

BOARD ORDER NO. MGB 075/08

FILE: AN06/OKOT/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 Okotoks, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the Municipal District of Foothills No. 31.

BEFORE:

Members:

M. Chilibeck, Member

W. Kipp, Member

Case Manager:

R. Duncan

This annexation hearing was heard by three members, one of them being A. Savage. However, Mr. Savage did not continue his appointment with the Municipal Government Board (MGB) prior to the completion of this recommendation to the Minister of Municipal Affairs. The remaining two members of the panel rendered the recommendation as a quorum of the MGB pursuant to sections 489 and 490 of the Act.

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

RECOMMENDATION

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

- (a) effective May 1, 2008, the land described in Appendix A and shown on the sketch in Appendix B is separated from the Municipal District of Foothills No. 31 and annexed to the Town of Okotoks,
- (b) any taxes owing to the Municipal District of Foothills No. 31 at the end of April 30, 2008, in respect of the annexed land are transferred to and become payable to the Town of Okotoks together with any lawful penalties and costs levied in respect of

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those taxes, and the Town of Okotoks upon collecting those taxes, penalties and costs must pay them to the Municipal District of Foothills No. 31,

- (c) for the purposes of taxation in 2008, the Municipal District of Foothills No. 31 must assess and tax the annexed land and the assessable improvements to it,
 - (d) taxes payable in 2008 in respect of the assessable land and any improvements to it are to be paid to the Municipal District of Foothills No, 31 and the Municipal District of Foothills No. 31 shall remit those taxes to the Town of Okotoks, and
 - (e) the assessor for the Town of Okotoks must assess for the purpose of taxation in 2009 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 2nd day of July 2008.

MUNICIPAL GOVERNMENT BOARD

(SGD.) W. Kipp, Member

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS SEPARATED
FROM THE MUNICIPAL DISTRICT OF FOOTHILLS NO. 31
AND ANNEXED TO THE TOWN OF OKOTOKS**

THE WESTERLY ONE HUNDRED AND SIXTY-FIVE (165) FEET OF THE NORTHERLY SIX HUNDRED AND SIXTY (660) FEET OF THE NORTHWEST QUARTER OF SECTION TWENTY-NINE (29), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29) WEST OF THE FOURTH MERIDIAN.

BLOCK 1, PLAN 8911784.

THAT PORTION OF THE NORTH ONE-HALF OF FRACTIONAL SECTION THIRTY (30), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN WHICH LIES TO THE NORTH OF THE RAILWAY ON PLAN RY8.

PARCEL A, PLAN 51GM.

BLOCK 2, PLAN 8911784.

BLOCK 9ER PLAN 9211386.

THE RAILWAY RIGHT OF WAY PLAN RY8 (IN FRACTIONAL NORTHEAST QUARTER OF SECTION THIRTY (30), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29) WEST OF THE FOURTH MERIDIAN.

THE NORTH-SOUTH GOVERNMENT ROAD ALLOWANCE ABUTTING THE WEST BOUNDARY OF THE NORTHWEST QUARTER OF SECTION TWENTY-NINE (29), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29) WEST OF THE FOURTH MERIDIAN EXTENDING FROM THE NORTH BOUNDARY OF THE NORTHWEST QUARTER TO THE SOUTH BOUNDARY OF PLAN RY8.

THE NORTH-SOUTH GOVERNMENT ROAD ALLOWANCE ABUTTING THE WEST BOUNDARY OF THE NORTH ONE-HALF FRACTIONAL OF SECTION THIRTY (30), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN EXTENDING FROM THE NORTH BOUNDARY OF THE NORTH ONE-HALF FRACTIONAL OF SECTION THIRTY (30), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN TO THE SOUTH BOUNDARY OF PLAN RY8.

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THAT PORTION OF PLAN 5046JK CONTAINED WITHIN THE NORTH ONE-HALF FRACTIONAL OF SECTION THIRTY (30), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29) WEST OF THE FOURTH MERIDIAN.

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION FIFTEEN (15), TOWNSHIP (20), RANGE TWENTY-NINE (29) WEST OF THE FOURTH MERIDIAN LYING NORTHEAST OF PLAN RY8 (RAILWAY).

PLAN RY8 WITHIN THE NORTHEAST QUARTER OF SECTION FIFTEEN (15), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29) WEST OF THE FOURTH MERIDIAN.

THAT PORTION OF PLAN 5046JK CONTAINED WITHIN THE NORTHWEST QUARTER OF SECTION TWENTY-NINE (29), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29) WEST OF THE FOURTH MERIDIAN.

ALL INTERVENING ROADS WITHIN THE AREA DESCRIBED ABOVE.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION FIFTEEN (15), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN LYING NORTH OF THE NORTH LIMIT OF MAIN HIGHWAY NO. 7 AS SHOWN ON PLAN 8711332 AND ITS PRODUCTION SOUTH EASTERLY TO ITS INTERSECTION WITH THE EAST BOUNDARY OF THE SAID QUARTER.

ALL THAT PORTION OF THE NORTH-SOUTH GOVERNMENT ROAD ALLOWANCE ADJOINING THE EAST BOUNDARY OF THE NORTHEAST QUARTER OF SECTION FIFTEEN (15), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN LYING NORTH OF THE PRODUCTION SOUTHEAST OF THE NORTH LIMIT OF THE MAIN HIGHWAY NO. 7 AS SHOWN ON PLAN 8711332.

