

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

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

AND IN THE MATTER OF an application by the Town of Pincher Creek, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the Municipal District of Pincher Creek No. 9.

BEFORE:

Members:

R. Scotnicki, Presiding Officer
T. Biggs, Member
B. Gagnon, Member

MGB Staff:

R. Duncan, Case Manager

SUMMARY

After examination of the submissions from the Town of Pincher Creek (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 January 1, 2009, the land described in Appendix A and shown on the sketch in Appendix B is separated from the Municipal District of Pincher Creek No. 9 and annexed to the Town of Pincher Creek,
- (b) any taxes owing to the Municipal District of Pincher Creek No. 9 at the end of December 31, 2008 in respect of the annexed land are transferred to and become payable to the Town of Pincher Creek together with any lawful penalties and costs levied in respect of those taxes and the Town of Pincher Creek upon

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

collecting those taxes, penalties and costs must pay them to the Municipal District of Pincher Creek No. 9,

- (c) the assessor for the Municipal District of Pincher Creek No. 9 must assess, for the purpose of taxation in 2009, the annexed land and the assessable improvements to it,
- (d) taxes payable in 2009 in respect of the assessable land and any improvements to it are to be paid to and retained by the Municipal District of Pincher Creek No. 9, and
- (e) the assessor for the Town of Pincher Creek must assess, for the purposes of 2010 and subsequent years, the annexed land and the assessable improvements to it,

and makes the order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, this 17th day of June 2009.

MUNICIPAL GOVERNMENT BOARD

(SGD.) R. Scotnicki, Presiding Officer

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM THE
MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9 AND ANNEXED TO
THE TOWN OF PINCHER CREEK**

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY-SIX (26), TOWNSHIP SIX (6), RANGE THIRTY (30), WEST OF THE FOURTH MERIDIAN, AND INCLUDING ROAD PLAN 0614105, CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS:

EXCEPTING THEREOUT ROAD PLAN 442JK CONTAINING 0.506 HECTARES (1.25 ACRES) MORE OR LESS.

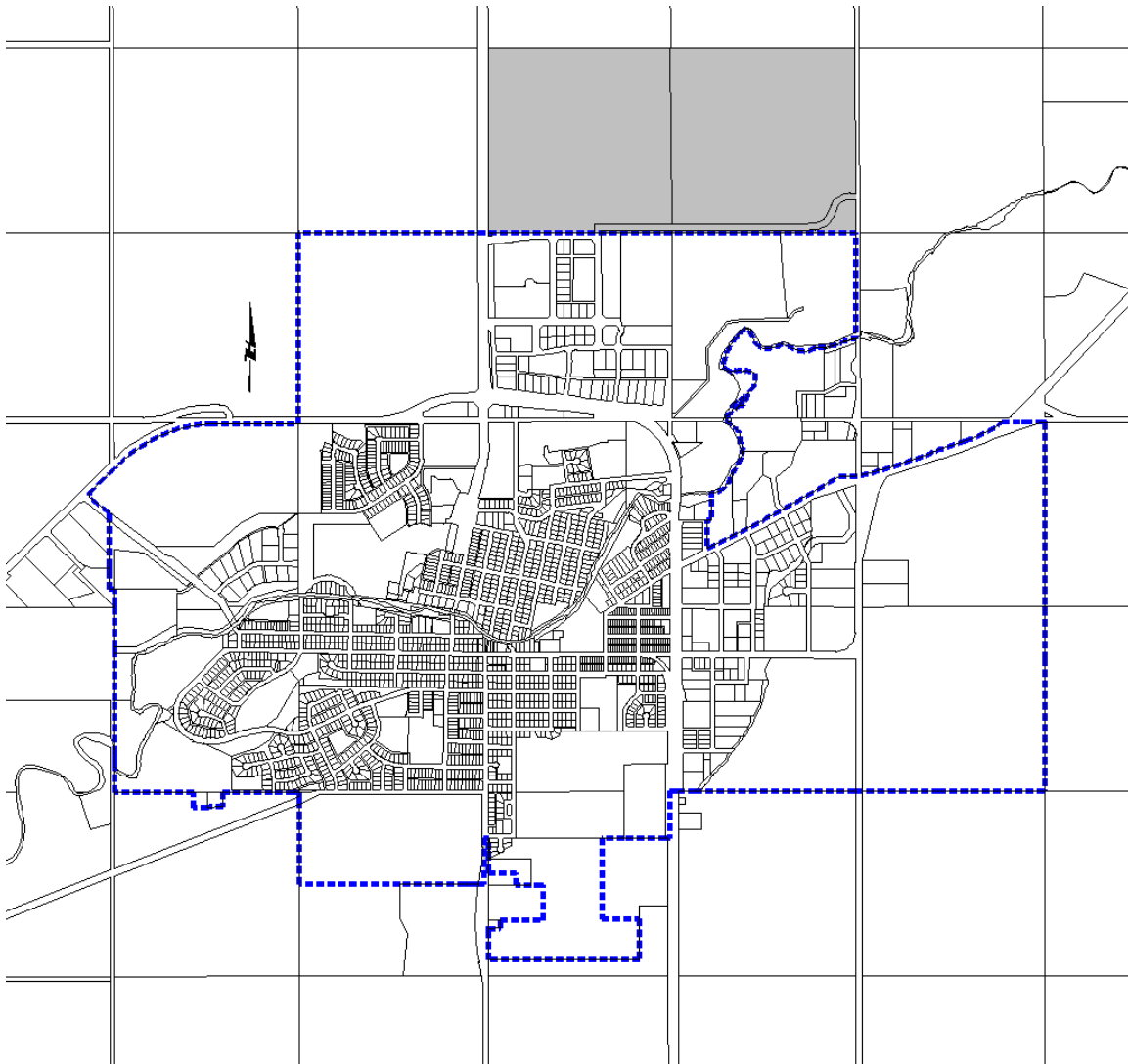
ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION TWENTY-SIX (26), TOWNSHIP SIX (6), RANGE THIRTY (30), WEST OF THE FOURTH MERIDIAN AND INCLUDING ROAD PLAN 0614105, CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS.

