Development. The County indicated that it is a full participant in the BLIDP and supports the implementation of the plan. The County argued that it can take the same actions to protect the Lakeshore as the Summer Village. The County indicated the shoreline trail system can be integrated into future County planning.

[190] In response to concerns regarding the boat launch, the County stated that the boat launch in the new subdivision was to be public. Johan Van Der Bank, the Director of Planning and Development for the County, stated in oral submissions that he takes full responsibility for the fact that this boat launch is private and that it should not reflect badly on the County.

Landowner Submissions

[191] A number of the landowners emphasized that the proposed annexation would legitimize the existing community of Rochon Sands, which they saw as a positive step. Many of the landowners who live in the proposed annexation area stated they are a part of the Summer Village. They identify more with an urban municipality than with the more rural focused County. Furthermore, a number of residents of the existing Summer Village expressed their support for the annexation, as they considered the residents in the proposed annexation area to be part of their community.

[192] One landowner highlighted that she had to travel to a nearby community to pick up her mail. She indicated that the proposed annexation would allow her mail to be delivered to the Summer Village, which would increase her ties with the municipality.

[193] A number of landowners expressed concern regarding the road maintenance. They believe the County is not taking care of the roads in their area. To emphasize this, photographs showing the roads were provided to the Board. Moreover, many of the landowners expressed concerns about service levels related to such things as grass cutting, road grading and snow removal, as well as the lack of garbage pick-up and recycling.

[194] Landowners also expressed concerns regarding the use of the boat launch. They believe this demonstrates the County is not providing public access to the lake and that this will increase demand for the facility in Rochon Sands.

[195] Several submissions from landowners in the proposed annexation area highlighted the importance of gaining the right to vote in the Summer Village's Municipal elections and the right to run for Summer Village Council. They argued that they do not have a voice in the County and

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

they want more of a say in planning decisions in the area. In addition, they use the amenities of the Summer Village and they want their tax dollars to be spent in the Summer Village.

[196] Some affected residents stated having the area under one municipal jurisdiction makes good planning sense. Since the proposed annexation area must be accessed through the Summer Village it makes sense for the area to be under one jurisdiction. Also, servicing the area would be more efficient if it was under one jurisdiction.

[197] A number of landowners emphasized they wanted the Summer Village to have more control over growth in the area, in order to preserve the Summer Village community and create a consistent vision of development. They argued the Summer Village is more adept at public consultation and communication when it comes to new development.

[198] Some landowners expressed concern over Lake stewardship and other environmental concerns. They argued the Summer Village would be a better steward of the Lake and the surrounding environment. Some landowners highlighted that they understand regulations governing reserve lands will be enforced equally by the Summer Village and the County.

Board Findings

[199] The Board acknowledges community is not explicitly listed as one of the fifteen principles of annexation. However, planning has a broader scope / takes a broader view. Community can be seen as an implied component of planning and is therefore a relevant consideration in this application. That said, community is one of many factors considered by the Board when making an annexation recommendation. In addition to community factors an annexation must be supported and complemented by other important factors, such as reasonable growth projections and financial viability.

[200] The Board finds the Summer Village benefits from a substantial number of volunteers, which have a profound impact on its administration and community. The Summer Village has considerable support through community organizations, which are mostly operated through networks of volunteers. In addition, the function of the Summer Village is centered on recreation, whereas most urban municipalities have a much broader function, which tends to emphasize the provision of hard services such as water and sewage disposal. The distinctiveness of this municipality is apparent in its annexation application, which highlights the importance of community and recreation.

[201] The Board accepts the proposed annexation could assist in supporting the fundamental administration of the Summer Village and unite the community. Allowing the Summer Village residents and the residents in the proposed annexation area to become one legal entity will increase the sense of community. Becoming part of the municipality may encourage the new residents to become more involved in the administration of the Summer Village. The Board

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

agrees that the more involved residents of a community are the more vibrant and dynamic the community will become as a whole.

[202] The Board also acknowledges the annexation would allow landowners in the proposed annexation area to have more political input into the Summer Village, which would contribute to a strong municipality. The affected landowners may be more inclined to participate and contribute if they have a strong voice in the Summer Village and are able to participate in the democratic process. Although political participation and citizen participation may be factors in an annexation, the broader context - including financial sustainability, prudent planning, intermunicipal cooperation, and growth needs – must also be considered. In addition, the Board was informed that the Summer Village attempts to work with not only its residents, but the residents in the surrounding area. This demonstrates the affected landowners are already politically active in the Summer Village by providing input and influencing the operations and policies of the municipality. The Board heard no evidence to believe the Summer Village would discontinue this practice if the annexation were not approved.

[203] At the same time, the Board finds there is no evidence these community ties will diminish if the annexation is not approved. Community involvement has developed regardless of the current borders. The Board heard that Summer Village and County residents engage in common social activities, and there is no reason to believe this interaction would decrease if the annexation is not recommended. For example, the fact that people must travel to neighbouring municipalities to pick up mail does not diminish these ties. Since the residents in the annexation area who made submissions to the Board identified that they already volunteer on committees or organizations associated with the Summer Village, it is uncertain whether the proposed annexation would actually increase the volunteer base or enhance community spirit. Furthermore, the Board agrees that it is common for populations along the borders of urban municipalities to identify with and participate in activities in the adjacent urban municipalities - even though they do not live under their jurisdiction.

[204] The Board accepts the landowners' comments that they identify more with an urban municipality than a rural one. The two municipalities are different, in that the Summer Village is a smaller geographic area and may be more personalized in its dealing with its residents, whereas the County is servicing a large, mostly agricultural, area, which tends to require a more procedural, formalized approach. In addition, the Summer Village's administration may be more in tune with the recreational demands of the residents of the proposed annexation area, which is the focus of the residents within the proposed annexation area. At the same time, the County has recently attempted to address at least some of the urban concerns of the residents in the proposed annexation area, such as the condition of the roads in Rochon Sands Estates through a potential paving project.