ALL THAT PORTION OF RAILWAY PLAN RY8 CONTAINED IN THE NORTHEAST QUARTER OF SECTION FIFTEEN (15), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION FIFTEEN (15), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN THAT LIES NORTH AND EAST OF THE NORTHEASTERLY BOUNDARY OF RAILWAY PLAN RY8.

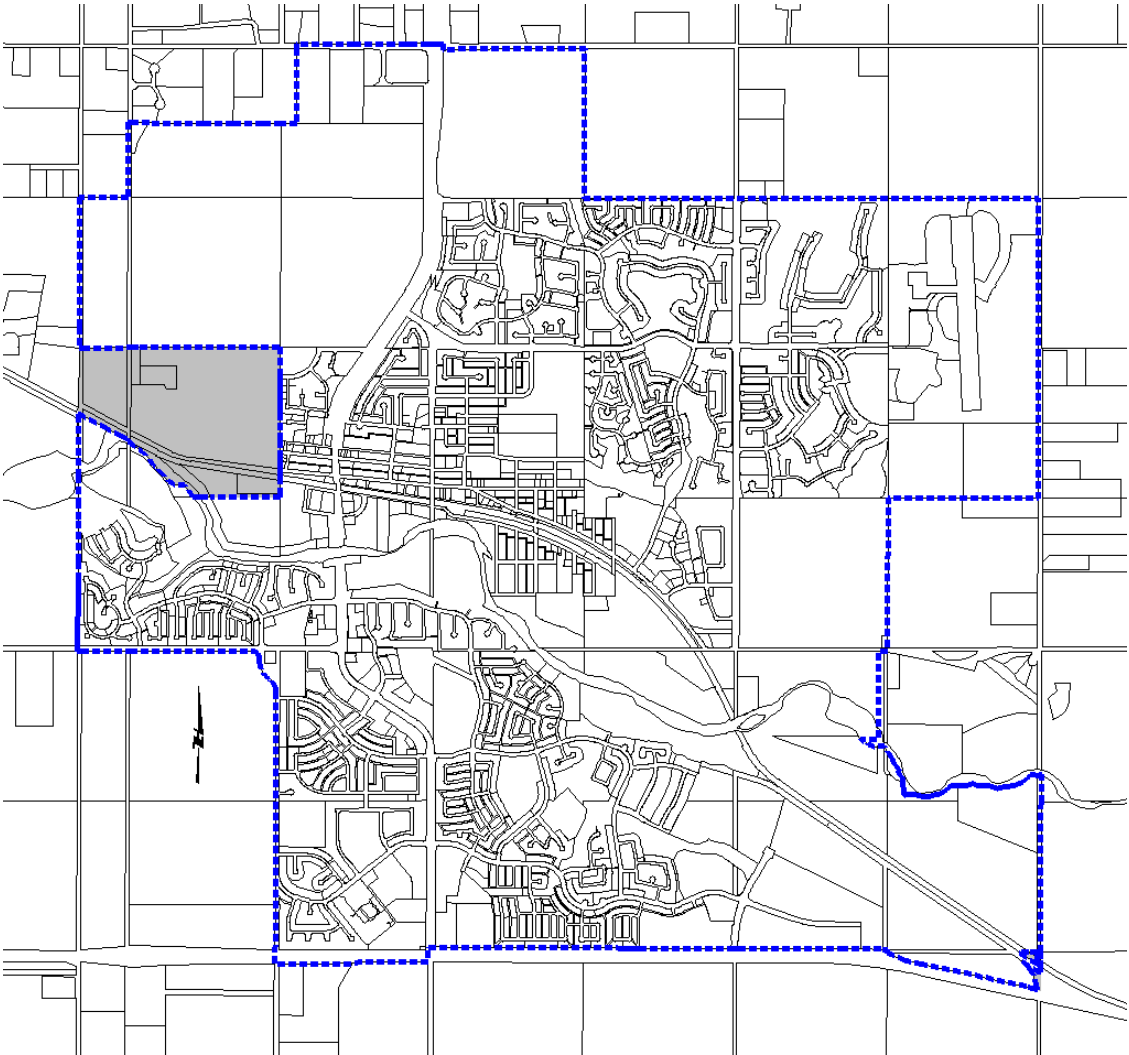
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THAT PORTION OF BLOCK 6, PLAN 921 1386 NOT CURRENTLY WITHIN THE TOWN DESCRIBED IN CERTIFICATE OF TITLE NO. 011 046 284 + 4.

RAILWAY RIGHT-OF-WAY PLAN RY8 WITHIN THE NORTHWEST QUARTER OF SECTION TWENTY-NINE (29), TOWNSHIP TWENTY (20), RANGE TWENTY-NINE (29) WEST OF THE FOURTH MERIDIAN DESCRIBED IN CERTIFICATE OF TITLE NO.W75.

