

BOARD ORDER: MGB 058/08

FILE: AN06/BOWD/T-1

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

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

BEFORE THE MUNICIPAL GOVERNMENT BOARD

Members

D. Thomas, Presiding Officer
T. Golden, Member
L. Lundgren, Member

Case Manager

R. Duncan

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

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- (a) effective June 1, 2008, the land described in Appendix A and shown on the sketch in Appendix B is separated from Red Deer County and annexed to the Town of Bowden,
- (b) any taxes owing to Red Deer County at the end of May 31, 2008 in respect of the annexed land are transferred to and become payable to the Town of Bowden together with any lawful penalties and costs levied in respect of those taxes, and the Town of Bowden upon collecting those taxes, penalties and costs must pay them to Red Deer County,
- (c) taxes payable in 2008 in respect of the assessable land and any improvements to it are to be paid to and retained by Red Deer County,

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- (d) the assessor for the Town of Bowden must assess, for the purpose of taxation in 2009 and subsequent years, the annexed land and the assessable improvements to it,
- (e) any taxes owing to Red Deer County at the end of December 31, 2008 in respect of the annexed land are transferred to and become payable to the Town of Bowden together with any lawful penalties and costs levied in respect of those taxes and the Town of Bowden upon collecting those taxes, penalties and costs must pay them to Red Deer County,

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta this 3rd day of June 2008.

MUNICIPAL GOVERNMENT BOARD

(SGD.) D. Thomas, Presiding Officer

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APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS
SEPARATED FROM RED DEER COUNTY
AND ANNEXED TO THE TOWN OF BOWDEN**

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY-FOUR (24), TOWNSHIP THIRTY-FOUR (34), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN WHICH LIES TO THE SOUTH OF THE EAST-WEST ROAD ON PLAN 6745JK AND TO THE EAST OF THE WIDENING OF THE NO. 2 HIGHWAY ON SAID PLAN 6745JK.

BLOCK C, PLAN 0111417.

LOT 1, BLOCK 1, PLAN 0412069.

THE SOUTHWEST QUARTER OF SECTION TWENTY-FOUR (24), TOWNSHIP THIRTY-FOUR (34), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN.