[205] The Act identifies the purpose of a municipality to be the provision of good government, the provision of services, facilities or other things the Council believes are necessary or desirable, and the development and maintaining safe and viable communities. The Board

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

observes that the majority of the public works services identified by the Summer Village are provided by both municipalities. Public health and safety issues, such as year round surveillance and bylaw enforcement are also provided by both municipalities. Although the Summer Village does inspect cisterns, it is noted that the Summer Village does not currently provide water or wastewater services. Wastewater from the Summer Village as well as the properties in the annexation area is trucked to the sewage treatment facility at Red Willow located in the County. The provision and/or funding of programs related to recreation services, municipal programs and community services are decisions best made at the local level. The Summer Village generally makes many of its recreation services, Village programs and community services available to the public and recoups the cost with user fees. Therefore, the Board can not conclude municipal services will be substantially increased as a result of the annexation.

[206] The Board finds that concerns about service levels related to such things as grass cutting, road grading and snow removal, as well as the availability or the lack of programs such as garbage pick-up and recycling are policy issues that are within the scope of the municipalities to address. Service levels and program decisions are made by the municipalities in the public interest in accordance with the purpose of a municipality stated in the Act and using the natural person powers granted by the Act. Therefore, the Board is reluctant to give a great deal of weight to this matter in making its decision.

[207] The Board recognizes the Summer Village's desire to maintain the unique culture or character of the community and, therefore, acknowledges its concern over the compatibility of uses in the surrounding area. The Summer Village wants development that compliments its existing community and conforms to its vision for future development. The Board considers the submissions from a number of landowners in the area who expressed concern over maintaining its village culture by gaining more control over development in the area. The Board accepts that the Summer Village has a greater understanding of the function of its community than the County would have, which gives the Summer Village more insight into how that function can be cultivated and sustained within its jurisdiction. In addition, the land proposed to be annexed is the most vulnerable to incompatible development, given its proximity to the Summer Village and the future growth projections for the area. The proposed annexation would give the Summer Village control over these lands, allowing it to ensure development is in tune with its community vision. However, the Board also acknowledges that the Summer Village is not the only jurisdiction adjacent to the Lake and recognizes that the 2010 BLIDP articulates a combined vision of the five municipalities that surround the Lake.

[208] The 2010 BLIDP requires an ASP to be developed by the three municipalities in the South Shore Growth Node. The required ASP involving the three municipalities could occur regardless of whether the annexation is approved. Moreover, many development concerns could be addressed through this future ASP. The Board finds the ASP will contribute to a more regional perspective and will result in a more cohesive planning effort. Furthermore, since an ASP is a statutory document, public participation is a requirement under the Act.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[209] Both municipalities demonstrated that they have a long history of collaboration on various boards and projects. The 2010 BLIDP and the Stettler Regional Fire Commission, are examples of this cooperation, which will likely continue in the future. While the proposed annexation may give more direct control to the Summer Village, a future IDP, the future ASP, and intermunicipal cooperation in general could be used as a viable alternative to annexation. These tools can also help the municipalities within the South Shore Growth Node prepare for the next economic boom in Alberta in a controlled and proactive manner. The Board agrees that the ASP required by the 2010 BLIDP will also give all three municipalities in the South Shore Growth Node the opportunity to have a voice over development in the area, which would be in keeping with the communication and cooperation envisioned by the 2010 BLIDP.

[210] The Board acknowledges the concerns from the Summer Village and the affected landowners over Lake stewardship and protection of the environment. The Board finds that both the County and the Summer Village take environmental protection seriously. In addition, both municipalities have similar rules guiding the protection of reserve lands adjacent to the Lake. The County has significant development standards with regards to the environment; but the Summer Village would be more aware of the immediate impacts of development on the environment, given its proximity to the area and local knowledge of the region. However, given the importance of the lake to the residents and both municipalities, the Board is concerned about how the “fugitive wastewater” is being handled.

[211] The Board acknowledges the submissions of numerous residents who spoke of their connection to the area and their knowledge of the landscape. However, a future IDP between the two municipalities and the future ASP required by the 2010 BLIDP will guide development and address many environmental issues, giving the Summer Village an opportunity to articulate its concerns and apply its distinctive knowledge. Lake stewardship will be a central aspect of both of these agreements. The Board accepts there are issues regarding boat launch facilities. Although this does demonstrate philosophical differences between the two municipalities and the landowners, the resolution of this issue is a local matter.

[212] The Board notes that landowners in the developed proposed annexation area will not be receiving any additional services as a result of the proposed annexation.

[213] In relation to the Summer Village’s development concerns, the Board also notes that an annexation may not be the right method to address these issues. Annexation results in a change of jurisdiction. Bringing the lands under one jurisdiction may address some problems, but it will not resolve broader differences in regard to compatible development and the environmental protection. The Board finds that the ASP and a future IDP may be more effective in addressing these issues because they would tackle these issues in a more direct way and allow for discussion and input from all sides. Moreover, these processes will allow broader participation and input, which can help to enhance the planning process and improve the quality of life of all residents of the region.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[214] The Board accepts the submissions of both municipalities that lakeshore reserve lands is no longer a contentious issue between the parties in this application. A number of the residents in the proposed annexation area submit they understand regulations governing reserve lands will be enforced equally in the Summer Village and the County.