APPENDIX B
A SKETCH SHOWING THE GENERAL LOCATION OF THE AREA
ANNEXED TO THE TOWN OF OKOTOKS



Legend

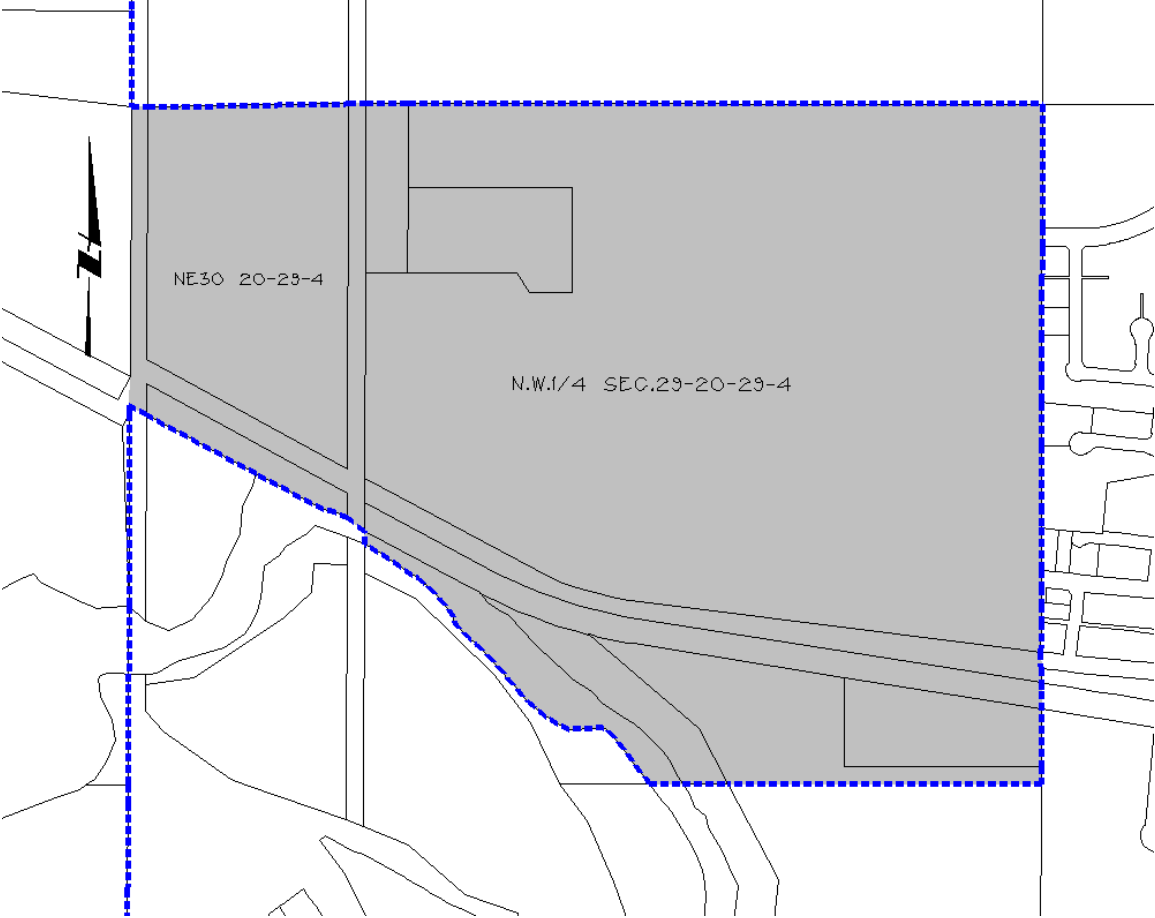


Annexation Area



Existing Town Boundary

APPENDIX B – DETAILED AREA MAP 1, WEST ANNEXATION AREA



Legend

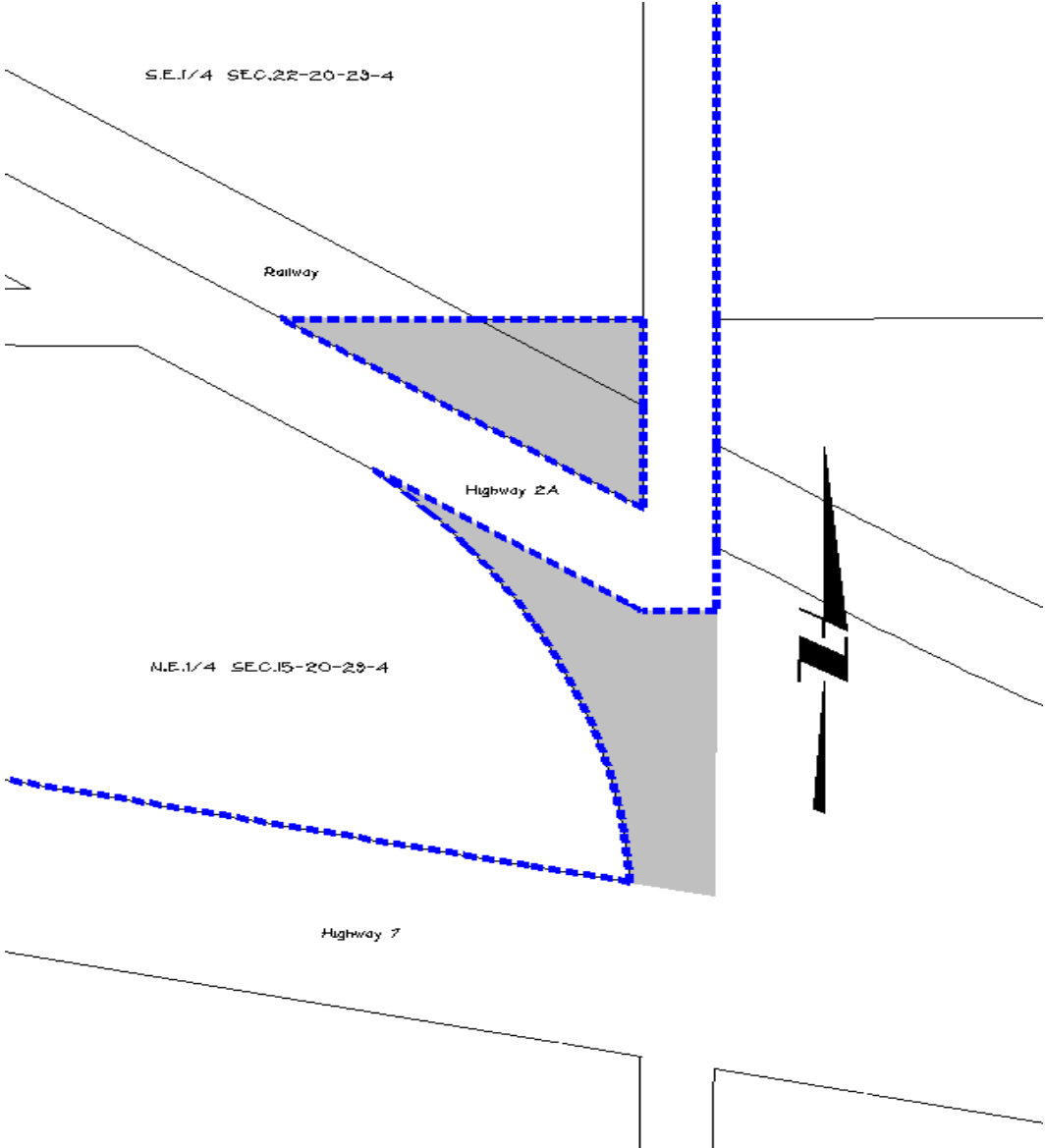


Annexation Area



Existing Town Boundary

APPENDIX B – DETAILED AREA MAP 2, SOUTH-EAST ANNEXATION AREA



Legend



Annexation Area



Existing Town Boundary

APPENDIX C

ORDER

1 In this Order, “annexed land” means the land described in Appendix A and shown on the sketches in Appendix B.

2. For taxation purposes in 2008 and subsequent years up to and including 2012, Block 1, Plan 8911784 and the assessable improvements to it

(a) must be assessed by the Town of Okotoks on the same basis as if they had remained in Municipal District of Foothills No. 31, and

(b) must be taxed by the Town of Okotoks in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the tax rate established by Municipal District of Foothills No. 31.

3 Where in any taxation year, up to and including 2012, a portion of the annexed land referred to under section 2

(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, or

(b) is redesignated at the request of, or on behalf of the landowner under the Town of Okotoks Land Use Bylaw to another designation,

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 Okotoks is assessed and taxed.

5 The Town of Okotoks shall pay to the Municipal District of Foothills No. 31 forty thousand dollars (\$40,000) not later than 30 days after the date this Order in Council is made by the Lieutenant Governor in Council.

APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT
TO THE MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF OKOTOKS PROPOSED ANNEXATION OF
TERRITORY FROM MUNICIPAL DISTRICT OF FOOTHILLS NO. 31**

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Summary