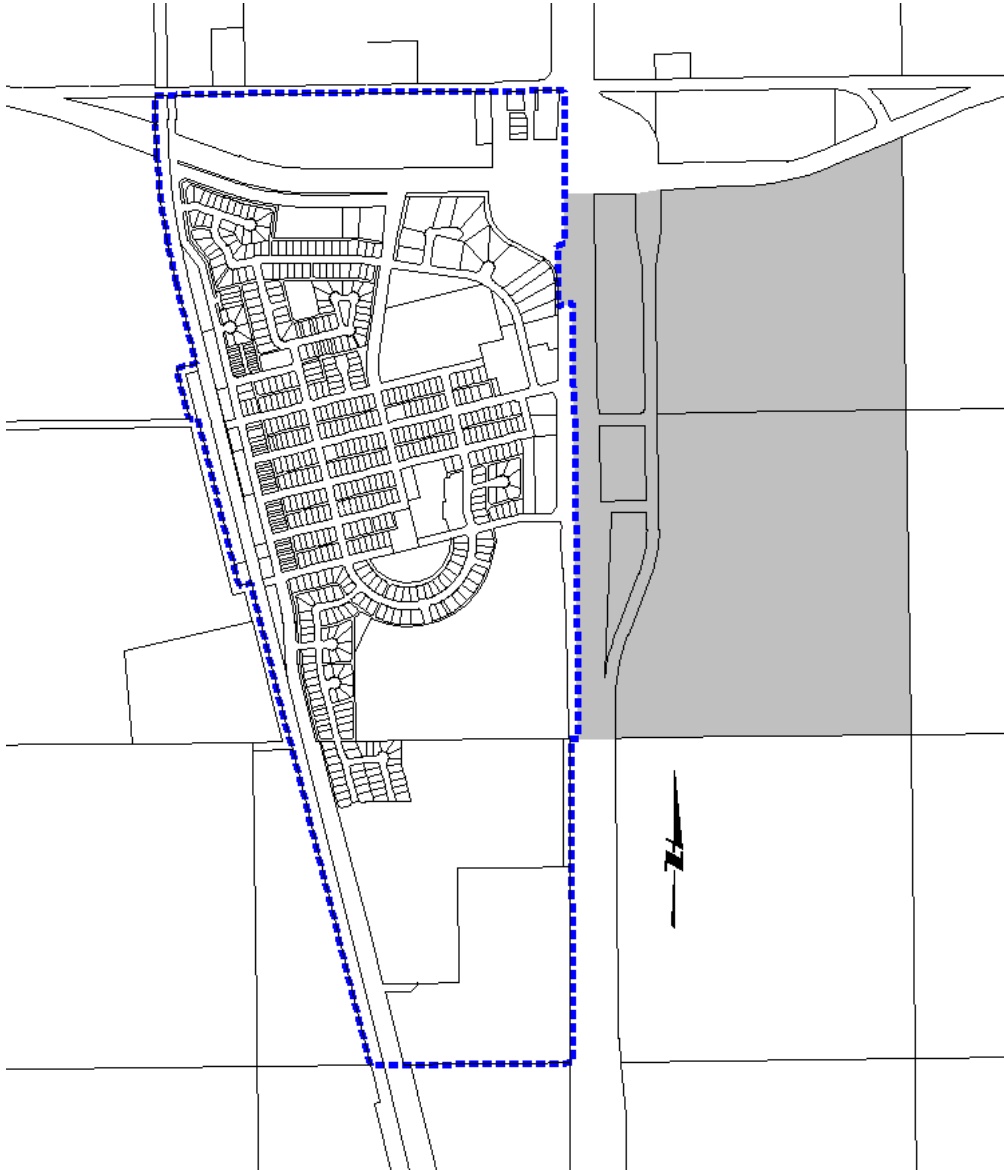
ALL THAT PORTION OF THE QUEEN ELIZABETH 2 HIGHWAY RIGHT OF WAY AS SHOWN ON ROAD PLAN 911 1104, ROAD PLAN 6745JK, ROAD PLAN 3029JK, ROAD PLAN 1873EZ AND ROAD PLAN 1051 IX BETWEEN THE TOWN'S CURRENT BOUNDARY TO THE WEST AND THE ANNEXATION AREA TO THE EAST.

PLAN 8105 HN.


ALL INTERVENING ROAD ALLOWANCES AND RIGHTS OF WAY.

APPENDIX B

**A SKETCH SHOWING THE GENERAL LOCATION OF THE AREA
ANNEXED TO THE TOWN OF BOWDEN**



LEGEND

 Annexation Area

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APPENDIX C

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 2008 and subsequent years up to and including 2023, the annexed land and the assessable improvements to it

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

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) is redesignated at the request of, or on behalf of the landowner under the Town of Bowden’s Land Use Bylaw to another designation,
- (c) is approved for development at the request of, or on behalf of the landowner, under the Town of Bowden’s Land Use Bylaw to another designation, or
- (d) is connected to the water or sewer services provided by the Town of Bowden,

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 the subdivision of an existing farmstead from a previously unsubdivided quarter section of the annexed land.

(3) Notwithstanding subsection (1)(a), section 2 does not cease to apply in respect of the subdivision of an existing farmstead parcel encompassing the existing farm dwelling and having a maximum area of 8.1 hectares (20 acres) from the Northwest Quarter of Section Twenty-Four (24), Township Thirty-Four (34), Range One (1), West of the Fifth Meridian.

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(4) Notwithstanding subsection (1)(c), section 2 does not cease to apply in respect of a portion of the annexed land that is designated under the Town of Bowden's Land Use Bylaw to the designation "Urban Reserve District (UR)".

(5) Notwithstanding subsection (1)(c), section 2 does not cease to apply in respect of Lot 1, Block 1, Plan 041 2069 or Block C, Plan 011 1417 that is redesignated under the Town of Bowden's Land Use Bylaw to the designation "Highway Commercial District (C2)".

(6) Notwithstanding subsection (1)(a) and 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 Bowden's Land Use Bylaw or subdivided as a result of the acquisition of land by Alberta Transportation for the purposes of accommodating planned highway improvements.

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 the following year in the same manner as other property of the same assessment class in the Town of Bowden is assessed and taxed.

