

IN THE MATTER OF THE “Municipal Government Act” (the Act);

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

BEFORE:

L. Lundgren, Presiding Officer
A. Savage, Member
R. Scotnicki, Member
G.J. Dziwenka, Secretariat

BACKGROUND

The Town applied to the Municipal Government Board (Board) to annex approximately 1100 acres from the County. The County does not object to the proposal however, of the fifteen affected landowners, two object and three have concerns. The proposed annexation consists of three areas, generally described as follows:

- Approximately 260 acres along Highway 23 located on the east side of the Town in the west one-half of section 4-17-24-4.
- Approximately 490 acres located on the south side of the Town in the north one-half and part of the south east quarter of section 32-16-24-4.
- Approximately 350 acres located on the west side of the Town in the east one-half of section 6-17-24-4 and the reservoir site in the northeast quarter of section 31-26-24-4.

The Town is proposing the annexation for the following reasons:

The Town is in need of land to expand beyond its boundaries because of a lack of developable land currently within its boundaries. The intended use of the proposed annexation areas and servicing are as follows:

In the east annexation area, the Town is desirous of facilitating commercial development along Highway 23 in conjunction with the existing service stations and restaurant. The current commercial developments located in this area have water and sewer service and one of the included farm properties is connected to the Town water service. The County has neither the opportunity nor the desire to provide the types of infrastructure necessary to facilitate developments of this nature.

In the south annexation area residential development is present, as well as a proliferation of small, country residential acreages. These areas are not presently serviced by the Town, but some of the landowners have requested water and sewer services. A private water co-op supplies water to five landowners on the southeast side of the area. As the area develops, the Town plans on providing water, sewer and storm sewer. A developer, with the support of Council, has applied to rezone and develop a "+ 50" adult community in this location. The Town has no residential lot inventory left and it is the Town's intention to promote residential expansion in this direction.

In the west annexation area the Town intends to designate the land as a light industrial area in conjunction with the existing airport operation. Currently, there is a request for the use of part of the area for industrial purposes. Water is available in this area and sewer will be extended into the airport property once development occurs.

CONSULTATION AND NEGOTIATION

Representatives of Town Council, including the mayor, met with members of the County on September 14 and October 19, 1999 to discuss the annexation proposal. Subsequently, in a letter dated December 3, 1999 the County conveyed to the Town its approval of the proposed annexation subject to the condition that the Town commit to establish a Country Residential District in its Land Use Bylaw. In response to the County's letter of agreement, the Town has committed to establishing a Country Residential District.

The Town Council arranged for private meetings with each landowner. Representatives of Council, including the mayor, the owners, or owner's representatives of all properties proposed to be annexed, attended these meetings. Owners were advised of the Town's intention to protect the entire south area for residential development. Rezoning to residential use of any portion of the area would have to come from the landowner. After rezoning is approved, assessment would change, reflecting a change in land use reflecting new values for assessment and Town rates of taxation. Until that time, the Town would apply the yearly tax rate and assessment value that would apply to the property as if it remained in the County. Property owners in east and west annexation areas were advised of Council's intention to protect both of these areas for commercial development and that the same assessment and taxation conditions would apply. Two landowners in the east annexation area, Allan Walker and Al Bertram opposed annexation of their property into the Town. Donald and Margaret Grinde in the east annexation area opposed annexation of their farmstead area. There were no objections from the landowners in the other two annexation areas.

As required by the Act, the Town held a public meeting with the landowners on November 17, 1999 to discuss its annexation proposal. Some of the issues raised at this public meeting were the point at which taxes and assessment would be subject to change, the increased regulation under

the Town's bylaws, the continued use of the property as farm or country residential use, and concerns such as dog control and burning of refuse.

The Town filed its official application with the Municipal Government Board by letters dated December 3, 1999 and December 6, 1999. On December 17, 1999, the Board determined that there was not general agreement respecting the proposal due to the objections of the landowners in the east annexation area. In accordance with section 121 of the Act, the Board conducted a public hearing on February 4, 2000 in order to allow any affected person to appear before the Board.