The Town of Okotoks (Town) is located approximately twenty kilometres south of Calgary. The Municipal Government Board (MGB) received the formal annexation application from the Town on October 3, 2007 to annex approximately 65.64 hectares (162.23 acres) of land from the Municipal District of Foothills No. 31 (MD). The Town and MD had reached an agreement regarding the annexation application and there were no matters that had not been agreed upon by the two municipalities. The purpose of the annexation is to provide the Town with lands to accommodate residential development.

Although there was general agreement with the proposed annexation, the application contained nine objections from the public. In accordance with the *Municipal Government Act* (Act), the MGB held a public hearing on December 12, 2007 to receive information, evidence and argument on the proposed annexation. At the hearing, the MGB received presentations from both municipalities, an adjacent landowner, an affected landowner, and a developer.

On March 19, 2008, the Town provided the MGB with a letter stating that a parcel of land that was intended to be part of a 2003 annexation had not been included in the 2003 Order in Council. The Town requested this oversight be corrected. On May 26, 2008, the Town provided a letter from the MD agreeing that the lands in question should be included as part of the current annexation application.

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. The MGB is satisfied that the assessment and taxation conditions extended to the one parcel of land will allow the Town to address the concerns brought forward by this landowner. After investigating the 2003 annexation application submitted by the Town to the MGB and in light of the letter submitted by the MD, the MGB agrees that the lands not included as part of the 2003 Order in Council should be included as part of this annexation.

I Introduction

The Town is located approximately twenty kilometres south of Calgary. The Town's close proximity to Calgary, combined with easy access to the Rocky Mountains has caused phenomenal growth in this vibrant community. From 2001 to 2006 the Town's growth rate was 46 percent, which made it the second fastest growing community in Canada.