[215] The Board acknowledges that the traffic to Area 1 must travel through the Summer Village. However, it is not uncommon for people to have to travel through other jurisdictions to get to their destination. The need for a second road access to Area 1 should be addressed during the development of the ASP. The Board finds having the existing roads in the Summer Village and the proposed annexation area under one municipal jurisdiction should receive little weight. A change in jurisdiction would have little effect on the condition of the existing roads or provision of future roads.

4. Financial Impact

Summer Village Position

[216] The Summer Village stated it has always been financially stable. It has good reserves and liquidity compared to other municipalities of a similar size. Overall, it operates at very low costs and has lower taxes compared to other Summer Villages in Alberta. The philosophy of the Summer Village is to have a balanced budget, phase in larger expenses and employ user pay when possible. The Summer Village of Rochon Sands Financial Statements for the Year Ending December 31, 2009 identified the Summer Village had an excess of revenue over expenditures of \$4,858 and an accumulated surplus at year end of \$670,847. The amount of taxes levied to support the Summer Village's municipal operations in 2009 was \$117,400.

[217] The Summer Village submitted the proposed annexation is likely to result in a positive financial impact, which could lead to a decrease in taxes or an increase in services. Three surplus/deficit estimates were provided based on the information available to the Summer Village at the time. In the January 2, 2009 Report on Negotiations, the Summer Village's *Projected Revenues Generated Through Taxation – 2009* document estimated the Summer Village would have generated \$109,809.10 through tax, grants and other revenues from the proposed annexed lands. This figure was calculated using the Summer Village's 2008 municipal tax rate of 2.546 and an estimated assessment of \$40,095,174.00. The Summer Village's estimated expenditures associated with this area was \$90,671.75, resulting in a net surplus of \$19,137.35. In the Update to the Report on Negotiations submitted by the Summer Village on March 2, 2011, the Summer Village estimated it would generate a surplus of \$23,772.01. This was based on the estimated assessment in the annexed area being \$40,095,174.00 and a municipal tax rate of 2.2681.

[218] In its response submissions, the Summer Village provided a second updated estimate to its *Projected Revenues Generated Through Taxation – 2012* document, dated May 12, 2011. This estimate was calculated using an assessment of \$43,802,300.00 and the Unchanged General

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

Municipal Mill Rate of 2.2681. Based on this, the Summer Village anticipates \$102,448.00 in tax and other revenues in 2012 from the proposed annexed lands, using the Unchanged General Municipal Mill Rate of the Summer Village of 2.2681. The expenditures associated with providing services to these were estimated at \$91,033.17, resulting in a net surplus of \$11,414.83.

[219] The Summer Village stated that based on the evidence of its financial expert, Mr. Petersen, efficiencies might be gained with an increase in size, because administrative and other costs would not necessarily increase simultaneously. Small municipalities have the same administration costs as slightly larger ones and, therefore, costs would be distributed over a larger number of residents. This would result in savings for the municipality. The Financial Comparisons, prepared by Alberta Municipal Affairs, use graphs to compare the Summer Village with 18 similar municipalities from 2005 to 2009. The Summer Village submitted that an analysis of the graphs reveal that its tax rate has been consistently lower than other similar municipalities, the equalized assessment per residence is rising very much like most of the comparison municipalities, the Summer Village's taxes per residence are below the median, and the Summer Village's grant revenues are close to the median. The graphs indentified that the Summer Village spends nearly the most per residence on recreation. The other high cost function is roads. The graphs also identified that the Summer Village spends little on fire, bylaw enforcement, policing and environmental costs. The financial expert submitted that the reason for the Summer Village's tax rate being lower than other municipalities could be because the Summer Village provides fewer services or has larger alternative funding like grants. Moreover, the administration and other costs associated with an increase in size (assessment) may not increase because of efficiencies that might be gained.

[220] The Summer Village stated it can service the area in a financially prudent manner and will ensure the roads are maintained to the same level as in the County. It will use a contracted service similar to the one currently used in the Summer Village. The *2008 Annexation Servicing Study: Summer Village Rochon Sands*, prepared by Tagish Engineering, tendered several options for water and waste water servicing for the proposed annexation area that are feasible, both physically and financially.

[221] The Summer Village argued it has a greater familiarity with its own operations and the costs of the annexation than the County. Furthermore, the Nichols Report, cited by the County, failed to consider certain factors, such as the maximum debt increase for the Summer Village, the impact of grants, and potential revenues for infrastructure from development agreements, levies and user fees. When it takes on bigger projects, the Summer Village searches for ways to bring down costs by investigating such things as government grants or partnering options. For instance, the Provincial Government, in developing the Water for Life Strategy, has indicated it does not support urban sprawl in rural Alberta. This provincial policy has limited funding for water and wastewater lines for rural communities and will only provide funding to organized urban municipalities. Potential funding from this program would increase if the annexation were

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

approved. The Summer Village also argued costs associated with the operation of water and wastewater services could be kept at a minimum through the use of contracting.

[222] The Summer Village stated it currently provides a spectrum of recreational services, including: beaches, marina, picnic area, swimming areas, golf course, ball diamond, tennis courts, store/restaurant, community hall, children's programs, and seniors' activities. It also provides some municipal services, including the area required for household waste disposal, post office boxes, and community bulletin boards. The Summer Village indicated that many of its recreational and municipal services are used by non-residents. The residents in the immediate area around the Summer Village use these facilities the most and, therefore, it makes sense that their tax dollars go towards maintaining these facilities. The annexation would be positive because it would assist in generating increased revenue to assist the municipality in continuing to provide high quality recreational services.

[223] The Summer Village argued that there is no evidence that there will be a negative impact on the Regional Boards due to this proposed annexation. Instead, the Summer Village expects its contributions to these boards will increase if the annexation is approved as a result of the increase in its population size.

