

**IN THE MATTER OF THE** *“Municipal Government Act”* (Act).

**AND IN THE MATTER OF** an application by the Town of Blackfalds (Town) to annex certain adjacent territory from Lacombe County (County).

**BEFORE THE MUNICIPAL GOVERNMENT BOARD (MGB):**

Members

D. Scotnicki, Presiding Officer  
L. Lundgren, Member  
F. Martin, Member

Secretariat Advisor

D. Hawthorne

**PROPOSAL**

The Town is proposing an annexation of approximately 465 acres of territory from the County. There are four distinct areas involved in the proposal, generally described as follows:

- Area 1 Part of the NW 26-39-27 W4M, containing approximately 36 acres, is a triangular parcel located adjacent to the northeast corner of the Town. The Town’s Municipal Development Plan identifies these lands for future highway commercial use (the lands fronting Highway 2A) and future residential.
- Area 2 Part of the NW ¼ 23-39-27 W4M, contains approximately 141 acres of land classified as marginal land for agricultural use. This area accommodates Town owned facilities such as sewage lagoons, water wells and a waste transfer site. A privately owned larger parcel is currently used as pasture while four other industrial parcels are distributed around the balance of the quarter section. This area is earmarked for industrial use offering a variety of parcel sizes.
- Area 3 Part of the NE ¼ and Part of the NW ¼ 22-39-27 W4M, containing approximately 143 acres, are located between the southern Town boundary and the right-of-way of Secondary Highway 597. The current use of these lands varies, with some residential uses near the northeast corner, a gravel operation in the southeast corner and an intensive livestock poultry operation and other industries in the northwest. Although the majority of these lands are currently zoned for agricultural use, the only agricultural activity is a poultry farm. The Town intends to designate this area for residential use in

the northeast corner (located on a hill) with the balance of the lands proposed for industrial and business parkland uses.

- Area 4 The SW ¼ 27-39-27 W4M, contains approximately 143 acres located between Highway 2 and the current western Town boundary. These lands are divided between public uses, including a potential school site and All Star Park (owned by the Town), and private industrial operations. The existing industries in this area are located to take advantage of their exposure to Highway 2, and have been appropriately zoned by the County. The remainder of the area is designated as Agricultural. The Town intends to develop a small portion of the area for residential use, while the existing open areas and parkland will separate future industrial and highway commercial uses on land to the west and south of the parkland.

The lands involved in the proposed annexation are recognized for future urban use in the Town's Municipal Development Plan and the annexation is supported by a recent comprehensive growth study commissioned by the Town. The impetus for this proposal stems from the Intermunicipal Development Plan approved by the Town and the County in 1988. This joint plan identifies the subject land as representing part of the expected long-term boundary for the Town.

The addition of these strategically located lands also support Town Council's desire to offset the high ratio of residential assessment with increased industrial and commercial assessments. The lands proposed for annexation will expand the Town's dwindling inventory of industrial and highway commercial land, as well as providing a wider range of parcel sizes, servicing methods and locations.

As previously described, portions of the annexation areas are bounded on the west by Highway 2 and on the south by Secondary Highway 597. Alberta Transportation requested that these highways not form part of the annexation area. The Town agreed and deleted any portion of highways from the annexation proposal. Another highway, Highway 2A, presently runs through the Town and is partially located within the Town boundaries. Since Area 1 of the annexation (northeast) is separated from the existing Town by Highway 2A, Alberta Transportation agreed that the portion of this highway separating the two areas of Town, could be included in the annexation.

## **BACKGROUND**

In July 2000, the Town notified the MGB that it had commenced negotiations with the County respecting the proposed annexation and had reached an agreement in principle. Subsequently, the Town embarked on a public consultation process by conducting a landowner information session in September 2000, followed by individual interviews in October 2000, and a full public information session in November 2000. This November session was held following the

placement of an advertisement in the local newspaper and written notices to landowners, government departments, and other agencies known to have an interest in the proposal.