On May 31, 2006, the Town provided written notification to the Municipal District of Foothills (MD), the Municipal Government Board (MGB) and other local authorities of the Town's intent

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to annex approximately 65.64 hectares (162.23 acres) of land from the MD. The notification listed the legal descriptions of the lands being proposed for annexation and indicated the Town intended to discuss the annexation further with the MD and the affected landowners. The notification stated the annexation is consistent with the Intermunicipal Development Plan between the MD and the Town and the lands will be used to accommodate residential development.

The MGB received the formal annexation application from the Town on October 3, 2007. The Town and MD had reached an agreement regarding the annexation application and there were no matters that had not been agreed upon by the two municipalities. The Town held an open house on January 16, 2007 to provide area residents and adjacent landowners with an opportunity to comment on the annexation. Landowner consultation consisted of written correspondence and meetings with the individual landowners.

Although the Town, the MD and the affected landowners were in agreement with the proposed annexation, the application contained objections from adjacent landowners. In accordance with the *Municipal Government Act* (Act), the MGB held a public hearing on December 12, 2007 to receive information, evidence and argument on the annexation proposal.

The following report outlines the role of the MGB, provides a brief overview of the Town's annexation application, identifies adjacent landowner issues, identifies the MGB annexation processing methodology, summarizes the December 12, 2007 public hearing, and provides a recommendation to the Minister regarding this matter.

II 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 negotiation report with the MGB, pursuant to section 119(1) of the Act. If the initiating municipality requests the MGB to proceed with the annexation, 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 without holding a public hearing. In this specific case objections to the proposed annexation were contained in the annexation application submitted by the Town to 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

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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

On October 3, 2007, the MGB received the annexation application submitted by the Town. The following section describes how municipal services will be provided to the proposed annexation area, identifies the public consultation process used to develop the application, provides the annexation agreement between the Town and the MD, states the proposed conditions of assessment and taxation requested by the Town, and summarizes the issues identified by the adjacent landowners.

Provision of Municipal Services

The Town's Municipal Development Plan (MDP) anticipates that the Town will expand into the proposed annexation area and that this area will accommodate approximately 400 dwelling units. The Town has anticipated this growth and the provision of municipal services to this area has been contemplated in the Town's Infrastructure Studies. Water will be supplied through links to the Town's existing water distribution network. Sanitary sewer will be provided by extending the existing system; however some downstream sanitary sewer upgrades may be required. Storm water collection, treatment and retention will be addressed by an on-site storm water treatment and retention pond. Road access will be achieved by extending existing collector roads to the west as well as the south.

Portions of the annexation area are steeply sloping or prone to flooding and will be incorporated into the Town's open space system. Other areas are required to accommodate necessary storm water management facilities. These proposed land uses are consistent with the Town's MDP.

The 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.

Landowner Consultation

All landowners within the annexation area were in agreement with the proposed annexation. The Town's annexation application provided signed consent forms from each of the affected landowners. All but one of the signed consent forms acknowledged that there were to be no special assessment or taxation arrangements with respect to the subject lands and that the lands

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were to be assessed and taxed at the Town's rates effective upon the date of the annexation. The owners of Block 1, Plan 8911784, Robert and Margaret Waller, agreed to the annexation; however, requested that this property be afforded extra consideration. The landowners requested that this parcel be assessed and taxed by the Town on the same basis as if it had remained within the MD for a period up to and including 2012. The Town agreed with the landowners and proposed special assessment and taxation conditions for this property.

Identified Public Issues

The Foothills/Okotoks Intermunicipal Committee held an open house on January 16, 2007 to provide area residents and adjacent landowners with an opportunity to comment on the annexation. Newspaper advertisements were used to notify the public of the open house, while adjacent landowners were informed of the open house by letter. The open house was attended by 31 people. The Committee received nine written responses. The responses are summarized below.

Hank Wiechel and Pat McDonell of 66 Sandstone Ridge Crescent stated that the development would block their view of the mountains and reduce the value of their home. Mr. Wiechel and Ms. McDonell expressed concern that their "country living" lifestyle would become another urban area with noise pollution. The adjacent landowners asked for more details regarding the development and suggested that the land be turned into a park. Moreover, the adjacent landowners asked how the water needs were going to impact them.

David Gray of 76 Sandstone Ridge Crescent asked for more information regarding the proposed development. Mr. Gray suggested that the green space envisioned to the west of the Sandstone area should be as wide as possible and the height of buildings in the area should not exceed the limits established for single dwellings.

Ron and Gina Thompson of 78 Sandstone Ridge Crescent indicated that a new road in the area would increase the noise levels where they live, restrict their view and decrease the value of their home. Mr. and Ms. Thompson indicated they were against the annexation. Moreover, the Thompsons suggested the creation of a green space like a North Park.

Marilyn Wilson of 64 Sandstone Ridge Crescent indicated she was pleased to see the provision of the green belt next to the existing Sandstone subdivision residences; however, she expressed concern regarding the dimensions of this area. Ms. Wilson suggested that the lots in the subdivision should be large enough so that development would not restrict her view. Ms. Wilson's position is that the developer should do everything possible to reduce the loss of view.

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Brad Whyte of 507 Sandstone Point indicated that he will not support the development unless the green area is expanded.

Rita Gray of 76 Sandstone Ridge Crescent indicated she would like a very wide green space behind her property and that any development be restricted to one storey housing so as to not block her view. Ms. Gray also would like to have her privacy maintained.

John Williamson, Box 7, Okotoks requested more information regarding the environmental integrity of the low lands, given the porous nature of the river valley.