[224] The Summer Village disagreed with the County's argument that this annexation would lead to a flood of annexations from other urban municipalities within the borders of the County. Each annexation application should be considered on its own merits and there is no evidence the County would be incapable of defending itself in future annexations.

[225] The Summer Village submitted the County has chosen to provide little information on the financial impacts of the annexation on the County. Furthermore, the Summer Village argued, the small amount of information provided to the Board concerning the financial impact on the County demonstrates the effect will be insignificant.

[226] The Summer Village stated in the Report on Negotiations it is prepared to share net revenue from municipal taxes to compensate the County for this loss and proposed the following compensation schedule:

- 1) Year One- 100% of the net municipal tax loss;
- 2) Year Two- 80% of the net municipal tax loss;
- 3) Year Three- 60% of the net municipal tax loss;
- 4) Year Four- 40% of the net municipal tax loss;
- 5) Year Five- 20% of the net municipal tax loss;

[227] The Summer Village argued, in oral submissions its previous statement concerning compensation might change in light of new evidence. At the time of drafting the Report on Negotiations, it did not know the County would not file any financial evidence. The Summer Village stated that the County did not supply enough information to demonstrate the financial

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

impact on the County if the annexation is approved; therefore, the Summer Village argued that the Board does not have sufficient evidence before it to grant a standard compensation order.

[228] The Summer Village indicated when it filed the Report on Negotiations it was unaware of the road debenture for paving in Area 3 of the proposed annexation area. The Summer Village would prefer to control the management of the road paving project, rather than have to assume a debenture. If the County proceeds with the road paving project, it would potentially affect the Summer Village's position on compensation.

[229] The Summer Village pointed to the Town of Stettler annexation where the County did not ask for any direct compensation. Rather, the County required a commitment by the Town of Stettler to spend a particular amount of money on recreation. This suggested the County is in a financial position to absorb the impacts of a much larger annexation than the Summer Village's current application, with no compensation. Furthermore, the Summer Village emphasized that the same approach to compensation might be useful and suitable in the present application.

[230] The Summer Village stated, in the Report on Negotiations, that the properties annexed to the Summer Village will be treated in the following fashion:

- 1) For taxation purposes in 2009 and in subsequent years until December 31, 2018, the annexed lands and the assessable improvements to it:
 - (a) must be assessed by the Summer Village of Rochon Sands on the same basis as if they had remained in the County of Stettler, and
 - (b) must be taxed by the Summer Village of Rochon Sands using,
 - i. the municipal tax rates established by the County of Stettler No. 6, or
 - ii. the municipal tax rates established by the Summer Village of Rochon Sands,whichever is lower.

[231] Upon questioning at the hearing, the Summer Village submitted the annexed lands would not necessarily be taxed at the lower of the two municipalities' rates for a specified period of time. Lower taxes are not a reason offered by the Summer Village to the landowners for the annexation. The landowners in the area have never been led to believe their taxes will go down if the annexation is approved. The Summer Village has very low taxes when compared to other Summer Villages in Alberta and if it needs to raise taxes at some point, it has room to do so. There is nothing to support a position that some future need to raise taxes is a reason to deny annexation.

[232] In response to the County's submission that the annexation is based on a desire to increase the municipality's tax base, the Summer Village submitted this is not the sole, nor even primary, reason for the annexation.

County Position

[233] The County acknowledged that the Summer Village is financially stable and compares well with its peers. The Alberta Municipal Affairs Finance and Debt Limit Profile provided in the Nichols Report identified that in 2009 the Summer Village had an accumulated surplus of \$521,067. The Debt Limit Profile identified that the Summer Village had no actual debt, but had a debt limit of \$320,949 and a debt servicing limit of \$53,491. That said, based on the Nichols Report, in the short term, the annexation would have a small negative impact. The Summer Village would have a \$9,700 deficit in its first year. Furthermore, in the long term, the proposed annexation would create financial risk for the Summer Village. This risk is based on the large area proposed to be annexed relative to the existing size of the Summer Village, combined with the projected population increase over the next few decades. The annexation would test the municipality's financial, administrative and operating capacity.

[234] The County agreed servicing the proposed annexation area is feasible. However, servicing cannot be accomplished at no cost to the Summer Village, due to the nature of providing infrastructure for new development. The County cited the oral testimony of Mr. Nichols, who stated it is not possible to service an area exactly in parallel with growth. Phasing of development will help moderate costs to the municipality, but not eliminate them. Moreover, the County argued administration costs would increase as a result of growth and the need for qualified water and wastewater personnel.

[235] The County submitted the Summer Village's concerns over the use of recreational services by non-residents can be addressed by alternative methods other than increasing its tax base through annexation. User fees could offer a viable, less risky alternative. The Summer Village is comfortable using user fees for funding projects. Furthermore, this concern over the use of amenities by non-residents is not typically addressed through annexation, but by cost sharing.

[236] The County highlighted that the Summer Village did not provide any study to quantify the amount of use of the facilities in question or where the users of the amenities are from. In the Summer Village's response submissions, the 1991 Palby Creek Study indicated 25% of the users of the provincial parks and recreation areas around the Lake reside within 50km of the Lake and an additional 25% of the users reside within 50-100 km of the Lake. The County emphasized that the Summer Village provided no financial analysis of the impact of this use of amenities by outsiders on costs related to the Summer Village's facilities.

[237] The County submitted it will lose 3.2% of its current assessment as a result of the annexation, which it argues is not an insignificant loss. In addition, the reduction in costs incurred if the annexation is approved is difficult to quantify.

