

IN THE MATTER OF THE *Municipal Government Act* being Chapter M-26.1 of the Statutes of Alberta 1994 (Act).

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

BEFORE:

Members:

H. Kim, Presiding Officer
A. Savage, Member
R. Clark, Member

Secretariat:

D. Hawthorne

PROPOSAL

The Town has applied to the Municipal Government Board (MGB) to annex approximately 285 acres of territory from Red Deer County for future development of a variety of residential land uses.

BACKGROUND

The Town commenced the annexation process with a preliminary meeting with representatives of the County to discuss process. This was followed by letters from the Town to the owners of the lands contemplated for annexation. Subsequent to the mailing of the letters, the Town met with the landowners and discussed annexation and the owners' participation in the annexation process.

In December of 2000, the Town gave official notification of the intent to annex to the County, the MGB, and to other affected local authorities. The notification included a description of the lands to be considered for annexation. This amount of land exceeded the amount that became the subject of the actual annexation proposal. The Town met with the individual landowners to obtain an understanding of their views on annexation. The Town then held a meeting with the County to develop agreement in principle.

Having met with the County, the Town sent letters to all the affected landowners outlining the negotiation results and implications of annexation and invited the landowners to a meeting for discussions on the proposed annexation. In conjunction, the Town issued notice of a public hearing, describing the nature of the proposed annexation and how the public could participate.

The Town met with the County a third time to share information obtained from the meetings with the landowners. At this meeting, the Town and County finalized the annexation negotiations. As the negotiations had been finalized, the Town prepared the annexation negotiation report for submission to the respective councils. The County accepted and signed the negotiation report on September 20, 2001 and Town signed the report on September 24, 2001, with submission to the MGB on October 2, 2001.

NEGOTIATION REPORT BETWEEN THE TOWN AND THE COUNTY

The amount of land identified for annexation was reduced from the initial official notification given in December of 2000. The parties agreed that the original proposal would be split into two separate annexation applications and one area was dropped entirely for the time being. Both the Town and County agreed that the areas where the landowners generally agreed with the proposal the annexation application would be phase 1 and should proceed. In the proposed annexation areas where some landowners objected to annexation or were concerned about annexation, the municipalities agreed to apply for a phase 2 annexation at a later date. As a result, the phase 1 annexation was approved on September 13, 2001. Phase 2 of the annexation allowed the Town to address some of the objections by the landowners involved, however all concerns could not be resolved, therefore the Town applied for the phase 2 annexation with the knowledge of the objection and the fact that the MGB would be required to conduct a public hearing.

The negotiation report identifies three primary reasons for the current annexation. The first is some owners expressed an interest in annexation for the purpose of future residential development. This area has been identified for future residential expansion and development will reflect the Town's long-term interest. Secondly, annexation of this area is the first step in the overall implementation of the joint planning efforts undertaken by the Town and County through the joint adoption of a fringe area plan and the Town's adoption of the North Area Structure Plan. Annexation will make it feasible to make long-term investments in municipal infrastructure to enable future urban growth in the Town. Thirdly, annexation will achieve a logical and consistent boundary between the Town and County.

The Town and County have agreed to the annexation of the lands described in the report, an effective date for the annexation, a sharing of the tax revenue for a set period of time and control of storm water run-off in a manner that will not affect the Waskasoo Drainage System. The Town and the County have also agreed that assessment and taxation will continue as if the

annexed land remained in the County, until such time as the annexed land is redesignated at the request of the landowner. These conditions are reflected in Appendix C of this Order.

The Report identified the results of the meetings with the affected landowners which resulted in four owners being opposed to the proposed annexation, four owners uncertain as to their position on annexation and six owners offering no opposition to annexation.

THE MGB PUBLIC HEARING

The MGB, in reviewing the negotiation report determined, based on the objections and uncertainty of eight of the affected owners, that there was no general agreement to the annexation. In accordance with the annexation provisions of the Municipal Government Act, the Board is required, when general agreement is lacking, to hold a hearing.