Paul Hudson, Box 681, Okotoks expressed concerns with the low land area north of Highway 549/CP Rail tracks. Mr. Hudson does not like the idea of storing water in ponds which has run off the escarpment.

T. Williamson, Box 87, Okotoks identified an existing problem with people seeking river access and expressed an opinion that too many of these individuals were vandalizing the adjacent farms and acreages.

The Town's position, as indicated in the annexation application, is that these issues do not relate to the annexation but are focused on the future interface between existing lots in Okotoks and future development patterns within the proposed annexation area. However, the Town did consult with the developer regarding these issues. In a letter sent to the MGB on October 30, 2007, the Town indicated it is committed to mitigating the concerns identified by the Sandstone Ridge Crescent landowners through future planning processes and approvals. Moreover, the Town provided a letter from the developer, Apex Limited Partnership, stating that the developer is committed to working with the Town, intends to fully embrace the public input process and understands the sensitivities associated with the existing community of Sandstone.

The Annexation Agreement with the MD

The Foothills/Okotoks Intermunicipal Committee met on numerous occasions over a sixteen month period to discuss the annexation proposal. The key concern with the annexation was compensation to the MD for lost tax revenue. The Town and the MD entered into an annexation agreement on July 20, 2007. The agreement between the two municipalities identifies the lands to be annexed and establishes the amount of compensation. The parties agreed to the following.

Okotoks will pay to the MD compensation in the amount of \$40,000 for the annexed lands. This is to become due to the MD on signing of the annexation order by the Provincial Government. The parties also agree that

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this will be the only compensation the MD will receive for the loss of the above noted lands.

The application states that the two municipalities have worked collaboratively on specific details of the application that affect both parties and have amicably reached an agreement regarding compensation to the MD for the annexation.

Proposed Assessment and Taxation Conditions

Based on the concerns raised by the owners of one of the parcels of land, the Town requested the following assessment and taxation conditions be attached to the Order in Council.

1. For taxation purposes in 2008 and subsequent years, up to and including 2012, Block 1, Plan 8911784 and the assessable improvements to it (subject lands) must be:
 - (a) assessed by the Town of Okotoks on the same basis as if they had remained in Municipal District of Foothills No. 31, and
 - (b) taxed by the Town of Okotoks in respect of each assessment class that applies to the subject lands and assessable improvements to it using the tax rate established by Municipal District of Foothills No. 31.

2. Where in any taxation year, a portion of the annexed land:
 - (a) becomes a new parcel of land created as a result of subdivision at the request of, or on behalf of, the landowner, or
 - (b) is redesignated at the request of, or on behalf of the landowner under the Town of Okotoks Land Use Bylaw to another designationsection 1 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.

IV MGB Application Processing Methodology and Public Hearing

The following provides a description of the method used by the MGB to process the Town's annexation application and describes the public hearing held December 12, 2007.

MGB Application Processing

In accordance with section 118 of the Act, the Town submitted the required Negotiation Report to the MGB on October 3, 2007. The accompanying letter requested the MGB to accept the Report as the Town's official annexation application. The application submitted by the Town included excerpts from both the Town of Okotoks Municipal Development Plan and the

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Okotoks/Foothills Intermunicipal Development Plan, a copy of the annexation agreement between the Town and the MD, and a cheque for the annexation fees.

Although the Town, the MD, and the affected landowners were in agreement with the annexation, the application contained objections from the public. The Act requires that if the MGB receives an objection regarding an annexation application, the MGB must conduct one or more hearings in respect of the annexation. The hearing regarding this matter was scheduled to commence at 10:00 a.m. on Wednesday December 12, 2007 at the Foothills Centennial Centre located at 4, 204 Community Way in Okotoks, Alberta.

The MGB sent letters to the Town and MD with copies to each of the affected landowners to notify the parties of the December 12, 2007 hearing. Letters were also sent to the people that had provided written comments which were contained in the annexation application. The letter requested any person that planned to attend the hearing or make a submission at the hearing to notify the MGB by December 4, 2007. The MGB published a notice of hearing in the **Western Wheel**, a local newspaper, the weeks of November 19 and 26, 2007 to notify the public.

The MGB received one written submission in response to the advertisement and letters to the landowners.

In a fax sent to the MGB on November 27, 2007, David Gray indicated he would be attending the hearing, but reserved the right to make an oral submission until he was more cognizant of the special arrangements of accommodation being considered by the MD.

The Public Hearing

At the hearing, the MGB received oral submissions from the Town, the MD, an adjacent landowner, an affected landowner and a developer. Seventeen people completed the registration form at the December 12, 2007 hearing.

Town's Submission

Bill McAlpine, Mayor, and Steve Hanhart, Community Planner, made the presentation to the MGB on behalf of the Town.

The Mayor indicated that this annexation was part of a long range planning framework for the Town and was the result of a successful agreement between the Town and the MD. The Town has a limited amount of residential land inventory and the proposed annexation will allow for well managed residential growth. The Town is committed to extensive consultation with the adjacent landowners and the public during area structure planning process.

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The Community Planner identified the proposed annexation area as being west of the Sandstone neighbourhood. The proposed annexation will bring 66 hectares into the Town. These lands are bounded on three sides by the Town. The Town estimates that only half of the land in the proposed annexation area can be used for residential development. Development on the remainder of the land is limited due to an escarpment and the need for storm ponds as well as public spaces. Residential development will be confined to the upper terrace area. Based on the 2006 statistics, the Town estimates its existing land inventory will be depleted by 2010.