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APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE MINISTER OF
MUNICIPAL AFFAIRS RESPECTING THE TOWN OF BOWDEN'S
PROPOSED ANNEXATION OF TERRITORY FROM
RED DEER COUNTY**

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Executive Summary

The Town of Bowden has applied to annex approximately 100 hectares (247 acres) of titled land and approximately eight hectares (19.8 acres) of road right-of-way. The subject lands are located adjacent to the east boundary of the Town and east of the Queen Elizabeth II Highway.

The purpose of the annexation is to increase the Town's inventory of industrial and commercial land. The annexation does not involve any lands proposed for residential purposes.

The Town established that it had exhausted its existing supply of industrial and commercial lands and identified that it needed to pursue non-residential growth in order to achieve a more balanced revenue base. The Town asserted that industrial/commercial growth will provide many benefits to the community and that the lands proposed for this annexation are strategically located to accommodate this type of growth. Moreover, the Town demonstrated that municipal services can be provided to the proposed annexation area and that the financing of the required municipal services can be accommodated with minimal impact to the Town and the affected landowners. The Town believes that the proposed annexation will provide a 30 year land supply for industrial/commercial growth.

The Town started its public consultation process in July of 2005. This included meeting with the affected landowners and Red Deer County. A public meeting held in April of 2007 provided a forum in which the Town could inform the public of the agreement that had been reached between the two municipalities and provided an opportunity for the Town to solicit public input. The Town also considered the concerns raised by Alberta Transportation (AT).

The Town has responded to the issues raised by landowners and the public by requesting appropriate annexation conditions in the Order in Council to address assessment and tax concerns, committing to work with landowners in the area to prepare a detailed area structure plan for the area, and agreeing to prepare detailed infrastructure plans. The Town has also developed a phasing program for the connection of private water and sewer systems to eventual communal services in the area and has developed its local planning bylaws to address the needs of impacted landowners.

The Town has committed to work with AT to develop, prepare and implement the required road infrastructure to accommodate the industrial/commercial development on the east side of the Queen Elizabeth II Highway.

The MGB was required to hold a public hearing on the annexation because of an objection raised by an affected landowner who asserted that the proposed highway access/egress would negatively affect his business. This objection was subsequently withdrawn by the affected landowner at the MGB hearing.

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Following the public hearing, the MGB reviewed the arguments and evidence of all the parties and concluded it was in the greater public interest to recommend approval of the annexation as agreed by the municipalities. The cooperation between the two municipalities meets the objectives of intermunicipal cooperation outlined in the Provincial Land Use Policies. Intermunicipal cooperation is also emphasized in the annexation part of the Act.

At the public hearing, all parties agreed there was a clear demonstrated need for additional commercial/industrial land along the east side of the Queen Elizabeth II Highway. In addition, the MGB was satisfied that the servicing schemes for the commercial lands would be met. The annexation represents a logical extension of future land use patterns and makes efficient use of existing municipal infrastructure including roads.

The MGB was satisfied that residential growth on the east side of the Queen Elizabeth II Highway is not being pursued by the Town and that future residential growth in other directions is being examined through a joint planning process between the Town and the County.

On balance, and in consideration of all the evidence and argument placed before the MGB, the MGB recommends that the subject lands be annexed to the Town.

The MGB has recommended approval of the annexation subject to all the conditions requested by the Town and the County with the exception of the request to not hold a public hearing for planning bylaw amendments related to the annexed area. The MGB found it inappropriate to suspend the public participation requirements outlined in the Act for the annexed area.

Part I Introduction/Background

1.1 The Town

The Town of Bowden (Town) is located on Queen Elizabeth II Highway, approximately 45 kilometres south of Red Deer and 80 kilometres north of Calgary. This community of almost 1,200 people has benefitted from Alberta's strong economy, which has helped it achieve a 16 percent population growth over the last five years. Future growth remains positive as the Town has started working with a developer to add over 200 new residential lots.

1.2 The Proposed Annexation Area

The area proposed for annexation consists of approximately 100 hectares (247 acres) of land and approximately eight hectares (19.8 acres) of road right-of-way on the eastern boundary of the Town all located on the eastern side of the Queen Elizabeth II Highway.