The MGB published a notice in the Innisfail Province, a newspaper having general circulation in the area, of a hearing into the annexation proposal and at the same time issued formal notice to all known parties having an interest in the annexation. The hearing was scheduled for 1:00 p.m. on Wednesday, December 5, 2001, in the Town of Innisfail Council Chambers, 4943-53 Street, Innisfail, Alberta.

At the hearing, the MGB heard from both the Town and County who outlined the history and the agreement between the two parties. In addition, the MGB heard from the following landowners.

Wes Rollings

Voicing support for the annexation, Mr. Rollings stated that extensive engineering plans are already in place to enable development to occur. Annexation is necessary as land use rules in the County inhibit development as proposed by the Town.

Cliff and Shirley Greenwood

The Greenwoods stated the farm has been in the family since 1887 and they are not interested in annexation. They wish to continue farming and residing on the farm. They expressed concern about the pressure to develop, if annexation proceeds, compatibility with surrounding land uses, and the increase in taxation that will result from annexation.

Darlene Berry

In objecting to annexation, Ms. Berry stated their parcel is currently vacant, however when they build on the parcel, they will be taxed at town levels.

FINDINGS

After reviewing and considering the negotiation report of the Town of Innisfail and hearing from the parties affected by the proposed annexation, the MGB finds:

1. Annexation is necessary to meet the long-term residential needs of the Town.
2. Compatibility with surrounding uses will not be impacted by annexation.
3. Development of single parcels is a decision of the landowner.
4. Property will continue to be assessed as if they had remained in the County until current use changes.

RECOMMENDATION

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

1. Effective January 1, 2002 the land described in Appendix A, and shown on the sketch in Appendix B, be separated from Red Deer County and annexed to the Town of Innisfail.
2. Any taxes owing to Red Deer County on December 31, 2001 in respect of the annexed lands are transferred to and become payable to the Town of Innisfail together with any lawful penalties and costs levied in respect of the those taxes, and the Town of Innisfail upon collecting those taxes, penalties or costs shall pay them to the Red Deer County; and
3. The assessor for the Town of Innisfail must assess, for the purpose of taxation in 2002, the annexed land and the assessable improvements to it,

and makes the Order in Appendix C.

REASONS

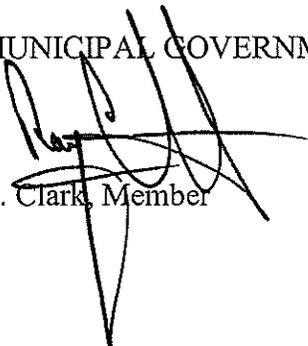
The annexation proposal is the result of extensive negotiation between the Town and County and represents the continuation of ongoing cooperation between the two municipalities. This cooperation has resulted in a rational approach to land use planning in the Town, while at the same time ensuring the objectives of both municipalities are protected by effective joint planning and use of the fringe area. The MGB recognizes that both municipalities have worked in close association to ensure that annexation is the result of need for land to accommodate urban style development.

The MGB also recognizes that the concerns expressed by the landowners have merit and must be addressed. For this reason, the MGB is recommending that the annexed lands be assessed as if they had remained in the County until such time as the current use changes. This should alleviate any concerns with the potential increase in taxation that may occur after annexation.

With respect to the additional concerns expressed by the Greenwoods, the MGB understands the difficulty of trying to maintain a family farm adjoining an urban center. However the Greenwood's land is strategically located for the accommodation of future growth and the installation of crucial municipal services. Municipal infrastructure designed to support a growing population will determine the development pressure on undeveloped lands, not annexation by itself. In the MGB's opinion the Greenwood farm will be affected by incompatible land uses regardless of whether or not annexation proceeds. The MGB is of the opinion that if the Greenwood farm is annexed, they will be in a better position to take an active part in land use planning for the area than if they are excluded. By excluding the Greenwood farm, their active participation in planning for the future will be restricted as County residents. Accordingly, this will be their opportunity to minimize the impact of urban type development on their farming operation.