As a result of the negotiations and input from the landowners involved, the County decided to fully support the proposal, subject to certain conditions regarding property assessment and taxation of the subject lands. The Town agreed to the County's conditions and included conditions of annexation that allow the annexed lands to be assessed and taxed as if the lands remained in the County for a period up to and including the year 2010. This condition would change only if landowners received approval for rezoning and/or subdivision of the land or if the landowners connected to water and sewer services provided by the Town.

In addition to the conditions requested by the County, the Town will implement the following policies if annexation is approved. The County does not object to these policies.

#### Water and Sewage Disposal

1. Any existing private water systems at the time annexation becomes effective can continue to operate after annexation. The Town will assume no operating or capital responsibility for such water systems.
2. Any existing private sewage disposal systems (septic fields and/or holding tanks) at the time annexation becomes effective can continue to operate after annexation. The Town will assume no operating or capital responsibility for such sewage systems.
3. This arrangement for the continuing use of private water and sewage disposal systems will no longer apply if any one of the following occurs:
  - (a) The landowner voluntarily extends municipal water and/or sanitary sewer to their property.
  - (b) A municipal water and/or sewer line capable of serving the property is available within 15 metres of the residence or building.
4. The Town of Blackfalds will not normally extend municipal water and sanitary sewer service until such time as development occurs or a landowner makes a request for a service extension.

#### Solid Waste Collection

1. Municipal garbage and solid waste collection will not be provided to the properties and no charge for these services will be levied against the annexed properties. Once further subdivision and/or intensification of development of an annexed property has occurred,

provision of garbage and solid waste collection services and related charges will be in accordance with the Town's solid waste bylaw.

#### Existing Uses and Development

1. The Town will continue to use the Lacombe County Land Use Bylaw designations and regulations currently in place on the annexed properties. The Land Use Bylaw designations will remain in place for each property until the landowner requests an amendment to a designation under the Town's Land Use Bylaw that would allow a change in use, more intense development and/or subdivision. While the County's Industrial District does not list any permitted uses, any uses that have been approved prior to annexation will be allowed to expand or add accessory buildings in accordance with the provisions of the County's Land Use Bylaw. Should a change in use be proposed by the landowner, redesignation to one of the Town's land use districts may be required.
2. Uses and developments that exist as of the date annexation becomes effective will be accepted "as is" and allowed to continue. New development or expansion of existing developments will be subject to Town approval in accordance with all relevant statutes, regulations and bylaws. Minor developments, such as the addition of ancillary structures or the alteration of existing structures within the ten-year life of the tax and assessment arrangement, will not trigger a change in the arrangement.

#### **THE REQUIRED PUBLIC HEARING BY THE MGB**

Upon receipt of the Town's official annexation application on January 30, 2001, the MGB determined there was not general agreement with the proposal due to objections or concerns from five of the 17 private landowners directly affected by the proposal. As required by the Act, the MGB advertised in the local newspaper that it would conduct a public hearing on April 5, 2001, in the Town's Community Centre.

Municipal officials attending the hearing were Wayne Tutty (Town Mayor), Ray Coad (Town Manager), Jim Lovatt (Town's Planning Consultant), and Dale Frietag (County Planner). The landowners attending the hearing and objecting or expressing concern about the annexation were Kerry Jackson (K & W Machine Ltd.), L. Wadey (Norske Holdings Ltd.), Bill Robinson (Robinson Transport), and Cathy and Joe Luyks (Crystal Poultry Ltd.).

#### **SUMMARY OF LANDOWNER OBJECTIONS AND CONCERNS**

##### Kerry Jackson (K & W Machine Ltd.)

Mr. Jackson objects to annexation of his property for the following reasons:

1. The assessment base in the County is liable to increase substantially therefore the mill rate may go down. Mr. Jackson wants to benefit from a lower mill rate.
2. He already receives adequate fire and police services from the County therefore there is no need to change.
3. Mr. Jackson has already paid \$30,000 for on-site water and sewer services for commercial operation. If services come within 15 metres of the property then he will be forced to hook up. This represents a substantial loss of property investment and added new costs for the Town's service.
4. The County's large industrial park south of Blackfalds is not fully developed. The Town is overly optimistic with this annexation proposal which is mainly for industrial land.