[238] The County argued the purpose of compensation is to give the responding municipality time to replace lost assessment and taxes; therefore, the Board should follow its normal

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

procedure when it comes to compensation. Additionally, the Town of Stettler annexation is not comparable to the current situation, as the Town of Settler is a major centre that services the entire County.

[239] The County identified it has a large number of urban municipalities within its borders. It was suggested that if every one of those municipalities had growth needs and used the type of growth projections the Summer Village is using to justify its need for land, the financial impact on the County would be significant.

[240] The County viewed the annexation application as a way for the Summer Village to increase its tax base by taking lands already developed in the County. The County highlighted that this is a tax initiative. In response to the Summer Villages comment that it did not have financial information, the County referred to the Nichols Report, which identified the assessment in the proposed annexation area was \$43,802,300 and the County's tax rate was 4.4193.

[241] The County confirmed that they had budgeted for, and were moving forward with, the paving of the road in Area 3 of the proposed annexation area. The County estimated the cost of this project to be \$250,000. The County will pay \$125,000 with the remaining \$125,000 to be paid by the landowners. A debenture will be taken to allow the landowners to pay their costs over a period of time.

Landowner Submissions

[242] A number of landowners commented that servicing the proposed annexation area is financially feasible, given the options for staged development, user pay projects, and the many volunteers available. In relation to servicing, many landowners expressed concern over the maintenance of roads in the proposed annexation area. They contended the County does not look after the roads properly, when it comes to grading or plowing.

[243] A County Councilor submitted the County is attempting to operate as efficiently as possible, stating there were problems with snow removal across the County this past winter.

[244] One landowner stated the annexation is not financially feasible for the Summer Village. It was also suggested that the Minister dissolve all Summer Villages.

Board Findings

[245] The Board believes it necessary to consider in some detail the financial impact on both municipalities when reviewing this annexation request.

[246] Both municipalities agree that the Summer Village is now financially stable, and the Board notes the Summer Village has operated in a fiscally responsible manner. The Board finds no reason to believe the administration and other operating costs associated with growth and

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

servicing (water and/or wastewater) would be unduly prohibitive. At the same time, the Board acknowledges this proposed annexation represents a major increase in size for the Summer Village, which generates new financial challenges.

[247] Both the County and the Summer Village acknowledge servicing would be feasible and the major disagreement between the two municipalities is over costs of servicing options for the proposed annexation area. The presentations made by the Summer Village concerning the various options for the capital costs associated with servicing once regional services are extended to the south lake area were thought out and appropriate. Growth will most likely occur gradually; therefore, most servicing projects could be undertaken in stages, thus helping to control costs. The Summer Village may also be able to offset servicing costs through grants and user fees. Having said this, the Board understands that not all development will necessarily occur adjacent to existing development. The availability of suitable land, and other developer concerns and priorities, may well cause some separation between a proposed development and existing development. With development spread over a larger area, the cost of servicing would increase and may have to be born by the Summer Village for a period of time. Given these factors, the Board finds there would likely be ongoing financial challenges associated with the capital costs of providing services to new developments within the proposed annexation area. While the Summer Village may be able to adopt policies to mitigate such challenges, the ultimate financial impact is difficult to determine.

[248] The Board acknowledges that the Summer Village welcomes people from all areas to use its recreational facilities, which represents a cost to the municipality. Some of these costs are recouped by the Summer Village and its partner organizations through user fees. Additionally, many of the community organizations in the Summer Village benefit from volunteers who live in the proposed annexation area and are at least partially funded by the County. The Board applauds this relationship as it clearly demonstrates a high level of cooperation within the region surrounding the Summer Village. It also highlights that the Summer Village has a history of employing a user pay philosophy.

[249] The Board rejects the County's argument that the acceptance of this annexation application would influence potential future annexation applications from other urban municipalities within the County. Each annexation application should be decided on its own merit. As such, the financial implications of any annexation must be considered in the context of the annexation before the Board at that time.

[250] The Board accepts the County's evidence that the assessment of the proposed annexation area was \$43,802,200 in 2010, which accounts for approximately 3.2% of the County's total assessment. These figures were provided to the Board in Table 3.2 on page 19 of the Nichols Report. The County's 2010 municipal tax rate was provided to the Board in Appendix B of the Nichols Report was 4.4193. Using the County's 2010 municipal tax rate, the proposed annexation area would generate \$193,575.06 in municipal taxes for the County. The Boards finds

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

the loss of this amount of municipal taxation revenue as a result of the proposed annexation would be significant for the County.

[251] During the course of the hearing, the Board received three compensation methodologies from the Summer Village and one from the County. The Board considers each of these methodologies below.

[252] In the Report on Negotiations, the Summer Village offered to share net revenue from municipal property taxes to compensate the County, declining by 20% each subsequent year for five years. The purpose of compensation is to reimburse the municipality from which the land is to be annexed for the loss of municipal tax revenue resulting from an annexation. Although the municipality from which the land is to be annexed would no longer have to service the area, the Board accepts that it would take time for that municipality to shift its servicing arrangements to adjust financially to the boundary change. These expenditures are not automatically eliminated once the land has changed jurisdiction. The Board finds that sharing net revenue from municipal taxes, as suggested by the Summer Village, would only compensate the County for part of its loss and would not give the County an opportunity to adjust its financial planning to accommodate the change. Therefore, if net revenue from municipal property taxes were chosen as a compensation method, the remaining County residents would have to bear a financial burden until the County was able to make necessary adjustments. The Board finds it is unreasonable to expect the remaining County residents should be burdened financially because of this annexation. Therefore, the Board concludes that compensation in the form of the net revenue of municipal taxes without an annexation agreement in place would not be reasonable or equitable.