Dated at the City of Edmonton, in the Province of Alberta, this 7th day of May 2002.

MUNICIPAL GOVERNMENT BOARD



R. Clark, Member

APPENDIX "A"

**DETAILED DESCRIPTION OF THE LANDS RECOMMENDED FOR SEPARATION
FROM RED DEER COUNTY AND ANNEXED TO THE TOWN OF INNISFAIL**

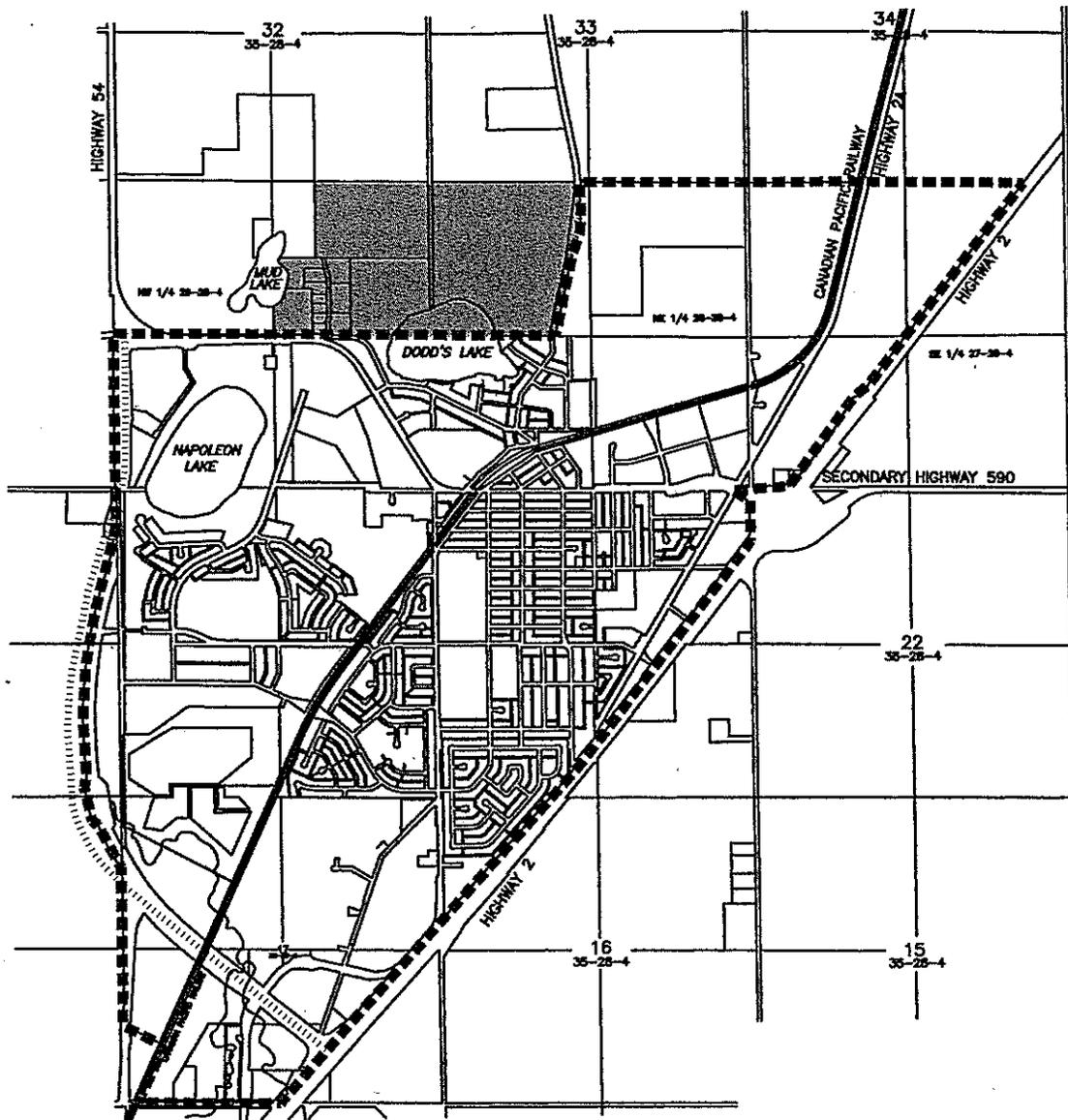
ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY-EIGHT (28), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN LYING WEST OF THE WESTERLY LIMITS OF ROAD PLAN 4805NY.