ALL THAT PORTION OF THE GOVERNMENT ROAD ALLOWANCE LYING ADJACENT TO THE WEST BOUNDARY OF THE NORTHWEST QUARTER OF SECTION FOURTEEN (14), TOWNSHIP SIX (6), RANGE THIRTY (30), WEST OF THE FOURTH MERIDIAN CONTAINING 0.30 HECTARES (0.76 ACRES) MORE OR LESS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PLAN 9812442 THENCE SOUTHERLY ALONG THE EASTERN BOUNDARY OF THE SAID ROAD ALLOWANCE A DISTANCE OF 152.19 METERS, THENCE WESTERLY PERPENDICULAR TO THE WESTERN BOUNDARY OF THE SAID ROAD ALLOWANCE A DISTANCE OF 20.12 METERS, THENCE NORTHERLY ALONG THE WESTERN BOUNDARY OF THE SAID ROAD ALLOWANCE A DISTANCE OF 152.19 METERS, THENCE EASTERLY A DISTANCE OF 20.12 METERS TO THE POINT OF COMMENCEMENT.

APPENDIX B

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



ANNEXATION AREA



BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

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 2009 and subsequent years up to and including 2013, the annexed land and assessable improvements to it
 - (a) must be assessed by the Town of Pincher Creek on the same basis as if they had remained in the Municipal District of Pincher Creek No. 9, and
 - (b) must be taxed by the Town of Pincher Creek 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 the Municipal District of Pincher Creek No. 9.
- 3 Where in any taxation year, up to and including 2013, a portion of the annexed land
 - (a) becomes a new parcel of land created as the 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 Pincher Creek’s Land Use Bylaw to another designation,
 - (d) is the subject of a local improvement project described in a local improvement bylaw initiated by, or with the support of or on behalf of the landowner, pursuant to which the Town of Pincher Creek’s water and sewer services are made available to the land, or
 - (e) is connected to the water or sanitary sewer services provided by the Town of Pincher Creek,

section 2 ceases to apply at the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.

- 4 After section 2 ceases to apply to 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 Pincher Creek is assessed and taxed.