[253] The Summer Village also suggested compensation in the same manner as in the Town of Stettler annexation. The Board notes that the annexation involving the Town of Stettler and the County contained an agreement between the two municipalities which included provisions regarding compensation. Therefore, the Board finds the compensation method used in the County of Stettler annexation is not comparable to the current application.

[254] In its final oral submissions, the Summer Village argued no compensation should be awarded to the County. Again, the Board notes compensation is meant to reimburse the municipality from which the land is to be annexed for its loss of municipal tax revenue. Awarding no compensation would result in the Summer Village receiving all the municipal taxes from the proposed annexation area. Again, the County would have no opportunity to adjust its finances, so the remaining County residents would have to bear this expense. The Board finds this compensation methodology would enrich the Summer Village at the expense of remaining County residents. Therefore the Board does not recommend this methodology.

[255] The County suggested the traditional compensation methodology. For comparison, the Board considered the Town of Strathmore and City of St. Albert annexation recommendations, as both involved annexations in which the two municipalities were not in agreement and both identified compensation as an issue. Moreover, both were cited in the submissions by the County

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

and Summer Village. In both these annexations, the Board recommended a declining balance compensation methodology. The Board finds the declining balance method of compensation is appropriate in this case as it offsets the financial loss for the municipality that the land is being removed from so it is not disadvantaged by the annexation. Moreover, it allows the responding municipality time to adjust to the change. In the past, the Board has employed a five-year declining balance compensation formula. This means the initiating municipality would pay the responding municipality 100% of its gross financial loss in the first year, declining by 20% every subsequent year for five years.

[256] Based on the numbers provided in the Nichols Report, the Board has already concluded the County generated \$193,575.06 in municipal taxes from the annexation area in 2010. Using the declining balance compensation method, the Summer Village would have to pay the County \$193,575.06 in the first year, \$154,860.05 in the second year, \$116,145.04 in the third year, \$77,430.02 in the fourth year, and \$38,715.01 in the fifth year. Cumulatively, the Summer Village would have to pay the County a total of \$580,725.19 over a period of five years.

[257] The Board must also consider the financial implications to the landowners within the proposed annexation area. The Board notes a discrepancy in the Summer Village's submissions concerning the rate the annexation properties will be taxed at if the annexation is approved. The original Report on Negotiations submitted by the Summer Village states the annexed lands will be taxed by the Summer Village at the lower of the two municipal tax rates, which is the Summer Village tax rate. The Board heard that the Summer Village presented the original Report on Negotiations at a public meeting prior to submitting its documentation to the Board. Furthermore, the Projected Revenue Generated Through Taxation – 2012 document contained within the Report on Negotiation and the two updates to this document use the Summer Village tax rate to project revenue. These documents were submitted by the Summer Village and were made available to the public by the Summer Village prior to the start of the merit hearing. In contrast, the Summer Village stated during its oral submission that the annexed lands would be taxed at the same rate they are currently taxed at within the County. The Board is uncertain whether all the affected landowners are aware of, and in agreement with, the change proposed by the Summer Village during the hearing. Although some landowners submit they understand their taxes will not necessarily go down, the Board received no evidence to suggest all the landowners in the proposed annexation area are in agreement with this statement. Therefore, the Board is reluctant to recommend moving away from the original statement made in the Report on Negotiation previously made public to the landowners and upon which some may still be relying. In addition, this annexation is unique in that the Summer Village has a lower tax rate than the County. In most annexations, an assessment and transition condition period is required to allow the affected landowners time to adjust to the higher municipal tax rate in the new municipality. The Board finds in this annexation there is no justification for the transition condition period. Pursuant to this finding, if the annexation is approved, the annexed lands should be taxed at the lower of the two municipal rates, which would be the Summer Village's rate.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[258] The Summer Village expressed concerns that the County intended to pave the road in Area 3 of the proposed annexation area. The Board notes s. 135 of the Act states all the assets, liabilities, rights, duties, functions, and obligations of the old municipality that relate to the annexed area pass to the new municipality, unless the order provides otherwise. The Board considers the paving of a road a local matter and is unwilling to order the County to discontinue its plans at this time. Moreover, the Board finds it would be unreasonable for an annexation order to require the municipality from which the land is taken to pay for infrastructure no longer within its jurisdiction. The Board acknowledges that the potential road debenture creates additional uncertainty over the financial aspects of this proposed annexation and may impact the debt limit and financing philosophy of the Summer Village.

[259] Having considered the financial impact on the County and the affected landowners, the Board must now consider the financial impact on the Summer Village. The Board accepts the County's estimate that the assessment for the proposed annexation area in 2012 will be \$43,802,200 (Nichols Report). The Board also accepts that the Summer Village's estimated general municipal mill rate for 2012 will be 2.2681. These estimates appear reasonable and neither party advanced argument to cast doubt on their accuracy. Given the Board's earlier decision regarding the financial implications to the landowners, the municipal tax revenue generated by the Summer Village from the annexation would be \$99,347.77 in the first year. Since the County provided no 2012 tax rate estimate, the Board has adopted the 2010 County tax rate of 4.4193 as a reasonable proxy and has already stated that the compensation to be paid by the Summer Village to the County in the first year would be \$193,575.06. The County estimated annexation area expenditures at \$112,133 in 2012, while the Summer Village estimated them at \$91,033.17 in its May 12, 2011 submission. The Board gave equal weight to both estimates, as they are relatively close and both municipalities have experience providing municipal services. The Board concludes that the average of the estimates provided by the two municipalities, \$101,583.09, is the best approximation of an expenditure estimate. The Board accepts the Summer Village will also generate \$3,100 in Other Revenue as neither party argued this amount.