L. Wadey (Norske Holdings Ltd.)

Mr. Wadey object to the proposed annexation for the following reasons:

1. Mr. Wadey's father purchased this land in 1912 and the family does not wish to develop this area. The land will be passed down to the children.
2. He is worried that the Town will have the right to expropriate land for future roads and other types of rights-of-way creating corridors going through his land.
3. Mr. Wadey's land suffers from all types of vandalism and trespass and annexation will do nothing to help the situation.
4. There is no benefit to being part of the Town.

Bill Robinson (Robinson Transport)

Mr. Robinson objects to annexation for the following reasons:

1. Mr. Robinson's land is adjacent to Highway 2 and is self-sufficient. All services are on-site and Mr. Robinson has invested money in providing water and sewer.
2. Mr. Robinson wants taxes to go down if the County taxes go down.
3. The Town cannot ensure that permits will be granted for expansion of the present operation.

Joe Luyks (Crystal Poultry Ltd.)

Mr. & Mrs. Luyks are concerned about the annexation for the following reasons:

1. They operate an intensive poultry operation which is not a suitable land use within a Town. Market value of the property would go down as no one is willing to purchase a farming operation subject to urban rules and regulations.
2. If urban uses expand toward the intensive poultry operation, there will be more complaints about odour from the farm and the Town's response will not be to their benefit.
3. If annexation occurs, they must have County setback rules continue and be allowed to continue operating. They also must have the option to tie into the Town's water and sewer services.

**TOWN'S RESPONSE TO OBJECTIONS AND CONCERNS**

1. The Town will apply the County's assessment and tax rates for the next 10 years. The Town originally agreed only to a five-year hiatus from Town assessment and tax rates but agreed to double the time to demonstrate the Town's commitment to the fair treatment of the landowners involved.
2. With respect to connections for water and sewer, the Town has agreed to modify its policy by reducing the distance for a required connection from 50 metres to 15 metres. The Town also modified the measurement of the distance to be from the building to the service rather than the property line to the service.
3. Industrial land uses will be allowed to expand in accordance with the County's land use bylaw for at least the next 10 years. The poultry operation will be restricted from expansion by the same separation rules that apply in the County, however, the poultry operation will be allowed to continue.
4. It is not the practice of the Town to expropriate land for roadways or utility rights-of-way. There is no doubt that the Norske Holding land is strategically located for utility extension corridors, however the owners would be duly compensated for the construction of any underground utilities. Roads would only extend into the area if the landowners proposed development.

## **TOWN'S BASIC POSITION ON ANNEXATION**

Mayor Tutty explained that the proposed annexation represents a planning exercise to accommodate growth for the next 25 years. In order to maintain a financially stable community, the Town must plan now to compete with Red Deer and Lacombe for attracting industrial and commercial assessment. The Town is presently experiencing a residential growth of approximately 85 homes per year, however, taxes from residential development are not sufficient to maintain the community. Diversification into commercial and industrial land uses is crucial for the Town's financial stability.

The majority of landowners involved support this annexation and some of those owners already have plans for development. Other landowners, including the objectors, are not being forced into development and the Town has shown its good intentions by revising the annexation proposal through the agreements respecting assessment and taxation and through modification of its policies respecting connection to water and sewer services and the allowance for expansion of existing industrial land uses.