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

Table of Contents

Executive Summary	7
I Introduction	8
II Role of the MGB, the Minister and the Lieutenant Governor in Council.....	9
III Annexation Application	9
Development Plans	9
Provision of Municipal Services.....	9
The Landowner and Public Consultation Process	10
Utility Provider and Provincial Consultation	10
The Annexation Agreement with the MD	10
IV Written Submissions.....	11
V MGB Application Processing Methodology and Public Hearing	12
MGB Application Processing	12
The Public Hearing	13
Town’s Submission.....	13
Municipal District’s Submission	13
Landowner/Public Submissions.....	14
VI MGB Recommendation.....	14
VII Analysis and Reasons.....	15

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

Executive Summary

The Town of Pincher Creek (Town) is a regional service centre located in the southern Alberta, approximately 100 kilometres southwest of Lethbridge. The proposed annexation would include the transfer of 319 acres (129 hectares) of territory from the Municipal District of Pincher Creek No. 9 (MD). The purpose of the annexation is to provide the land inventory required for the Town to ensure long-term planning and development.

Although there was general agreement with the proposed annexation, an objection from ABKO Holdings Ltd. and 70 Holdings International Ltd. (ABKO) was filed with the Municipal Government Board (MGB) in February 2009. In accordance with the *Municipal Government Act* (Act), the MGB held a public hearing on April 16, 2009 to receive information, evidence and argument on the annexation proposal. Prior to the hearing, ABKO formally withdrew its objection to the annexation. However, in response to the required hearing notifications published in the **Pincher Creek Echo**, the MGB received additional objections to the proposed annexation. These objections were subsequently withdrawn prior to the commencement of the hearing. Although the MGB received several presentations at the April 16, 2009 hearing, the MGB did not receive any objections to the proposed annexation.

After reviewing the documentation provided prior to the hearing, as well as listening to the presentations by the parties affected by the proposed annexation, the MGB finds that the purpose of the annexation and amount of land being requested by the Town is reasonable and that the concerns of the affected and adjacent landowners have been given proper consideration. Moreover, the MGB reviewed the submissions of all the parties and concluded it was in the greater public interest to recommend approval of the annexation. The collaboration and cooperation demonstrated by the two municipalities meets the objectives of intermunicipal cooperation outlined in the Act, the Provincial Land Use Policies and the annexation principles established by the MGB in the City of St. Albert/Sturgeon County annexation recommendation.

While the MGB recommends that the application be approved, it does not recommend that the assessment and taxation transition period conditions be removed for a parcel of land in the event that it “is sold”. It is common for a municipality to request that the annexation Order in Council (OC) contain assessment and taxation provisions to assist the transition of the land from one municipality to the other. These conditions serve to ensure that landowners are not subject to an immediate increase in taxes as a result of the boundary change. These OCs traditionally contain provisions removing the conditions if the landowner initiates an action that will change how the land is used, increase the parcel density or require the new municipality to extend water/wastewater services to the property. This ensures that the new municipality will not incur additional expenses as a result of the actions of the landowner. In contrast to these usual provisions, the sale of land does not directly increase expenditures for a municipality. At the same time, such a removal of assessment and taxation transition provisions would increase the

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

amount of taxes a landowner must pay. Therefore, the MGB finds that it would not be equitable to current and future landowners for the assessment and taxation transition period to end simply due to the sale of land.

I Introduction

The Town is a regional service centre located in south western Alberta, approximately 100 kilometres west of Lethbridge and 200 kilometres south of Calgary. Its strategic location adjacent to the junction of Highways 3 and 6 has allowed the Town to position itself as a regional service centre. The Town is bounded by the MD, and had a population of 3,652 as of 2007.

On October 24, 2008 the MGB received the required Negotiation Report and application fee from the Town. The application stated that the Town and the MD had reached an agreement regarding the annexation and there were no matters that had not been agreed upon by the two municipalities. It was submitted that the direction of the proposed annexation was consistent with the Intermunicipal Development Plan (IDP) between the Town and the MD and that the lands to be annexed would allow for orderly development within the Town. The Town held an open house on June 26, 2008 in order to receive feedback and input from the public regarding the proposed annexation. The open house was advertised in the June 13 and June 20, 2008 editions of the Pincher Creek Echo and a total of four people attended, none of whom were members of the public. The application contained a signed consent from the affected landowner as well as a letter from the Town stating that there were no known objections to the proposed annexation. In keeping with past practice, the MGB forwarded the annexation application to Alberta Municipal Affairs (AMA) for processing under section 126 of the Act.