THE NORTHEAST QUARTER OF SECTION TWENTY-NINE (29), TOWNSHIP THIRTY-FIVE (35), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN EXCEPTING THEREOUT PLAN 0124685.

ALL INTERVENING ROAD ALLOWANCES, ROAD PLAN RIGHTS-OF-WAY, UTILITY PLAN RIGHTS-OF-WAY AND WATER BODIES OR PORTIONS OF WATER BODIES LYING WITHIN NORTHWEST QUARTER OF SECTION TWENTY-EIGHT (28) AND THE NORTHEAST QUARTER OF SECTION TWENTY-NINE (29), ALL WITHIN TOWNSHIP TWENTY-EIGHT (28), RANGE THIRTY-FIVE (35), WEST OF THE FOURTH MERIDIAN

APPENDIX B

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



**AREAS ANNEXED FROM RED DEER COUNTY
TO THE TOWN OF INNISFAIL**

APPENDIX C

ORDER

- 1 In this Order, “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B.
- 2 For taxation purposes in 2002 and later years, the annexed land and the assessable improvements to it
 - (a) must be assessed by the Town of Innisfail on the same basis as if they had remained in Red Deer County, and
 - (b) must be taxed by the Town of Innisfail in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the tax rate established by Red Deer County for the year 2001.
- 3(1) Where, in any taxation year, a portion of the annexed land
 - (a) becomes a new parcel of land created as a result of subdivision or separation of title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner,
 - (b) becomes a residual portion of 16 hectares or less after a new parcel referred to in clause (a) has been created,
 - (c) is redesignated at the request of or on behalf of the landowner under the Town of Innisfail Land Use Bylaw to another designation, or
 - (d) is connected to the water or sanitary sewer services provided by the Town of Innisfail,section 2 ceases to apply at the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.
- (2) Notwithstanding subsection (1)(a), section 2 does not cease to apply in respect of a subdivision for which subdivision approval was granted by Red Deer County prior to the effective date of annexation.

- (3) Notwithstanding subsection (1)(a), section 2 does not cease to apply in respect of the subdivision of an existing farmstead from a previously unsubdivided quarter section of the annexed land.
- (4) Notwithstanding subsection (1)(c), section 2 does not cease to apply in respect of a portion of the annexed land that is redesignated under the Town of Innisfail Land Use Bylaw to the designation "Reserved for Future Development Land Use District".
- 4 After section 2 ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in that year in the same manner as other property of the same assessment class in the Town of Innisfail is assessed and taxed.
- 5(1) In this section, "compensation amount" means the amount of taxes payable to Red Deer County under Part 10 of the Municipal Government Act in respect of the annexed land for the 2002 taxation year.
- (2) The Town of Innisfail must pay to Red Deer County
- (a) 100% of the compensation amount on or before July 31, 2002,
 - (b) 80% of the compensation amount on or before July 31, 2003,
 - (c) 60% of the compensation amount on or before July 31, 2004,
 - (d) 40% of the compensation amount on or before July 31, 2005, and
 - (e) 20% of the compensation amount on or before July 31, 2006.
- 6(1) Any application for subdivision filed with Red Deer County before December 31, 2001 must be decided by Red Deer County.
- (2) An appeal from a decision made by Red Deer County pursuant to subsection (1) must be made to the Red Deer County Subdivision and Development Appeal Board unless there is authority under section 678(2)(a) of the Municipal Government Act to make the appeal to the Municipal Government Board.