The lands included in the annexation proposal are:

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- that portion of the Northwest Quarter which lies to the south of the east west road on Plan 6745JK and to the east of the widening of the Queen Elizabeth II Highway on said plan 6745JK, excepting the service road on said plan 6745JK,
- Block C, Plan 011 1417,
- Lot 1, Block 1, Plan 041 2069,
- Southwest Quarter of Section Twenty-Four (24), Township Thirty-Four (34), Range One (1), West of the Fifth Meridian,
- All that portion of the Queen Elizabeth II Highway right-of-way between the Town's current boundary to the west and the annexation area to the east, and
- All intervening road allowances and rights of way

1.3 The Annexation Process

Section 116 of the Act specifies the steps required to initiate an annexation. On February 12, 2006, the Town provided written notification to Red Deer County (County), the MGB and other local authorities of the Town's intent to annex approximately 108 hectares (267 acres) of land from the County. The notification listed the legal descriptions of the lands being proposed for annexation and provided a proposal for soliciting landowner and public input. The notification stated the annexation would allow the Town to accommodate and attract commercial and industrial development in suitable sites offering locational advantages. The notification indicated the Town viewed the annexation as a key step in implementing the Town's overall plans to become a viable, safe, family-oriented and healthy community that embodies the sustainable development goals and objectives of the Provincial Land Use Policies.

The Town then proceeded with discussions and public consultation with affected landowners, the County and affected local authorities.

The MGB received the formal annexation application from the Town on June 25, 2007. Section 118 of the Act identifies the information to be provided in the negotiation report/annexation application. The application met those requirements. Although there was general agreement with the proposed annexation, the application contained an objection from an affected landowner. In accordance with the Act, the MGB commenced a public hearing on October 4, 2007 to receive information, evidence and argument on the annexation proposal.

1.4 Role of the MGB, the Minister and the Lieutenant Governor in Council

The MGB becomes active in the annexation process once the initiating municipality has filed its annexation report with the MGB pursuant to section 119(2) of the Act. If the initiating municipality requests the MGB to proceed, the report becomes the application for annexation. If the MGB is satisfied that the affected municipalities and public are generally in agreement, the MGB notifies the parties of its findings and, unless there are objections to the annexation filed with the MGB by a specific date, the MGB will make its recommendation to the Minister

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without holding a public hearing. In this specific case an objection was contained in the annexation application filed with the MGB.

If the MGB finds that there is general agreement but an objection has been filed, the MGB must notify the parties of its finding and conduct one or more public hearings (section 120(3) of the Act). The MGB must make findings and provide a recommendation to the Minister and the Lieutenant Governor in Council (LGC). The Minister and the LGC have the authority to accept in whole or in part or completely reject the findings and recommendations of the MGB report.

1.5 Provincial Legislation (Act) and Policies

This annexation, amongst others, has been reviewed by the MGB in the context of the strong emphasis towards intermunicipal cooperation entrenched in Part 4 Division 6 of the Act. The related land use matters associated with the annexation are reviewed in the context of section 617 of the Act and the key policies (section 2, 3 and 4) contained in the Provincial Land Use Policies. In addition the MGB has examined the annexation relative to the fifteen annexation principles set out in previous annexation recommendations.

Part II The Annexation Application

2.1 Purpose and Reasons for the Annexation

Currently, the Town has a very small amount of industrial and commercial land available within its boundary. To facilitate the long term sustainability of the municipality, the Town has identified the need to diversify its local tax base. The Town has applied to annex lands to the east, across the Queen Elizabeth II Highway, so it can accommodate and attract commercial and industrial development in suitable sites that offer locational advantages.

The supply of commercial/industrial lands within the Town is at a minimum. The Town contends that the proposed annexation will provide it with a 30 year supply of commercial/industrial lands. These lands are strategically located to accommodate commercial/industrial development and will assist the Town balance its residential and non-residential revenue base.

Commercial/industrial growth in an easterly direction is supported by the Town's 2004 General Municipal Development Plan and the 2006 Annexation Servicing Study.

Conformity with Town Plans and Servicing Studies

The proposed annexation is supported by the Town's Municipal Development Plan (MDP). The proposed annexation meets the policy statement within the MDP to ensure a 20 year supply of commercial and industrial lands and to improve the ratio of non-residential to residential assessment within the Town.