On February 2, 2009 the MGB received a request from the solicitor for ABKO Holdings Ltd. and 70 Holdings International Ltd. (ABKO) to postpone the Town's annexation application. ABKO believed they were in negotiations with the Town regarding its wind energy and interpretive project. The Town however denied such discussions with ABKO and requested the application process be continued. The MGB asked ABKO to clarify whether they objected the proposed annexation. ABKO submitted a formal objection to the proposed annexation on February 26, 2009.

In accordance with the Act, the MGB scheduled and held a public hearing on April 16, 2009 to receive information, evidence and argument on the annexation proposal.

In response to the MGB hearing notifications, two other objections to the proposed annexation were filed. However, prior to the commencement of the April 16, 2009 hearing all objections, including that of ABKO, were withdrawn.

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

The following report outlines the role of the MGB, provides a brief overview of the Town's annexation application, identifies the issues raised by the adjacent landowners, identifies the MGB annexation processing methodology, summarizes the written submissions as well as the oral presentations made at the public hearing held on April 16, 2009, and provides a recommendation to the Minister of Municipal Affairs (Minister) regarding this matter.

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

The MGB became active in the annexation process once the Town filed its negotiation report with the MGB and requested the MGB to proceed with the annexation, pursuant to section 119(2) of the Act. Although the Town and the MD were in agreement with the proposed annexation, the MGB received an objection from an adjacent landowner. In accordance with section 120(3)(b) of the Act, the MGB conducted a hearing. The MGB is now required to prepare a written report of its 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.

III Annexation Application

The following section summarizes the annexation application submitted by the Town. A brief description of the development plans, provision of municipal services, public consultation, the annexation agreement between the Town and the MD, proposed assessment and taxation conditions are provided below.

Development Plans

The two municipalities have developed a long-term planning document which identifies the direction of growth for the Town and provides a focus for the proposed annexation. The Town and the MD established an IDP in 1996 and conducted reviews of this discretionary planning document in 2003 and 2008. This document confirms that the two municipalities have agreed that future growth for the Town will be in a northerly direction. The application states that the Town's current Municipal Development Plan (MDP) will most likely be reviewed upon the adoption of the new IDP and a successful annexation request.

Provision of Municipal Services

The Town has the capacity to provide municipal services to the proposed annexation area. As the proposed annexation lands were designated within the IDP as areas that would accommodate future Town growth, there is existing infrastructure and development in place. Comprehensive

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

utilities and road work studies have been started to accommodate the proposed development. Underground utilities including a sewer line, water line and storm line have been built or are planned on being built. The application states that municipal services will be extended through agreements with developers and that the funding required for the expansion of required services will be obtained through the use of on-site development charges.

The Landowner and Public Consultation Process

The public consultation process conducted by the Town provided opportunities for affected landowners and the public/adjacent landowners to become informed about the proposed annexation and to express their opinions. The MD and the owner of the lands proposed for annexation (Hutterian Brethren of Pincher Creek) both consented to the proposed annexation. Public input and/or opposition was almost non-existent.

On June 26, 2008 the Town held an open house meeting for landowners to receive feedback and input. This meeting was advertised in the June 13 and June 20 editions of the **Pincher Creek Echo**. A total of four people attended the three-hour open house; none of whom were members of the public.

Utility Provider and Provincial Department Consultation

Several agencies, including Alberta Transportation, Alberta Environment, Telus Communications Inc, Land Services, ATCO Gas, Fortis Alberta, Livingstone Range School Division, Holy Spirit Roman Catholic School Division, Chinook Health Region, AltaGas Utilities, Shaw Cable were given notice of the proposed annexation and asked to provide any comments or concerns on the matter. No objections were received. The Town sent a second notification to the affected local authorities and again received no objections.