The annexation of these lands is critical for providing services to adjacent undeveloped lands immediate to the north. A previous annexation brought this land within the Town boundary, but development has lagged due to servicing problems. The construction of storm water retention ponds in the proposed annexation area will be used to collect drainage from both areas. These ponds will act as a buffer between the developed area and the river and provide a place for surface run off water to settle before it is released into the Sheep River. Moreover, a road network already exists to the north, south and east of the proposed annexation area. The existing network can be extended to provide access the annexed lands.

In 1998, the Town and the MD developed an Intermunicipal Development Plan (IDP), which indentified areas to be annexed by the Town. The MDP states that the Town has chosen to live within the environmental carrying capacity of the Sheep River. The Town has capped its population at 25,000 – 30,000, which reduces the need for the Town to maintain the thirty year land inventory normally required for good planning. The Town's water license limits growth. The IDP identifies lands being proposed for this annexation for future urban growth.

The IDP establishes the framework for cooperation between the two municipalities and states the two municipalities will endeavour to reach an agreement on annexation before any application is submitted to the Municipal Government Board. The Town and MD met four times to discuss the annexation. The major topic was compensation to the MD. The two parties reached an agreement which would require the Town to pay the MD \$40,000 for loss of taxes.

The Town was able to obtain signed consent forms from all the landowners affected by the annexation. The majority of the landowners agreed to the annexation without any special assessment and taxation conditions and the signed consent forms acknowledge this fact. Only one landowner requested special assessment and taxation conditions. This parcel of land is unique in that it is the primary residence of the landowner. The landowner indicated that he intends to continue to live in the house. Town Council considered the request and agreed to the taxation and assessment conditions for this one parcel of land. Town Council based its decision on the fact that this provision is consistent with the Town's previous annexation which extended similar conditions to the existing country residential developments.

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The Town used an open house on January 16, 2007 to consult with the adjacent landowners and the public. The concerns expressed by the adjacent landowners were with regard to the interface between the existing and future development. The Town indicated public input would be sought during the development of area structure plans, prior to making land use designation changes and before approval of development permits. The Town indicated that it has a policy which requires a level of public consultation which is above and beyond the amount required by the Act. Furthermore, the Town indicated that the concept plan created by the developer provides a thirty to fifty metre buffer which extends to the north boundary of the annexation area. This buffer or park would separate the existing development and the new area. The developer has also indicated that development on the lands in the annexed area would be similar to the existing development.

MD's Submission

Coreena Carr, Planner, made the presentation on behalf of the MD to the MGB.

The MD Planner confirmed that the Town and MD had entered into an annexation agreement. Originally, the MD did not support the annexation. The MD's position was that the Town still had land that was not developed. During the annexation negotiations, the MD came to understand that this land was required by the Town in order to develop the lands to the north of the annexation area. The MD also determined that all the landowners in the affected area supported the annexation. The negotiations provided an opportunity for the two municipalities to discuss other issues. This discussion led to an agreement in which the Town would pay \$40,000 to compensate the MD for lost tax revenue. The MGB was informed that the MD supports the annexation application by the Town.

Landowner/Public Submissions

At the hearing the MGB received presentations from Ron Thompson, an adjacent landowner, Richard Priest, the Vice President Development for Apex Limited Partnership, and Brian Waller, an affected landowner. A summary of each presentation is provided below.

Ron Thompson

Ron Thompson resides at 78 Sandstone Ridge Crescent, which is adjacent to the proposed annexation area. Mr. Thompson expressed concerns regarding the amount of traffic that will be created as a result of the new road proposed for the northwest corner. A recess by the MGB allowed Mr. Thompson to discuss his issues with representatives from Apex Limited Partnership

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and the Town. After the recess, Mr. Thompson was given an opportunity to continue his presentation; however he did not provide any other information to the MGB.

Richard Priest

Richard Priest is the Vice President Development for Apex Limited Partnership (Apex). Apex will be purchasing some of the “Waller” property located in the annexation area. Mr. Priest indicated that Apex has the experience and corporate capacity to complete the planning and development of the proposed annexation area to the high standards required by the Town. Clear guidelines provided by the Town have allowed the company to develop a draft concept plan. Mr. Priest indicated that Apex is committed to working with the landowners during the planning process to mitigate concerns of existing residents as the development proceeds.

Brian Waller

Brian Waller, an affected landowner, supports the annexation. Mr. Waller stated that this land had been in his family since 1960. The reason for the sale of the land is because his sister, who is a joint owner of some of the parcels of land, is retired and she wishes to secure her retirement. Both Mr. Waller and his sister have agreed to sell the land. Mr. Waller indicated he intends to keep the land on the south side of the railroad tracks. Mr. Waller acknowledged the concerns of his neighbours and stated that he found Apex to be true, faithful and honourable in keeping their promises.

David Gray

Although David Gray reserved the right to make an oral submission to the MGB, he did not come forward to make a presentation at the hearing.