SUMMARY OF HEARING

Al Bertram owns a service station, restaurant and convenience store called the Truck Stop in the east annexation area. Mr. Bertram is concerned about the tax base and the cost of upgrading the existing infrastructure. Mr. Bertram also objects to the annexation because there is no future land use plan in place and there does not appear to be a real reason why the Town needs the land. The Town is not experiencing rapid growth. There are available parcels of land already in the Town. Mr. Bertram maintains that the Town is interested in being in the development business, which is not an appropriate Town function. He has previously lived in the Town, has made the choice to live in the County, and wants to stay there. In addition, the Town commenced this annexation with no notice or discussion with the landowners.

In response, the Town indicated that they have no interest in acting as a developer. The Town also maintains that all property owners received notification of the proposed annexation and public meetings. Further, landowner meetings were held in accordance with the requirements of the Municipal Government Act.

Donald Grinde owns land in east annexation area and is not in disagreement with the annexation, but would like his homestead to be removed from the annexation and stay within the County. This would require fifty acres being subdivided from his quarter section. He does not object to the remainder of his quarter section being annexed by the Town.

The Town and the County agreed that the 50 acre homestead area could be deleted from the annexation proposal.

Allan Walker, also a landowner in the eastern annexation area, did not appear at the hearing, but submitted a letter, dated January 10, 2000, in opposition of the annexation. At times he has horses on his land, which is not permitted by the Town's bylaws. His land is in the centre of a farming enterprise, and as such has no merit being inside of the Town's boundary.

Dale Lebsack owns land in the south annexation area as well as certain water lines supplying water to other properties in the vicinity. Mr. Lebsack is not opposed to the annexation. His concern is that the Town has not provided guidelines for future water distribution in the south area.

In response, the Town assured Mr. Lebsack that he could sell his water lines as he wishes as changeovers occur to Town water. Mr. Lebsack was satisfied with the answer.

Larry Grandahl represents Sunshine Gas Co-op and is neither for nor against the annexation. His concern is that he will lose some customers and some transmission lines.

In response, the Town indicated that the co-op would be attending a Town Council meeting on Monday, February 14, 2000 to discuss this matter and assured Mr. Grandahl that appropriate arrangements would be made to offset the loss of any customers. Mr. Grandahl was satisfied with the Town answer.

RECOMMENDATION

In consideration of the above, the Board makes the following recommendations to the Minister of Municipal Affairs, for the reasons set out below:

- (a) effective January 1, 2000 , the land described in Appendix A and shown on the sketch in Appendix B be separated from Vulcan County No. 2 and annexed to the Town of Vulcan,
- (b) any taxes owing to Vulcan County No. 2 at the end of December 31, 1999, in respect of the annexed land, together with any lawful penalties and cost levied in respect of those taxes, are transferred to and become payable to the Town of Vulcan and the Town of Vulcan upon collecting those taxes, penalties or costs shall pay them to Vulcan County No. 2, and
- (c) the assessor for the Town of Vulcan shall assess, for the purposes of taxation in 2000, the annexed land and the assessable improvements to it.

And make the Order shown in Appendix C.

REASONS

The Need for Annexation

The Town has demonstrated that the annexation is necessary to accommodate future development over a long period of time. The size of the annexation will provide assurance to future Council

members that investment in infrastructure and other growth plans can be accommodated in the most economic manner possible.

While there is some vacant land presently within the Town, the numbers of residential and highway commercial lots are very limited and supply will soon be depleted. The Town has already been approached for industrial and new, innovative residential development and the annexation will accommodate the first phase of the Town's overall strategy for future extension of services. Further, the County supports the annexation and has no interest in accommodating the urban style developments presently being proposed.

Servicing

Municipal services are currently available or will be readily available to the annexation areas. The commercial areas and the farm operation in the east annexation areas are already connected to the Town water distribution system. The Town is also committed to upgrading and extending sewer and water services providing developers pay their fair share as new developments come on stream. Water supply in the south annexation area can be supplied by the Town and/or the private water systems owned by Mr. Lebsack. The Town and Mr. Lebsack will negotiate any future sale of water systems and Mr. Lebsack is satisfied with the Town's commitment on this issue. The same developer pay concept will provide extension of water, sewer and storm sewer services to the airport industrial areas in the westerly annexation area.