The Annexation Agreement with the MD

The Town and MD came to agreement regarding the annexation details. A negotiation process was conducted, leading to agreement as to the proposed annexation area and other matters. The Annexation Agreement indicates that the two municipalities are in agreement on all issues relating to the annexation, and that there are no outstanding issues.

No monetary compensation from the Town to the MD or special conditions regarding assessment and taxation were provided for in the Annexation Agreement. The Town will not be paying any compensation to the MD regarding the proposed annexation because the land in question represents less than 0.5 percent of the total land area of the MD and is not a major source of revenue for the MD.

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

The Town and the MD agreed that the land assessable improvements proposed for annexation shall be assessed on the same basis as if it had remained in the MD and taxed by the Town in respect of each assessment class that applies to the land. The parties agreed that this would be established by the MD for a period of five (5) years from the Effective Date of Annexation. The Town and MD also agreed under which circumstances the taxation condition would cease to apply to any portion of the land proposed for annexation. Although the Town did request that the assessment and taxation conditions be removed if the annexed land “is sold”, the letter accompanying the Town’s annexation application states that the Town acknowledges and accepts the possibility that the MGB would remove this clause.

IV Written Submissions

As stated earlier, while processing the Town’s annexation application in accordance with section 126 of the Act, the MGB received written objections and submissions regarding the proposed annexation.

H. Ronald Hansford, solicitor for ABKO, stated that his client originally was of the opinion that the proposed annexation would allow for the future growth requirements of the Town and therefore did not submit an objection. However, after receiving correspondence from the Town opposing the company’s proposed wind generation and interpretive centre project, ABKO was of the opinion that the proposed annexation was actually an attempt by the Town to block the development. The formal objection filed by Mr. Hansford on behalf of his client requested the MGB establish a document exchange timeline and set a date for the hearing at the earliest opportunity.

The MGB scheduled the annexation hearing for April 16, 2009. A pre-hearing conference call was held March 16, 2009 to identify any preliminary matters and to establish a document exchange timeline. During the pre-hearing conference call, Mr. Hansford requested the April 16, 2009 hearing to be postponed in order to allow the MD’s Subdivision and Development Appeal Board to render a decision regarding the wind energy and interpretive centre development being proposed by ABKO adjacent to the proposed annexation area. Mr. Hansford also requested the MGB to make an order requiring certain persons to attend the hearing. Mr. Hansford was informed that both requests would have to be addressed by a three member MGB panel and that the earliest possible date for convening a hearing to address these issues would be April 16, 2009. It was suggested that ABKO bring these issues forward as preliminary matters at the scheduled April 16, 2009 hearing. In a letter dated March 25, 2009, the MGB confirmed the administrative direction provided during the pre-hearing conference call by identifying the document exchange timeline and directing the parties to be prepared to argue the merits of the annexation on April 16, 2009.

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

As a result of the hearing notification process, the MGB received other written submissions. Brief summaries of the additional written submissions are provided below.

Ali Jomaa, on behalf of Pinchme Corp. provided a submission in opposition to the proposed annexation. Pinchme Corp. is of the opinion that the Town has sufficient land to satisfy its needs for the next 50 years, that the proposed annexation does not conform with the Town's statutory plans and that the proposed annexation is unfair. Mr. Jomaa explained that Pinchme Corp. purchased their land at a higher price since it was already within the existing Town boundary and was already zoned to allow residential and commercial permitted uses. The position of Pinchme Corp. is that the proposed annexation would provide the owner of these proposed annexed lands the same benefits as Pinchme Corp. without having had to pay for them. Pinchme Corp. also contended that allowing commercial and residential development proposals without guidelines from existing MDP and IDP documents would lead to the devaluation of their lands. In addition, Pinchme Corp. suggested that the Town proposes the annexation to circumvent the caveat registered on the land for potential windmill development.

Ken Dickie outlined the issues he would face if the annexed parcels were developed. He was concerned his property would incur a greater amount of stormwater run-off when land being proposed for annexation developed.

Barry Sullivan, Senior Planner with Gibbs Gage Architects, Diane Sorge and Don Anderberg, as well as Mike Gross, manager of the Pincher Creek Hutterian Brethren Colony, provided written submissions expressing support of the proposed annexation.