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The proposed annexation is also supported by the “2006 Annexation Land Servicing Study”. This report indicates that the Town has sufficient water supply and storage to serve the expected population growth. The general topography of the area slopes to the south and west. This will dramatically reduce the long term sewage system operating costs by allowing the utilization of a gravity flow sewer line from the proposed annexation area to the existing sewer trunk line. The current sewage treatment facility can handle a population of 2,900. The natural slope will assist with storm water drainage. Furthermore, the report outlines the water, sanitary sewer system and storm drainage systems to accommodate the proposed annexation area.

Constraints to Development within the Town

The Town’s MDP has considered the various significant features like the Queen Elizabeth II Highway, Highway 2A, the railway, major gas, telecommunication transmission lines that determine the manner and directions that growth can occur in the community. Growth is also impacted by the location of the former landfill site, oil and gas wells and the Town’s sewage lagoons.

Consideration was also given to the topographic constraints and land uses adjacent to the Town, including the Parkland oil refinery and the Bowden Institute to the north, as well as various intensive livestock operations in the area.

2.2 The Annexation Agreement with Red Deer County

The application states that the Town and County had reached an agreement regarding the annexation and there are no matters that had not been agreed upon by the two municipalities. In summary, the Town and County agreed to the following:

- 1) All of the lands illustrated in the Proposed Annexation Areas and Landownership map dated November 2005 and shown in the Town’s February 2006 Notice of Intent are to be annexed to the Town subject to:
 - a) The Town of Bowden assuming responsibility for all municipally controlled roads within the annexation area as of the date that annexation takes effect.
 - b) The annexed lands shall be serviced with extensions of the Town’s municipal and sanitary sewer services. These services are required to be in place prior to development proceeding.
 - c) The parties shall request that the Annexation Order dispense with the requirement of the public hearing pursuant to s. 618(4) of the *Municipal Government Act* with regard to the bylaw amendments addressed in paragraphs 1(d) and (e).
 - d) The Town of Bowden amending Policy 15.7 of its Municipal Development Plan after annexation takes effect and prior to approval of development within the annexed lands to read as follows:

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‘All new development shall, as a condition of development approval, be required to be connected to and serviced by the municipal water and sanitary sewer utilities to a standard satisfactory to the Town.’

- e) The Town of Bowden amending Land Use Bylaw No. 01/2000 being the “Town of Bowden Land Use Bylaw” to incorporate the Highway Corridor Overlay District requirements contained in Appendix C of the Central Alberta Highways 2/2A Corridor Design Study dated December 2004.
 - f) The Town of Bowden requesting the Province to include the provisions in s.1 (1)(b) and (c) above the provisions outlined in Appendix F dealing with assessment and taxation of annexed lands in the Order in Council giving affect to the annexation.
- 2) The date that will be requested as the effective date of the annexation will be January 1, 2007, assuming the decision made by Cabinet regarding the annexation occurs within the 2007 calendar year.
 - 3) If annexation takes effect part way through 2007 and is retroactive to January 1, 2007, the Town agrees that the County will be entitled to the full amount of municipal property taxes (excluding school taxes) from the annexation area in 2007 based on County assessment and mill rates. The County will be responsible for issuing tax notices and collecting municipal and education property taxes within the annexation areas during 2007 and is authorized to act on the Town’s behalf for these purposes. In addition, the County will continue to provide normal road maintenance for all municipally controlled roads during 2007.
 - 4) Any subdivision or development permit application filed with Red Deer County prior to Cabinet’s decision on the annexation application will be decided by Red Deer County. An appeal from a decision made by Red Deer County will be made to the County’s Subdivision and Development Appeal Board unless there is authority to make the appeal to the Municipal Government Board.

Part: III The Public Consultation Process

The landowner consultation process consisted of a series of meetings as well as written correspondence. The annexation application states the Town began discussions with affected landowners in July 2005 by providing landowners with an information package on the proposed annexation, the process involved, possible impacts and proposed responses to concerns. In September 2005, the Town held a meeting with landowners. As a result of that meeting, revisions were made to the Town’s initial annexation proposal and communicated to the affected landowners in writing in November 2005. A second landowner meeting was held in conjunction with the April 24, 2007 public meeting.

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Public consultation was accomplished through a public meeting that was held April 24, 2007. This meeting provided an opportunity for the public and the affected landowners to hear from both the Town and County Councils regarding the nature of the proposal and the negotiations between the Town and the County. The comments from the public were generally supportive of the annexation proposal. Only one affected landowner (Block C, Plan 011 1417) was opposed to the annexation. The concerns expressed by the landowners and the public are listed below.