Town’s Response to the Landowner Submissions

In response to the presentations made at the hearing, the Town informed the MGB that the proposed annexation was consistent with the long term plans of the Town and was critical to providing municipal services required in the other area. Moreover, the affected landowners and the MD are in agreement with the proposed annexation. The developer has provided a concept plan which includes a buffer area between the existing development and the development being proposed in the annexation area. The Town agrees that consultation with the public will be undertaken during the development process.

MD's Response to the Landowner Submissions

The MD did not provide any comments to the landowner submissions.

Additional Correspondence from Town

On March 19, 2008, the Town provided the MGB with a letter stating that two small parcels of land that were intended to be part of a 2003 annexation had not been included in the 2003 Order in Council. The lands in question are bounded on all sides by the Town. However, prior to the completion of this recommendation, it was discovered that a third parcel adjacent to Highways 2A and 7 was also not included as part of the 2003 annexation. The Town requested these oversights be addressed. As part of this request, the Town provided letters of consent from the affected landowners, CN Railway and Alberta Transportation. On May 26, 2008, the Town provided a letter from the MD agreeing that the lands in question should be included as part of the current annexation application.

V 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 May 1, 2008. Furthermore, the MGB recommends that lands not listed in the 2003 annexation Order in Council be included as part of this annexation.

VI Reasons

The MGB finds that the minimal amount of land currently available for residential development within the Town's boundary combined with the rapid growth experienced 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 a way for the Town to service the lands immediately to the north of the annexation area and therefore increase its available land inventory.

The MGB is satisfied that the lands being requested by the Town are logical extensions of established and developed areas. The annexation area is bounded on three sides by the Town. Moreover, the Town, through its MDP, identified these lands as a future growth area.

The MGB is convinced that the Town has taken steps which will allow the provision of services to this area in an economical and efficient manner. At the hearing, the Town stated that the servicing of the subject lands has been contemplated in the Town's infrastructure studies. Water

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will be supplied through links to the Town's existing water distribution network. Sanitary sewer services will tie into the existing sanitary collection system. The existing road network to the north, south and east of the proposed annexation area can be extended to provide access to these lands. Moreover, the storm water ponds identified in the conceptual plan submitted by the Town and the developer will act as a buffer between the area to be developed and the Sheep River. These ponds will be used to collect ground water drainage from the proposed annexation area as well as other lands already within the Town's boundary. The ponds will provide a place for the surface runoff water to settle before it is released into the Sheep River.

The MGB finds that the annexation demonstrates a high degree of cooperation and collaboration between the Town and the MD. The thrust for intermunicipal cooperation envisioned by the Act and the Provincial Land Use Policy (PLUP) is well documented in this annexation proposal through the IDP and the annexation agreement. Moreover, the MGB finds the successful negotiations between the Town and the MD exemplifies the effective use of the concepts outlined in the PLUP for encouraging intermunicipal cooperation and the intermunicipal coordination of land use planning.

The MGB is satisfied that the concerns contained in the Town's annexation application regarding the loss of view and the request for a green space buffer zone by the adjacent landowners will be addressed during the public consultation processes required prior to the adoption of an area structure plan (ASP) or the approval of a subdivision. The Act gives municipalities the authority to determine the most appropriate land use patterns within their jurisdiction and the MGB, in analyzing an annexation application, does not make any judgment on what those patterns should or should not be. However, the Town and the developer have acknowledged the concerns brought forward by the adjacent landowners regarding the loss of their view of the mountains as a result of development in the annexed area. The developer has provided a conceptual plan which includes a buffer zone between the existing development and the development being proposed in the annexation area. Furthermore, the representatives for the Town stated that the Town is committed to the public consultation process and has established a policy that requires the Town to conduct a level of public consultation which is above and beyond the amount required by the Act. This public consultation will allow the adjacent landowners to provide input to specific development proposals.

The MGB finds that the concern expressed by Mr. Ron Thompson at the hearing regarding an increase in traffic caused by development in the annexation area should also be dealt with during the public consultation process associated with the adoption of an ASP and/or a subdivision approval.

The MGB is satisfied that the environmental concerns raised by Mr. Paul Hudson and Mr. John Williamson in the Town's annexation application regarding the storing of water in ponds and the

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porous nature of the river valley will be adequately addressed by the planning and development policies, rules and regulations contained in the Town's various land use planning documents and bylaws. Moreover, the MGB is confident that any storm water ponds and any development established adjacent to the Sheep River will have to conform to the regulation established by Alberta Environment.

The MGB accepts that the negotiated conditions respecting compensation, assessment and taxation are reasonable. The MGB finds that the compensation amount agreed to by the two municipalities meets the needs of the two municipalities and will not negatively impact the financial position of either municipality. The assessment and taxation conditions extended to the one landowner are consistent with the Town's previous annexation.

The MGB finds it is reasonable to include the lands not included in the 2003 annexation Order in Council as part of this annexation. The MGB has consistently ruled that the Act no longer permits an individual landowner to make an application for annexation. There was a deliberate amendment to the Act by the legislators to ensure that the lands to be annexed were agreed to by the initiating municipality first. However, the investigation conducted by the MGB determined that two of the parcels in question are completely bounded by the Town. The third parcel is a 0.413 hectare (1.02 acre) piece of a road plan adjacent to a main road entering the Town and is required for future road widening. The MGB is convinced that these lands were intended to be part of the 2003 annexation, but were omitted from the Order in Council. Moreover, the Town has provided a letter from the MD agreeing to the inclusion of the lands in the current annexation.