ABKO formally withdrew its objection on April 6, 2009. Pinchme Corp. and Mr. Dickie submitted correspondence to the Town withdrawing their objections to the proposed annexation prior to the commencement of the hearing.

V MGB Hearing Notification Process and Public Hearing

The following provides a description of the methodology used to notify the public of the hearing and summarizes the oral submissions received at the April 16, 2009 hearing by the MGB.

MGB Hearing Notification Process

In accordance with section 122 of the Act, a notice of hearing was published in the **Pincher Creek Echo** newspaper the weeks of March 23 and 30, 2009. Moreover, the MGB sent letters to the Town and MD with copies to each of the affected landowners to notify the parties of the April 16, 2009 hearing. Letters were also sent to the people that had provided written comments contained in the annexation application. The letters and newspaper notifications requested that

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

any person planning to attend or wishing make an oral submission at the hearing to notify the MGB by Monday April 6, 2009.

The Public Hearing

At the hearing, the MGB received oral submissions from the Town, the MD, the affected landowner, and the public. Summaries of the oral and supplemental written submissions made to the MGB are provided below.

Town's Submission

In its oral submission to the MGB, the Town explained the annexation application was being processed as a consensual annexation application based upon the consent of the MD and the landowner. During the public consultation process the Town had received no objections to the proposed annexation. The Town explained that the proposed annexation will allow orderly, economical and beneficial development as well as maintain and improve the quality of physical environment within the municipality. The Town stated that there was a need for highway commercial, residential and industrial land and submitted that the proposed annexation does not infringe upon individual rights as the terms between the MD and the Town deal only with taxation of the affected landowner after the annexation.

The Town emphasized that the proposed annexation conforms with the northerly direction of growth identified in the IDP, is consistent with the logical growth pattern agreed to with the MD, and promotes the efficient use of the land. A portion of the proposed annexation area is expected to be used to extend the highway commercial corridor to the Town and will take advantage of the existing infrastructure and development already in place. The Town noted it has the capacity to provide services to the proposed annexation area. The Town and the MD have agreed to postpone further annexations until a new IDP is negotiated in order to ensure continued logical orderly and efficient growth.

The Town submitted that there is no environmental or natural features of note which must be specifically provided for in this annexation.

Municipal District's Submission

In its oral submission to the MGB, the MD indicated that it had engaged in discussions with the Town, and is in support of the annexation application. The MD confirmed that the Town will not be paying any compensation to the MD regarding the proposed annexation.

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

Landowner/Public Submissions

At the hearing the MGB received oral presentations from several landowners and members of the public. A summary of each presentation is provided below.

Land Owner Representative – Mike Gross

Mike Gross, Manager of the Pincher Creek Hutterian Brethren Colony, owners of the land to be annexed, indicated that the Colony fully supports the annexation and would encourage its timely conclusion.

Barry Sullivan – Gibb Gage Architects

Barry Sullivan, Senior Designer for Gibb Gage Architects, presented the plans that his company had developed for the proposed annexation area. Mr. Sullivan stated that the wide range of land uses being proposed will respond to the Town's future needs as well as the needs of the surrounding district both in the short term and long term.

Diane Sorge and Don Anderberg

Diane Sorge informed the MGB that both she and Don Anderberg were in support of the proposed annexation.

Ken Dickie

Ken Dickie outlined the issues he would face if the annexed parcels were developed in a letter dated April 6, 2009. Mr. Dickie was concerned with an increase in the amount stormwater that would flow across his property after the development of the annexed land. On April 15, 2009 Mr. Dickie sent a letter to the Town and the MGB withdrawing his objection. At the hearing Mr. Dickie explained that after discussing the proposed annexation with Town Council, he was satisfied that the location of the proposed boundaries and conditions of the annexation would not negatively impact his property. In summary, Mr. Dickie confirmed that his concerns had been addressed by the Town to his satisfaction.