With respect to the supply of gas by the Sunshine Gas Coop in the annexation areas, the Board's staff contacted Mr. Grandahl after the hearing and Mr. Grandahl indicated that the recent meeting with the Town satisfied his concerns and he has no objection to the proposal.

With respect to Highway issues, the Board's staff contacted Alberta Infrastructure after the hearing to determine if the Department had any concerns respecting the annexation of a portion of Highway 23. Alberta Infrastructure did not indicate any concern with the proposal.

Landowner's Objections

In the eastern annexation area, Mr. Bertram owns three small parcels on Highway 23 that are used for commercial businesses, a Truck Stop. These businesses are located adjacent to the present Town boundary and benefit from Town's water supply distribution system. Mr. Bertram's lots are located in an area of logical expansion for the Town and are surrounded by other lands proposed for annexation. The Board was not convinced that Mr. Bertram's concerns about the tax base and cost of upgrading infrastructure, override the need for the Town to plan its future growth. Due to the proposal by the Town for future servicing, the Board is of the opinion that Mr. Bertram's concerns have been adequately addressed.

Also in the eastern annexation area, Mr. Walker indicated that he wished his land to remain in the County so that Town bylaws regarding the keeping of animals and the burning of refuse would not apply to his property. While the Board understands the concerns, the Board finds that the location of Mr. Walker's land along Highway 23, is crucial to the future planning of extending infrastructure and land use in the growth area. The Board is of the view that Mr. Walker's objection is not of sufficient strength to override the greater needs of the community now and in the future.

With respect to the objection of Mr. Grinde having the 50 acre farmstead area included in the annexation, the Board is recommending deletion of this 50 acre area. The Board has agreed to make this recommendation because both the Town and the County agree that it could be excluded. Further, the Board notes that the location of the 50 acre area is on the outside of the proposed annexation area and deletion of the area will not have a detrimental impact on the Town's future growth strategy.

DATED at the City of Edmonton, in the Province of Alberta, this 28th day of April, 2000.

MUNICIPAL GOVERNMENT BOARD



L. Lundgren, Presiding Officer

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS PROPOSED FOR SEPARATION FROM
VULCAN COUNTY AND ANNEXED TO THE TOWN OF VULCAN**

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 4 (FOUR), TOWNSHIP 17 (SEVENTEEN), RANGE 24 (TWENTY-FOUR), WEST OF THE FOURTH MERIDIAN WHICH LIES WEST OF THE SOUTHWEST LIMIT OF RAILWAY RIGHT OR WAY ON PLAN RY 304

THE NORTHWEST QUARTER OF SECTION 4 (FOUR), TOWNSHIP 17 (SEVENTEEN), RANGE 24 (TWENTY-FOUR), WEST OF THE FOURTH MERIDIAN EXCEPTING THEREOUT THE NORTHERLY 201.17 METRES THROUGHOUT AND EXCEPTING THEREOUT PLAN 6976HS, PLAN 2474HR, PLAN 527JK AND PLAN 8610466.

THE NORTHERLY 33 FEET OF THE WESTERLY 2570.25 FEET OF THE SOUTHWEST QUARTER OF SECTION 4 (FOUR), TOWNSHIP 17 (SEVENTEEN), RANGE 24 (TWENTY-FOUR) WEST OF THE FOURTH MERIDIAN, EXCEPTING THEREOUT PLAN 9910610 AND PLAN 8610466.

LOT 1, BLOCK 73, PLAN 8610466.

BLOCK B, PLAN 527JK.

BLOCK 1, PLAN 6629GP

BLOCK A, PLAN 3474HR

THE NORTH 165 FEET OF LEGAL SUBDIVISION 9 IN THE NORTHEAST QUARTER OF SECTION 32 (THIRTY-TWO), TOWNSHIP 16 (SIXTEEN), RANGE 24 (TWENTY-FOUR), WEST OF THE FOURTH MERIDIAN, EXCEPTING THEREOUT ROAD PLAN 9510115.

LOT 3, BLOCK 1, PLAN 9610088.

LOT 2, BLOCK 1, PLAN 9511895.

LOT 1, BLOCK 1, PLAN 9511895.