Landowners raised concerns about the impacts of annexation on assessment and taxes to which the Town indicated that it was proposing a 15 year transition period from the County to the Town.

Discussions occurred on how the annexed lands would be developed and the Town explained that it would develop Area Structure Plans for the newly annexed areas and explained how it would service the lands and the proposed cost recovery of the associated costs.

Concerns were raised with respect to the use of existing private water wells and sewage disposal systems. The Town indicated that existing private systems could be used until municipal systems are extended into the areas.

The Town indicated that it would accommodate the subdivision of an existing farmstead on the NW of 24.

Some of the landowners expressed concerns regarding the potential loss of the 15 year assessment and taxation conditions if their property was subdivided as a result of AT improvements. The Town addressed the concern by indicating that it would grant an exemption in these cases.

In response to the request for an environmental impact report on the annexed lands the Town indicated that the subject lands were intended for industrial and highway commercial use and that the design of these areas would have to develop a storm water management system.

One party suggested that the Town should be expanding north instead of east across the highway. The Town indicated that the best area for industrial and highway commercial expansion was to the east and further discussions would have to take place with the County regarding any residential expansion to the north.

The Town also notified local authorities and Alberta Transportation (AT) of the proposed annexation. AT raised concerns about crossing Queen Elizabeth II Highway and outlined the implications of the annexation in this direction but did not object to the annexation.

The annexation application submitted by the Town contained an objection from Kent Kinder and Laurie Sage of Tracker Sales Ltd (Block C, Plan 011-1417). Mr. Kinder and Ms. Sage stated

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they were not in agreement with the Town growing to the east of the Queen Elizabeth II Highway and saw no benefit to them being part of the Town. The landowners suggest it would be better for the Town to annex lands to the north of its current boundary. Mr. Kinder and Ms. Sage requested that there be no increase in taxes for fifteen years. Moreover, Mr. Kinder and Ms. Sage indicated that they have their own utilities on site and requested that if they had to be moved to the Town water and sewer system that the Town should pay for any associated costs.

Part IV The MGB Process and Public Hearing

On June 25, 2007, the MGB received the Town's Negotiation Report with a letter from the Town requesting the MGB to proceed with the annexation. After reviewing the annexation application, it was determined that it contained an objection from an affected landowner (Block C Plan 011 1417). The written objection contained in the application was from the same landowner that had previously filed an objection with the MGB. The landowner was of the view the annexation would have a detrimental impact on his operations. In accordance with section 120(3) of the Act the MGB is required to hold a hearing if objections are received regarding the proposed annexation.

In accordance with MGB practice, the Town, the County and the landowner who had registered the objection were contacted to set a date for the hearing. The affected landowner indicated he and his partner were scheduled to be out of the country until the end of September 2007. In order to accommodate the landowner, the Town and County agreed to schedule the hearing for October 4, 2007.

The MGB Hearing

Party Positions

Town of Bowden

At the October 4, 2007 hearing, representatives from the Town informed the MGB that the Town was experiencing a period of rapid residential, commercial and industrial growth. As of May 2006, the Town had only 1.96 hectares (4.7 acres) of commercial land and 1.92 hectares (4.7 acres) of industrial land available within its boundary. Recently, the Town has sold the last parcel of industrial/commercial property and no longer had any available serviced industrial land. In order to increase its industrial and commercial land inventory, the Town initiated the annexation of approximately 100 hectares (247 acres) of land from the County. This land is located across the Queen Elizabeth II Highway, east of the Town.

The Town is of the opinion that annexation of the land east of the Queen Elizabeth II Highway will help the Town diversify its tax base, provide local development and employment opportunities, increase site development options, and enable the Town to prepare detailed plans.

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The Town indicated that growth across the Queen Elizabeth II Highway is consistent with the 2004 Town of Bowden Municipal Development Plan. Moreover, the Town commissioned Tagish Engineering to assess the feasibility of servicing the lands east of the Queen Elizabeth II Highway into the existing Town infrastructure. The Town representatives indicated that expansion west of its current boundary was considered, but drainage issues in this low lying area would make it costly to develop these lands and would not be conducive to large truck transportation.