[260] Given the Board's findings regarding compensation, the assessment and taxation transition conditions and including the \$3,100.00 Other Revenue identified in the Summer Village's Projected Revenues Through Taxation – 2012 document updated on May 12, 2011, it is estimated that the proposed annexation will create a deficit of \$192,710.38 for the Summer Village in 2012 in the first year (see Table 1).

Table 1: Projected Revenue and Expenses for Proposed Annexation Area

Projected Annexation Revenues and Expenses 2012	
Revenue	
Tax Revenue - Annexed Land	\$ 99,347.77
Other	3,100.00
	<u>\$ 102,447.77</u>
Expenditures	
Municipal Costs - Annexed Land	\$ 101,583.09
Compensation - Annexed Land	193,575.06
	<u>\$ 295,158.15</u>
Surplus / (Deficit)	\$(192,710.38)

[261] The Board understands that the projection provided in Table 1 is only for the first year and that the deficit amount will decline over the five year compensation period. It also recognizes the Summer Village could make policy changes, utilize municipal reserves or increase taxes to mitigate the financial impact. However, given the Summer Village's 2009 Financial Statements identify the amount of taxes levied to support its municipal operations in 2009 was only \$117,400, the Board finds a deficit of \$192,710.38 in the first year of the annexation would be a significant obligation for the municipality. It seems that this obligation would have to be discharged by raising taxes, depleting the existing municipal surplus and/or drastically reducing services. In the Board's view it would be unfair to recommend an annexation that would leave the existing Summer Village residents subject to these consequences without having been adequately consulted by their municipality.

[262] The Board finds the annexation would only be financially feasible for the Summer Village if no compensation were given to the County; however, as stated above, compensation is necessary in order to reasonably accommodate the County for its loss and allow time to adjust its finances accordingly. The Board concludes that the approval of the proposed annexation would place the Summer Village in a precarious financial situation.

PART 3 FINDINGS SUMMARY AND RECOMMENDATION

[263] The Board accepts the Summer Village is growing and the proposed annexation would provide it with land to accommodate future growth. At the same time, the Summer Village has 106 acres of undeveloped land within its current borders. The Board is not convinced that this land is currently frozen or that its owner or co-owners are now willing to develop the land. Rather, the 106 acres will likely be developed when market conditions are right.

BOARD ORDER NO. MGB 055/11

FILE: AN07/ROCH/SV-02

[264] The Board recognizes the proposed annexation could assist in supporting the administration of the Summer Village and foster community engagement within a larger municipality. Allowing the Summer Village residents and the residents in the proposed annexation area to become one legal entity would likely increase the sense of community and lead to a positive impact on volunteer and community involvement. The annexation would also allow landowners in the proposed annexation area to have more political and financial input into the Summer Village, which would contribute to the sense of community. However, the Board acknowledges that a sense of community already exists and no evidence was presented that would suggest this would be negatively impacted if the annexation were not allowed.

[265] The Board finds the financial impact on the County is substantial and, therefore, compensation for the County would be necessary if the annexation were allowed. The Board finds the declining balance method of compensation is appropriate in this case as it offsets the financial loss for the municipality that the land is being removed from so it is not disadvantaged by the annexation. Moreover, it allows the County time to adjust to the change. The Board calculates the amount of compensation to be paid by the Summer Village to the County in the first year would be \$192,700.09. However, the Board finds that, due to this obligation to provide compensation, the approval of the proposed annexation would place the Summer Village in a precarious financial situation. The Board recognizes the Summer Village could make policy changes or increase taxes to mitigate any possible impact. Given that the amount of taxes levied by the Summer Village to support its municipal operations in 2009 was \$117,400 and that the , the Board finds this financial commitment resulting from the proposed annexation would be a significant obligation for the municipality and, in turn, its existing taxpayers.

Conclusion

[266] After considering the application process, growth and the need for land, community and planning, and the financial impacts, the Board recommends the Minister deny the annexation application of the Summer Village.

BOARD ORDER NO. MGB 055/11**FILE: AN07/ROCH/SV-02****List of Exhibits****Legend:**

A – Applicant

R– Respondent

L/P – Landowners/Public

MGB – Municipal Government Board

ID	Date Received	Name
A-1	January 2, 2009	Summer Village of Rochon Sands Annexation Application
MGB-2	April 8, 2009	MGB May 14, 2009 preliminary hearing notification
MGB-3	April 17, 2009	MGB correspondence postponing the May 14, 2010 preliminary hearing
A-4	May 6, 2009	Summer Village correspondence requesting clarification for the preliminary hearing postponement
MGB-5	May 13, 2009	MGB response to the Summer Village.
A-6	June 3, 2009	Summer Village correspondence e to the Assistant Deputy Minister, Local Government Services, Alberta Municipal Affairs
P/L- 7	June 4, 2009	Glen Robinson Correspondence
Min-8	July 21, 2009	Minister of Municipal Affairs response to the Summer Village
A-9	July 7, 2010	Summer Village correspondence regarding the rescheduling of the preliminary hearing
MGB-10	July 19, 2010	MGB correspondence from the advising that the MGB will be proceeding with the preliminary hearing.
R-11	July 30, 2010	County correspondence requesting reconsideration of the preliminary hearing.
MGB-12	August 3, 2010	MGB response to County regarding the preliminary hearing.
A-13	August 6, 2010	Summer Village correspondence supporting the rescheduling of the hearing
P/L- 14	September 6, 2010	Linda Nelson Correspondence
P/L-15	September 7, 2010	Brent Carr correspondence
MGB-16	September 15, 2010	MGB Decision Letter 065/10
P/L-17	October 31, 2010	Brent Carr correspondence
P/L-18	October 31, 2010	Glen Robinson correspondence
P/L-19	November 1, 2010	Glen and Julie Ruttan
P/L-20	November 1, 2010	Bob and Sheila Kirk correspondence
MGB- 21	January 14, 2011	MGB Amending Notice of Decision DL 003/11.
MGB-22	January 15, 2011	MGB Decision Letter 005/11