VI MGB Recommendation

After reviewing the documentation provided prior to the hearing as well as listening to the presentations by the parties affected by the proposed annexation, the MGB recommends that the annexation of the lands applied for proceed with an effective date of January 1, 2009. However, the MGB does not recommend that the assessment and taxation conditions be removed upon the sale of the land.

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

VII Analysis and Reasons

The MGB finds that there were ultimately no objections to the proposed annexation. All objections to the proposed annexation were withdrawn prior to the hearing taking place. The application was initially being processed as a consensual annexation application based upon the consent of the MD and the affected landowner. The MGB finds that the Annexation Agreement demonstrates a high degree of cooperation and collaboration between the Town and the MD. An IDP has been in place since 1996. The proposed annexation is consistent with the IDP which indicated any future Town growth should occur primarily in a northerly direction. The Town and MD have started a review of the existing IDP and the municipalities hope a new or amended IDP will be adopted by both Councils in early 2009. Both municipalities have agreed that no further annexations should occur until the new plan is negotiated in order to ensure logical, orderly and efficient growth.

The MGB finds that the limited amount of land currently available for development within the Town's boundary, combined with the accelerated rate of growth anticipated by the Town, is a reasonable justification for this annexation. Furthermore, the MGB is convinced that this annexation will facilitate the well managed growth of the municipality by providing land inventory for a diversified array of development including residential, commercial, and industrial.

The current population of the Town is of 3,652 as of 2007. The proposed annexation would provide an additional 319 acres (129 hectares) of land, which would satisfy the need for residential and commercial/retail growth. The landowner supports the proposed annexation. The Preliminary Site Development plan provided by the developer at the hearing demonstrates that the annexation area will allow for the expansion of the Town's commercial/retail base, provide additional multi-family/mixed use development, as well as expand the amount of travel related services and leisure accommodations available in the region. The Town and the developer contend that this will allow the Town to respond to the future needs of the municipality as well as the needs of the surrounding area in both the short and long term.

The MGB is satisfied that the lands being requested by the Town are logical extensions of established and developed areas. The Town and MD's IDP identified these lands as a future growth area. Further, the MGB recognizes that the proposed annexation would take advantage of the existing infrastructure and development in place. The Town has the capacity to provide municipal services to the proposed annexation area. Comprehensive utilities and road work studies have been started to accommodate the development demand that has been proposed. Underground utilities including a sewer line, water line and storm line have been built or are planning stages. Also, the Town requires developers to pay for the expansion of services through the use of on-site development charges.

BOARD ORDER NO. MGB 062/09

FILE: AN07/PINC-T-01

The MGB notes that the Town has notified relevant agencies of the proposed annexation, and given consideration to the responses received. The MGB is satisfied that the Town provided adequate notification to landowners, and undertook a sufficient level of consultation through holding an open house and public hearing.

The MGB is satisfied that there are no environmentally sensitive areas or natural features of note which must be specifically provided for in this proposed annexation.

The MGB is satisfied that the proposed annexation is not a “tax grab” by the Town. The Town and the MD have reached an agreement which does not include a proposal for revenue sharing. Moreover, the Town has not been requested to pay any compensation to the MD regarding the proposed annexation.

The MGB does not recommend that the assessment and taxation transition period conditions be removed when a parcel of land “is sold”. The MGB acknowledges that the annexation provisions of the Act provide municipalities with substantial freedom to resolve local issues with local solutions and recognizes that the principles established in the St. Albert/Sturgeon County annexation identify that the MGB is to give a great deal of weight to the annexation agreement between the two municipalities. However, the MGB accepts that the planning provisions of the Act and Provincial Land Use Policies require a balance to be struck between the rights of an individual and the greater public good. The assessment and taxation conditions proposed by the Town and MD can be seen as an attempt to balance the rights of the owner of the land with the greater public interest. These conditions ensure that landowners are not subject to an immediate increase in taxes as a result of the boundary change and that the new municipality does not incur additional expenditures caused by a landowner initiated action that intensifies land use. The sale of land does not directly increase expenditures for the municipality; however, the removal of the assessment and taxation provisions as the result of the sale may increase the amount of taxes the landowner must pay. Therefore, the MGB finds that it would not be equitable to current and future landowners for the assessment and taxation transition period to end simply due to the sale of the land.