The Town indicated that it was experiencing a period of rapid population growth. The Town stated residential development was to remain on the west side of the Queen Elizabeth II Highway. To illustrate this fact, the Town provided the MGB with a copy of the Town of Bowden 2004 Municipal Development Plan (MDP), which shows that residential expansion is planned to be north of the current Town boundary. The Town representatives were not able to provide information regarding the existing amount of residential land inventory.

Prior to submitting its application, the Town consulted with affected landowners and the public about the proposed annexation. The Town and County entered discussions and were able to negotiate an annexation agreement. In the spirit of cooperation, the Town and County have also agreed to develop an Intermunicipal Development Plan (IMD).

Red Deer County

The County indicated that they support the proposed annexation. The County is of the opinion that the annexation agreement with the Town will treat the affected landowners fairly, provide prompt provision of service to the annexed lands, and will ensure the continuation of the guidelines that have been set for the Queen Elizabeth II Highway corridor.

The County indicated that during the negotiations the land west of the Town was considered, however the Town demonstrated that the land east of Queen Elizabeth II was a reasonable extension at a reasonable cost.

The Town's MDP anticipates that future residential development would occur to the north of the current Town boundary. The residential expansion to the north has not been agreed to by the County. However, the current annexation application is limited to expansion for industrial/commercial land uses and the County is supportive of this annexation proposal.

The County identified revisions essential to the Town's MDP and LUB in order to meet the conditions of the annexation agreement. The Town agreed that it would amend Policy 15.7 of its MDP after the annexation to require that all new development be connected and serviced by the municipal water and sanitary sewer. The Town also agreed that it would amend its LUB to incorporate the Highway Corridor Overlay District requirements. The annexation agreement required the Town to include as part of the annexation application a request to waive the public

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hearing requirements for the MDP and LUB amendments. The County's position is that the Town Councillors presiding at the public hearings are required to have an open mind regarding the amendments and that the agreement between the Town and the County may unduly influence the Councillors. The County is of the opinion that an informal public consultation process has already been conducted. Moreover the County believes these amendments are reasonable and that the amendments would be in the best interest of the public.

The County indicated it did not object to changing the effective date from January 1, 2007 to January 1, 2008.

Alberta Transportation

The representative from Alberta Transportation (AT) stated that department policy was not to encourage municipalities to develop across the Queen Elizabeth II Highway, particularly for any uses that may generate pedestrian activity. However, in this case AT agreed with the annexation provided the Town would be responsible for any highway improvements made necessary by municipal developments. Improvements to the highway are also likely in the short term and functional studies are to be available in the near future.

Affected Landowner – Tracker Sales Ltd.

Mr. Kinder and Ms. Sage, representing Tracker Sales Ltd., landowners in the proposed annexation area, expressed concerns that the annexation would affect the value of their property and the development of the Highway. Moreover, the landowners indicated the public consultation process was flawed and did not allow them the opportunity to negotiate with the Town earlier in the annexation process. However, the landowners stated that, after obtaining legal advice, they were able to reach an agreement with the Town. The landowners informed the MGB that they were withdrawing their objection.

Part V MGB Findings, Recommendation and Reasons

Findings

After reviewing the annexation application, the negotiation report, the supporting documents and after considering the positions presented at the public hearing, the MGB finds:

1. There is a need for additional lands to be added to the Town of Bowden for industrial and commercial purposes.
2. Red Deer County supports the annexation and the two municipalities have reached an agreement on the proposed annexation.

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3. There are no objections to the annexation.
4. The proposed annexation lands are strategically located to accommodate industrial and commercial uses and can be supplied with municipal servicing.
5. AT has made the Town of Bowden aware of the requirements and the Town's responsibilities in accommodating growth across the Queen Elizabeth II Highway.
6. The annexation is supported by the Town's MDP and the Municipal Servicing Study.
7. The Town and the County have agreed to pursue an Intermunicipal Development Plan to address additional growth needs of the Town including the direction of future residential growth.
8. Public input is a necessary requirement for any change to a local planning document. There are no unique or special circumstances to justify a relaxation of this requirement.

Recommendation

The MGB recommends the land described in Appendix A be annexed in accordance with the Town's application and the agreement with Red Deer County. The MGB does not recommend the request to exempt the requirements of public hearings related to any planning bylaw amendments related to the annexed area.