## **FINDINGS**

After conducting a public hearing and reviewing and considering the negotiation report and annexation agreement between the Town and the County and after reviewing and considering the input of the landowners and the general public, the MGB finds:

1. The Intermunicipal Plan adopted by the Town and the County in 1988 after full public hearings, recognizes the subject lands for future annexation based on the types of land uses proposed by the Town.
2. The Town of Blackfalds Master Plan for growth and infrastructure was prepared for the Town by the engineering firm of Stantec Consulting Engineers Ltd. of Red Deer, and accepted by the Town Council in May 2000. The study boundaries for this plan encompass all the lands proposed for annexation in this application and includes land beyond the present annexation proposal.
3. The Town's master plan identifies, among other things, the future road pattern, the future need for upgrading, and extending water, sanitary and storm sewers, population predictions based on the Town's proximity to the City of Red Deer, the Town of Lacombe and the large petrochemical and gas plant developments at Joffre, just east of Blackfalds.
4. The Town's master plan concludes that the annexation areas can be readily serviced once development proposals are approved. Developers will be responsible for their fair share of paying for servicing including the upgrading and extension of roadways. It is not recommended that the Town become a developer.

5. The Town has altered its original annexation proposal based on objections and concerns expressed by landowners directly affected by the proposal.
6. The Town requires the land in order to initiate plans to accommodate future urban growth.
7. The Town has made arrangements to allow for the continuation of existing land uses such as the trucking firm and the poultry farm. The Town has also agreed to permit the expansion of these businesses based on the rules and regulations presently used by the County.
8. The lands proposed for annexation in Areas 2, 3 and 4 are boxed in by the present Town boundaries and Secondary Highway 597 to the south and by Highway 2 to the west.

### **RECOMMENDATION**

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

- (a) Effective January 1, 2001, the land described in Appendix A and shown on the sketch in Appendix B, be separated from Lacombe County and annexed to the Town of Blackfalds.
- (b) Any taxes owing to Lacombe County at the end of December 31, 2000, in respect of the annexed lands, are transferred to and become payable to the Town of Blackfalds together with any lawful penalties and costs levied in respect of the those taxes, and the Town of Blackfalds upon collecting those taxes, penalties or costs shall pay them to the Lacombe County, and
- (c) The assessor for the Town of Blackfalds shall assess, for the purpose of taxation in 2001, the annexed land and the assessable improvements to it.

and makes the Order in Appendix C.

### **REASONS**

The MGB understands the concerns of the objecting landowners, however it is important to recognize the long-term needs of the whole community if the community is to remain financially and socially healthy. Indeed, it is the responsibility of municipal leaders to find ways to ensure that health. In this case, the MGB is of the view that the Town has practiced responsible leadership by commissioning a growth and infrastructure report that supports the logic associated with this annexation. The Town has also successfully negotiated this proposal with the County. Intermunicipal cooperation, and coordination of land use planning are important concepts sanctioned by the provincial government through the 1996 approval of the Provincial Land Use Policies.





MUNICIPAL GOVERNMENT BOARD

BOARD ORDER: MGB 070/01

The Town has shown deference to the objecting landowners by agreeing to extend the assessment and tax grace period from five years to 10 years for the annexation areas. This is especially meaningful to those landowners who do not intend to offer their land for urban development any time soon. Further, the Town agreed to substantially reduce the distance measurement between existing buildings and nearby municipal services, from 50 metres to 15 metres before there is a forced connection to those services. The Town also agreed to continue using the provisions of County's land use bylaw in order to provide landowners the same right to expand or use their land as if annexation had not occurred. The MGB feels these concessions by the Town go a long way to addressing the concerns expressed by the objectors. For example, the trucking firm and the poultry operation are located in areas where industrial growth is already planned in the long term.

In annexation matters, the MGB is of the opinion that the need of the whole community must be carefully weighed against the wishes of a few. Section 617 of the Act is clear in stating the meaning of municipal planning for the future. The Act authorizes municipalities to prepare and adopt plans to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement and to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta. Such plans may proceed provided they do not infringe on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

In its documents for planning concepts, growth studies and intermunicipal planning, the Town has properly shown and justified the importance of the overall greater public interest for this annexation. The Town has also shown that it has made every reasonable attempt to reduce any perceived hardship or infringement on the rights of the individuals objecting the proposal. Therefore, the MGB respectfully submits to the Minister of Municipal Affairs, that this annexation be approved as proposed.