LOT 1, BLOCK 1, PLAN 9210140.

THE NORTHWEST QUARTER OF SECTION 32 (THIRTY-TWO), TOWNSHIP 16 (SIXTEEN), RANGE 24 (TWENTY-FOUR), WEST OF THE FOURTH MERIDIAN EXCEPTING THE NORTH 528 FEET OF THE EAST 165 FEET OF THE SAID QUARTER, AND EXCEPTING THEREOUT REGISTERED PLANS 9210140, 9511895, AND 9610088.

LOT 5, BLOCK 1, PLAN 9813611.

LOT 2, BLOCK 1, PLAN 9410174 EXCEPTING THEREOUT ROAD PLAN 9510115.

LOT 1, BLOCK 1, PLAN 9410174 EXCEPTING THEREOUT ROAD PLAN 9510115.

LEGAL SUBDIVISION 8 (EIGHT) WITHIN SECTION 32 (THIRTY-TWO), TOWNSHIP 16 (SIXTEEN), RANGE 24 (TWENTY-FOUR), WEST OF THE FOURTH MERIDIAN EXCEPTING THEREOUT ROAD PLAN 9510115.

LOT 4, BLOCK 1, PLAN 9410174.

THOSE PORTIONS OF LEGAL SUBDIVISION 9 (NINE) AND 10 (TEN) IN THE NORTHEAST QUARTER OF SECTION 32 (THIRTY-TWO), TOWNSHIP 24 (TWENTY-FOUR), RANGE 16 (SIXTEEN), WEST OF THE FOURTH MERIDIAN, WHICH LIE TO THE SOUTH OF THE NORTH 165 FEET OF THE SAID LEGAL SUBDIVISIONS , EXCEPTING THEREOUT ROAD PLAN 9510115.

THE NORTH 75 FEET OF THE EAST 320 FEET OF THE NORTHEAST QUARTER OF SECTION 6 (SIX), TOWNSHIP 17 (SEVENTEEN), RANGE 24 (TWENTY-FOUR), WEST OF THE FOURTH MERIDIAN.

THE NORTHEAST QUARTER OF SECTION 6 (SIX), TOWNSHIP 17 (SEVENTEEN), RANGE 24 (TWENTY-FOUR), WEST OF THE FOURTH MERIDIAN EXCEPTING THEREOUT THE NORTHERLY 75 FEET OF THE EASTERLY 320 FEET AND EXCEPTING THEREOUT THE AIRPORT SITE PLAN 8110159.

LOT 1, BLOCK 1, PLAN 7510541.

RESERVOIR SITE PLAN 2284JK.

AIRPORT REGISTERED PLAN 8110159.