Reasons

Land Needed for Commercial/Industrial Expansion

It is agreed by all parties that the Town is in need of additional commercial/industrial lands. These lands are needed to meet the short, medium and long term commercial/industrial land needs and are strategically located to meet these needs. There is clearly a demonstrated need and the growth projections for industrial/commercial lands were reasonable and considered the changing and evolving needs of the trends for increasing size of commercial/industrial parcels.

With the support of Alberta Transportation and the finalization of a detailed Area Structure Plan, the MGB is satisfied that appropriate access to the Queen Elizabeth II Highway and related highway management access plans can be appropriately developed. The Town is fully aware of the implications, additional improvements required and their responsibilities if the land uses east of the highway become something other than commercial/industrial.

The Town has demonstrated that it has consulted with AT and addressed the concerns raised.

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Industrial/commercial expansion to the east is supported by the Town's MDP and the Town's 2006 servicing study. The servicing study indicates that the annexed lands can be serviced and that financial plans are in place to distribute the associated infrastructure costs in a fair and equitable manner.

The Municipal Servicing Study illustrated a coordinated and reasoned approach to the provision of municipal services to the area including the provision of sanitary sewer, water distribution and storm water management. As well, the Town was able to illustrate its financial plans and strategies as to how it would finance and recover the associated servicing costs.

Intermunicipal Cooperation

Provincial policies emphasize the need for neighbouring municipalities to demonstrate intermunicipal cooperation. The Town and County are to be commended on their efforts in reaching an agreement on this annexation which appropriately addresses the needs of each municipality and the impacted landowners. The MGB recognizes the two municipalities have agreed to continue the cooperation in the future through the development of an IDP that will address land use in the area. As a result the MGB gave considerable weight to this display of intermunicipal cooperation in reviewing this annexation application.

The parties are also pursuing an Intermunicipal Development Plan which will address other growth needs in the area and, specifically, the rationalization of the Town's residential growth patterns.

Public and Landowner Support

The MGB is satisfied that the Town, with the cooperation of the County, provided sufficient opportunity for interested parties to provide input into the annexation and addressed all the concerns and issues raised.

As well, the one objection that was initially filed with the annexation application was resolved prior to the public hearing. At the public hearing the landowners informed the MGB that they were able to reach an agreement with the Town and were withdrawing their objection.

Other

The MGB was satisfied that the support by Red Deer County confirmed that the subject annexation was not purely a tax initiative but is an action to accommodate new growth. As well, neither municipality indicated that the annexation required any consideration for inclusion of any revenue sharing arrangements.

There were no concerns raised by any of the local school authorities or any other local authority.

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Exemption for Public Hearings Related to Local Bylaw Amendments Applicable to the Annexed Area

The MGB gives considerable weight to the annexation agreement developed by the two municipalities. The MGB acknowledges the agreement between the Town and County requires that the Town request the MGB to recommend the Order in Council contain a provision that would dispense with the need for public hearings for bylaw amendments required to the Town's MDP and LUB. Moreover, the MGB recognizes that Section 618(4) allows that the Lieutenant Governor in Council to exempt an action, person or thing from the application of all or any provision of Part 17, the Planning and Development part of the Act. However, the public hearing process is a fundamental legislative right. The landowners and public impacted by changes to the MDP and LUB should have the right to provide their input to Council and require Council to address any related issues and concerns. The MGB considers that exempting the Town from conducting the public hearing requirements of the MDP and LUB as required under Section 692 of the Act may unnecessarily impact the public interest or individual rights. Therefore, the MGB is not prepared to recommend the exclusion of the requirement of public hearings for amendments required to the Town MDP and LUB.

Summary

The MGB is satisfied that the annexation is in the greater public interest. The cooperation displayed between the Town and the County is commended. The MGB is satisfied that the County, the affected landowners and the public support the annexation. The need for commercial/industrial land has been clearly demonstrated by the Town. Moreover, the annexation represents a strategic location for future industrial/commercial development.

The Town demonstrated that it has servicing plans in place to address the unique characteristics of the area and is fully aware of the operational considerations raised by AT. As well, the Town has demonstrated that there is overall support for the annexation.

Although the Town and County still need to resolve the long term residential growth directions, the MGB is satisfied that the two municipalities have agreed to enter into a joint planning exercise to resolve any issues associated with residential growth to the mutual satisfaction of each municipality.