Dated at the City of Edmonton, in the Province of Alberta, this 13th day of June 2001.

MUNICIPAL GOVERNMENT BOARD

A handwritten signature in black ink, appearing to read "D. Scotnicki".

D. Scotnicki, Presiding Officer

**APPENDIX "A"**

**DETAILED DESCRIPTION OF THE LANDS RECOMMENDED FOR SEPARATION  
FROM LACOMBE COUNTY AND ANNEXED TO THE TOWN OF BLACKFALDS**

ALL THAT PORTION OF THE NORTH WEST QUARTER OF SECTION TWENTY SIX (26), TOWNSHIP THIRTY NINE (39), RANGE TWENTY SEVEN (27), WEST OF THE FOURTH MERIDIAN, WHICH LIES SOUTH AND EAST OF A LINE DRAWN PARALLEL TO THE CENTRE LINE OF THE CALGARY AND EDMONTON RAILWAY, AS SHOWN ON RAILWAY PLAN C & E NO. 1, AND PERPENDICULARLY DISTANT SOUTH EASTERLY FORTY NINE AND FIVE TENTHS (49.5) FEET THEREFROM, EXCEPTING THEREOUT:

- A) PLAN 2105BM – ROAD
- B) PLAN 8166ET – PIPELINE RIGHT OF WAY
- C) PLAN 4011EU – ROAD
- D) PLAN 5450KS – SUBDIVISION
- E) PLAN 6174MC – SUBDIVISION
- F) PLAN 2430NY – SUBDIVISION
- G) PLAN 3309RS – SUBDIVISION

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY THREE (23), TOWNSHIP THIRTY NINE (39), RANGE TWENTY SEVEN (27), WEST OF THE FOURTH MERIDIAN, LYING NORTH OF THE MOST NORTHERLY RIGHT-OF-WAY OF SECONDARY HIGHWAY 597.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION TWENTY TWO (22), TOWNSHIP THIRTY NINE (39), RANGE TWENTY SEVEN (27), WEST OF THE FOURTH MERIDIAN, LYING NORTH OF THE MOST NORTHERLY RIGHT-OF-WAY OF SECONDARY HIGHWAY 597.

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY TWO (22), TOWNSHIP THIRTY NINE (39), RANGE TWENTY SEVEN (27), WEST OF THE FOURTH MERIDIAN LYING NORTH OF THE MOST NORTHERLY RIGHT-OF-WAY OF SECONDARY HIGHWAY 597 AND EAST OF THE MOST EASTERLY RIGHT-OF-WAY OF HIGHWAY 2.

