

BOARD ORDER NO. MGB 119/07

FILE: AN05/REDD/C-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 City of Red Deer, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the County of Red Deer.

BEFORE:

Members:

R. Scotnicki, Presiding Officer
L. Patrick, Member
A. Savage, Member

Case Managers:

R. Duncan
C. Murray

After careful examination of the submissions from the City of Red Deer (City), Red Deer County (County), affected landowners, and other interested parties, the Municipal Government Board (MGB) makes the following recommendation for the reasons set out in the MGB's 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 November 1, 2007, the land described in Appendix A and shown on the sketch in Appendix B is separated from the Red Deer County and annexed to the City of Red Deer,
- (b) any taxes owing to the Red Deer County at the end of August 31, 2007 in respect of the annexed land are transferred to and become payable to the City of Red Deer together with any lawful penalties and costs levied in respect of those taxes, and the City of Red Deer upon collecting those taxes, penalties and costs must pay them to Red Deer County,

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- (c) taxes payable in 2007 in respect of the assessable land and any improvements to it are to be paid to and retained by Red Deer County, and
- (d) the assessor for the City of Red Deer must assess, for the purpose of taxation in 2008 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 27th day of September 2007.

MUNICIPAL GOVERNMENT BOARD

(SGD.) R. Scotnicki, Presiding Officer

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APPENDIX A

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

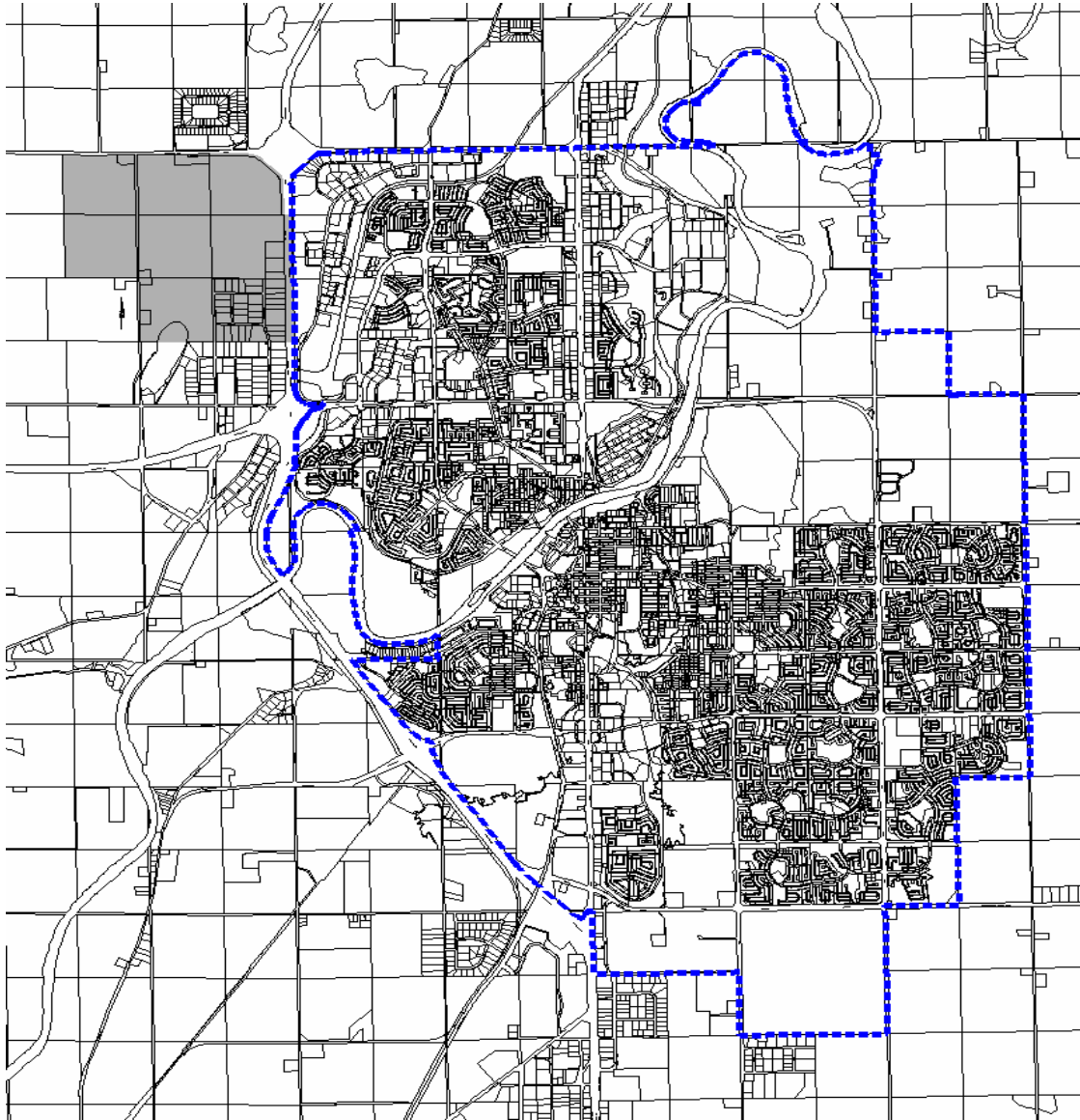
THE NORTH HALF OF SECTION TWENTY-FIVE (25), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN, INCLUDING GOVERNMENT ROAD ALLOWANCES LYING TO THE WEST OF THE SAID HALF SECTION AND THAT PORTION OF THE QUEEN ELIZABETH II HIGHWAY LYING TO THE EAST OF THE SAID HALF SECTION.