BOARD ORDER: MGB 066/00

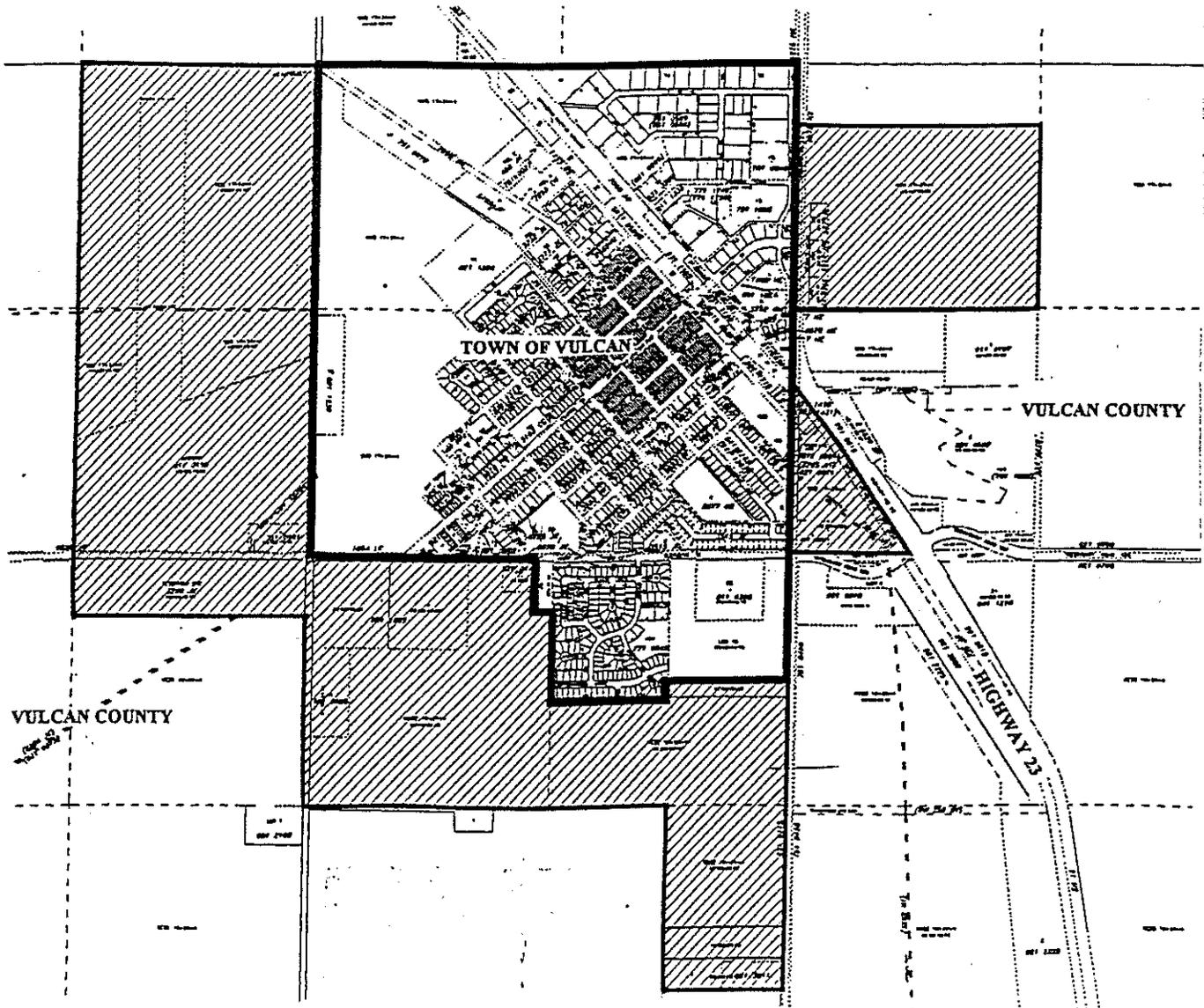
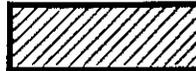
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THE SOUTHEAST QUARTER OF SECTION 6 (SIX), TOWNSHIP 17 (SEVENTEEN), RANGE 24 (TWENTY-FOUR), WEST OF THE FOURTH MERIDIAN, EXCEPTING THEREOUT AIRPORT PLAN 8110159 AND LOT 1, BLOCK 1, PLAN 7510541.

ALL INTERVENING ROAD ALLOWANCES, ROAD PLANS AND HIGHWAY PLANS WITHIN THE ANNEXATION AREAS AND BETWEEN THE ANNEXATION AREAS AND THE FORMER TOWN BOUNDARY.

APPENDIX B

**A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS
PROPOSED TO BE
ANNEXED TO THE TOWN OF VULCAN
AFFECTED AREA**



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 2000 and later years the annexed land and the assessable improvements to it must
 - (a) be assessed by the Town of Vulcan on the same basis as if they had remained in Vulcan County, and
 - (b) be taxed by the Town of Vulcan in respect of each assessment class that applies to the annexed land and the assessable improvement to it using the tax rate established by Vulcan County.
 3. Section 2 ceases to apply to a portion of the annexed land and the assessable improvement to it in the taxation year immediately following the taxation year in which
 - (a) the portion 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) the portion becomes a residual portion after a new parcel referred to in clause (a) has been created and the residual portion is 3 acres or less, or
 - (c) the portion is, at the request of, or on behalf of, the landowner, redesignated by an amendment to the Town of Vulcan Land Use Bylaw
1. After section 2 ceases to apply to a portion of the annexed land in a taxation year, the 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 on the same basis as the assessment and taxation of property of the same assessment class in the Town of Vulcan.