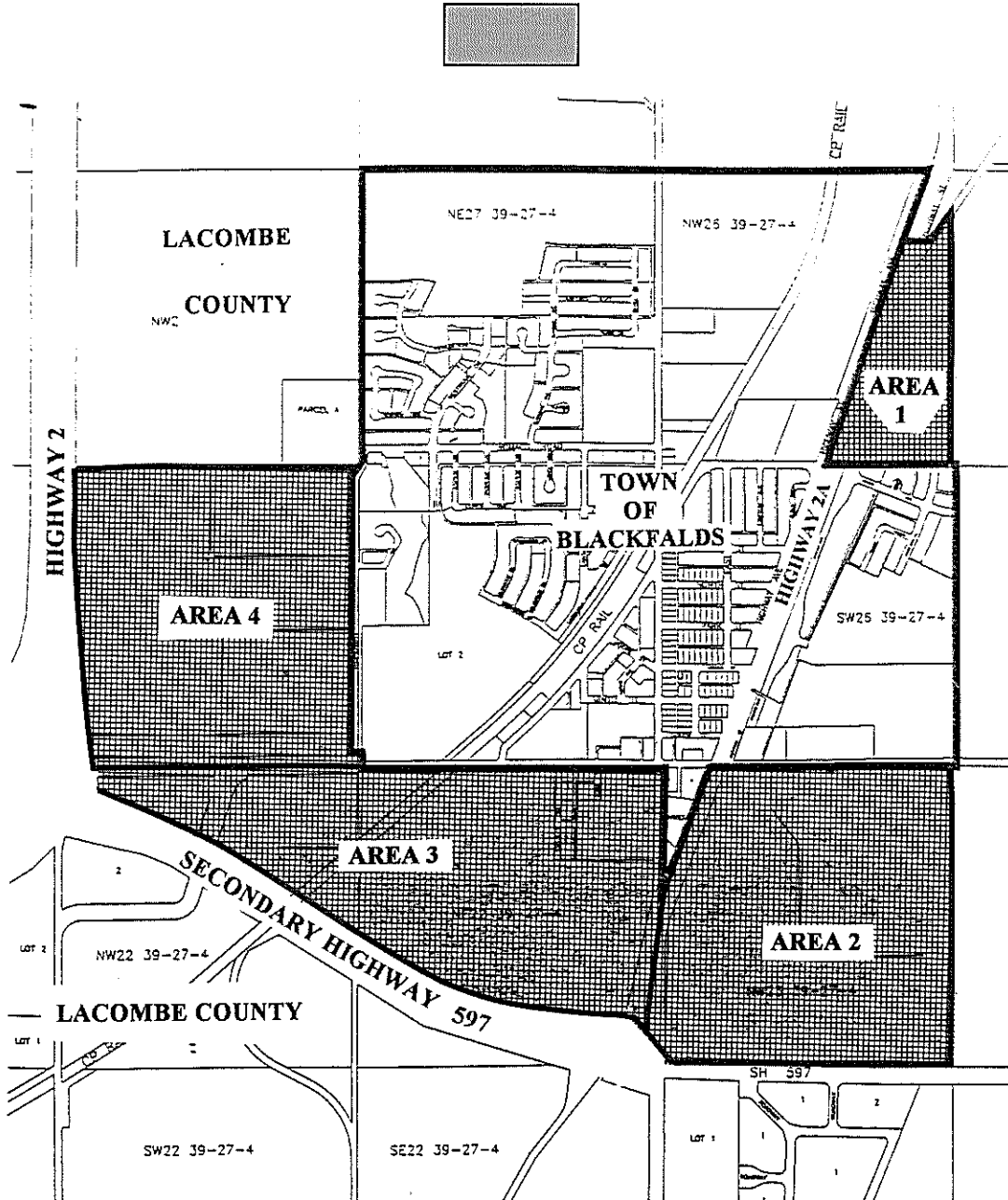
ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION TWENTY SEVEN (27), TOWNSHIP THIRTY NINE (39), RANGE TWENTY SEVEN (27) WEST OF THE FOURTH MERIDIAN, LYING EAST OF THE MOST EASTERLY RIGHT-OF-WAY OF HIGHWAY 2.

ALL INTERVENING ROAD ALLOWANCES, ROADWAY PLANS, AND RAILWAY RIGHTS-OF-WAY.

APPENDIX B

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

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 2001 and later years up to and including 2010, the annexed land and the assessable improvements to it must
  - (a) be assessed by the Town of Blackfalds on the same basis as if they had remained in Lacombe County, and
  - (b) be taxed by the Town of Blackfalds in respect of each assessment class that applies to the annexed land and the assessable improvement to it using the tax rate established by Lacombe 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 16 hectares or less,
  - (c) the portion is, at the request of, or on behalf of, the landowner, redesignated by an amendment to the Town of Blackfalds Land Use Bylaw, or
  - (d) the portion is connected to the water or sanitary sewer services provided by the Town of Blackfalds.
4. 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 Blackfalds.