THE EAST HALF OF SECTION THIRTY-FIVE (35), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN EXCLUDING ROAD PLAN 3274 JY.


SECTION THIRTY-SIX (36), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY-EIGHT (28) WEST OF THE FOURTH MERIDIAN, INCLUDING THAT PORTION OF THE QUEEN ELIZABETH II HIGHWAY LYING TO THE EAST OF THE SOUTHEAST QUARTER OF THE SAID SECTION 36 AND INCLUDING GOVERNMENT ROAD ALLOWANCES LYING TO THE WEST OF THE SAID SECTION 36, AND EXCLUDING ROAD PLAN 3274 JY LYING TO THE NORTH AND EXCLUDING ROAD PLAN 2082 LZ LYING TO THE NORTHEAST.

ALL INTERVENING ROAD ALLOWANCES, REGISTERED ROAD AND HIGHWAY PLAN RIGHTS-OF-WAY.

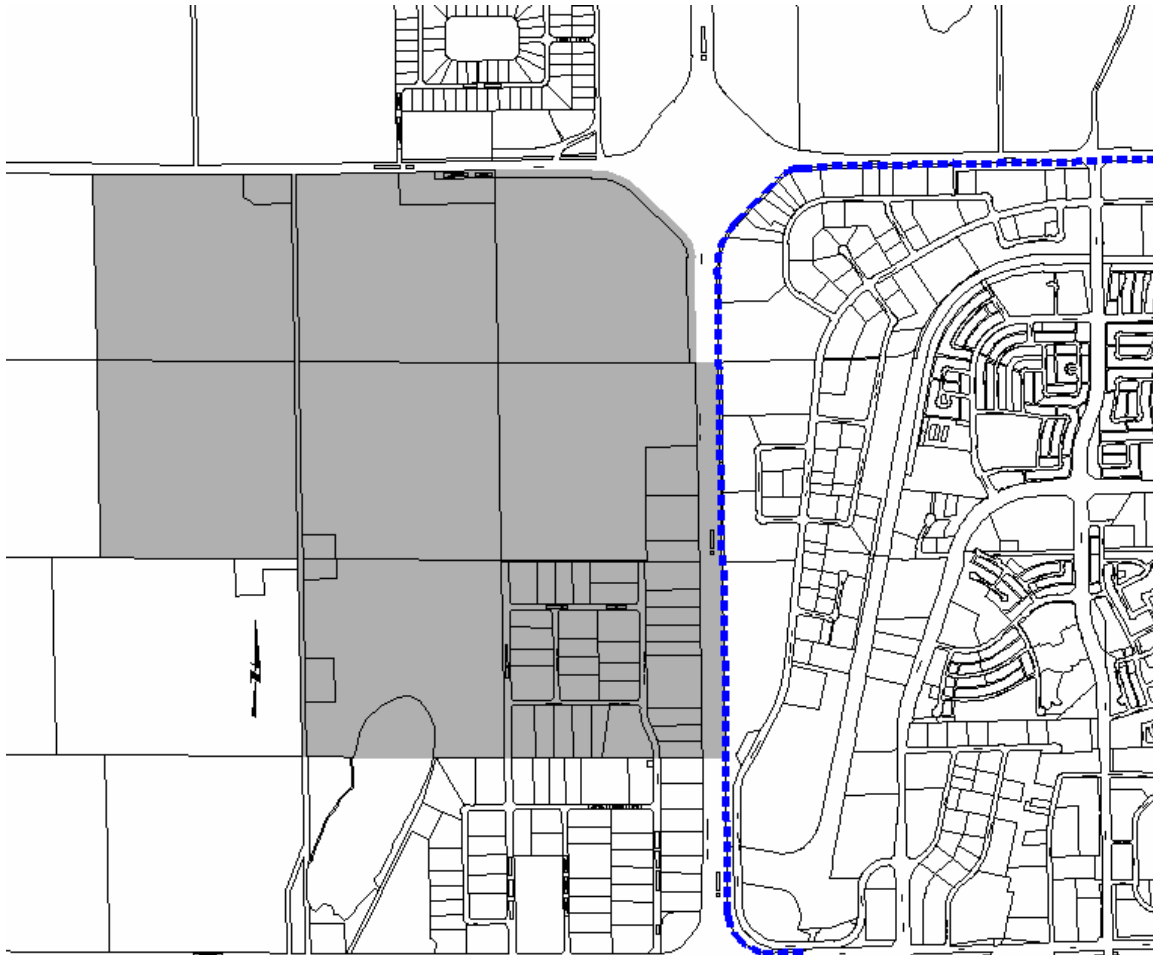
APPENDIX B
A SKETCH SHOWING THE GENERAL LOCATION OF THE AREA
ANNEXED TO THE CITY OF RED DEER