BOARD ORDER NO. MGB 055/11**FILE: AN07/ROCH/SV-02**

ID	Date Received	Name
A-23	March 2, 2011	Negotiation Report/Annexation Application Update (Tabs O - JJ)
A-24	March 2, 2011	Summer Village of Rochon Sands Negotiation Report / Annexation Application Merit Hearing Legal Submission
P/L-25	March 23, 2011	Shane Menard correspondence
P/L-26	March 23, 2011	Linda Nelson correspondence
P/L-27	March 23, 2011	Ralph & Doris MacLaine Pont correspondence
P/L-28	March 25, 2011	Margaret Cassidy correspondence
P/L-29	March 25, 2011	D. A. Wood correspondence
P/L-30	March 28, 2011	Ed Reiersen and Donna Reiersen-Arseniuk correspondence
P/L-31	March 29, 2011	Don Albers Linda Bergstrom correspondence
P/L-32	March 29, 2011	Woodys' Automotive Ltd. (D. A. Wood) correspondence
P/L-33	April 1, 2011	Brent and Colleen Carr correspondence
P/L-34	April 2, 2011	Jim Jenkin and Sandy Berg correspondence
P/L-35	April 5, 2011	Armand and Denice Wiart correspondence
P/L-36	April 5, 2011	Glenn and Julie Ruttan correspondence
P/L-37	April 5, 2011	Bo and Sheila Kirk correspondence (See written submission dated November 1, 2010)
P/L-38	April 5, 2011	Karl Grollmuss correspondence
P/L-39	April 5, 2011	Jim & Kim Donaghy correspondence
P/L-40	April 6, 2011	Gordon Donald Millar / Dorothy F. Millar correspondence (Guardian/Trustee)
P/L-41	April 6, 2011	John W. Shanks / Florence Delores Shanks correspondence
P/L-42	April 6, 2011	Dave Lovell / Dixie M. Lovell correspondence
P/L-43	April 6, 2011	Peter Chitrenky correspondence
P/L-44	April 6, 2011	Sandy Berg and Jim Jenkin correspondence
P/L-45	April 6, 2011	Richard Gaffney correspondence (see Summer Village Annexation Application for additional submission cited)
P/L-46	April 6, 2011	Rochon Sands Estates Inc. (Kathie Hankins) correspondence
P/L-47	April 6, 2011	Glenn and Carrie Turgeon correspondence
P/L-48	April 6, 2011	Del Tweit / Lucille Tweit correspondence
P/L-49	April 7, 2011	James and Laurel Lockart and Superior Garage 1981 Ltd. correspondence
P/L-50	April 7, 2011	Edward and Vivian Bennett correspondence (Mr. Bennett provided the letter cited in the correspondence on May 2, 2011.)
P/L-51	April 7, 2011	Randall and Kathleen Brown correspondence
P/L-52	April 8, 2011	Carolyn Angus correspondence
P/L-53	April 8, 2011	Carol Borschneck correspondence
P/L-54	April 8, 2011	Steve & Kathy Fix correspondence
P/L-55	April 8, 2011	Steve & Kathy Fix correspondence

BOARD ORDER NO. MGB 055/11**FILE: AN07/ROCH/SV-02**

ID	Date Received	Name
P/L-56	April 8, 2011	Glen F. Robinson correspondence
P/L-57	April 8, 2011	Yvonne Gray and Family correspondence
P/L-58	April 8, 2011	Lorna Watts correspondence
P/L-59	April 8, 2011	Gil Poulin correspondence
P/L-60	April 8, 2011	Peter and Susan Cartmell correspondence
R-61	April 8, 2011	County of Stettler No. 6 Merit Hearing Response
R-62	April 8, 2011	County of Stettler No. 6 Merit Hearing Response Tab 6
P/L-63	April 11, 2011	Mark and Donna Tustian correspondence
P/L-64	April 17, 2011	Steve & Kathy Fix correspondence
P/L-65	April 18, 2011	Steve & Kathy Fix correspondence
P/L-66	May 2, 2011	David Rose correspondence
P/L-67	May 12, 2011	Arthur and Jeannette LaRose correspondence
P/L-68	May 13, 2011	Jean Gilbert correspondence
A-69	May 16, 2011	Summer Village of Rochon Sands Merit Hearing Rebuttal
P/L-70	May 18, 2011	M. Doris Gitzel Leo E. Gitzel correspondence
P/L-71	May 25, 2011	Linda Nelson correspondence
P/L-72	May 26, 2011	Chris Fix correspondence
R-73	May 30, 2011	Letter from the Summer Village
A-74	May 31, 2011	Summer Village of Rochon Sands financial statements for the year ended December 31, 2009
A-75	May 31, 2011	Information on Wesley W. Williams, Professional Engineer and a map of servicing
A-76	May 31, 2011	Letter from the Summer Village to the County dated January 19,2009
A-77	May 31, 2011	Letter from the County to the Summer Village dated January 22, 2009
A-78	May 31, 2011	Photographs of boat launches
R-79	June 1, 2011	Map from 1997 IDP
A-80	June 1, 2011	Minutes of the Special Council Meeting of the County of Stettler No.6 Held on Saturday, August 14, 2010
R-81	June 2, 2011	Enlarged photos of clear cutting
P/L-82	June 2, 2011	Letter from Richard Gaffney and Penny Gaffney
A-83	June 3, 2011	Photographs of Roads (2 parts)