LEGEND

 Annexation Areas

**APPENDIX B – DETAILED AREA MAP 1
WEST ANNEXATION AREA**



LEGEND

 Annexation Areas

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APPENDIX C

ORDER

- 1 In this Order,
- (a) “annexed farm land” means annexed land in respect of which the assessment class of farm land has been assigned under section 297(1) of the Municipal Government Act;
 - (b) “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B;
 - (c) “annexed non-farm land” means annexed land in respect of which an assessment class other than farm land has been assigned under section 297(1) of the Municipal Government Act;
 - (d) “farm building” means an improvement located on the annexed farm land, to the extent it is used for farming operations;
 - (e) “farming operations” has the meaning given to it in the Matters Relating to Assessment and Taxation Regulation (AR 220/2004);
 - (f) “farm residence” means a residence in a farm unit that
 - (i) meets the criteria set out in sections 21 and 22 of the Matters Relating to Assessment and Taxation Regulation (AR 220/2004), and
 - (ii) is located on the annexed farm land;
 - (g) “farm unit” has the meaning given to it in the Assessment and Taxation Regulation (AR 220/2004)

Annexed Farm Land

- 2 For taxation purposes in 2008 and in subsequent years until December 31, 2017, the annexed farm land, farm residences and farm buildings
- (a) must be assessed as if that property were located in a municipal district, but valuations must be determined for that property by the assessor for the City of Red Deer, and
 - (b) must be taxed by the City of Red Deer in respect of each assessment class that applies to that property using the tax rates established by the City of Red Deer.

3(1) Where in any taxation year up to and including December 31, 2017 a portion of the annexed farm land

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- (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) becomes a residual portion of 16 hectares or less after a new parcel referred to in clause (a) has been created, or
- (c) is redesignated at the request of or on behalf of the landowner under the City of Red Deer Land Use Bylaw to another designation other than agricultural,

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

4 After section 2 ceases to apply to a portion of the annexed farm land in a taxation year, that portion of the annexed farm land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in that year in the same manner as other property of the same assessment class in the City of Red Deer is assessed and taxed.

Annexed Non-Farm Land

5 For taxation purposes in 2008 and in subsequent years, the annexed non-farm land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other property of the same assessment class in the City of Red Deer is assessed and taxed.

General Provisions

6 Notwithstanding anything in this Order, on and after January 1, 2008, the annexed land is subject to the supplementary assessment and supplementary tax bylaws of the City of Red Deer.

7(1) In this section, “compensation amount” means the amount of municipal taxes payable to Red Deer County under Part 10 of the Municipal Government Act in respect of the annexed land for the 2007 taxation year.

- (2) The City of Red Deer must pay to Red Deer County
 - (a) 100% of the compensation amount on or before July 31, 2008,
 - (b) 80% of the compensation amount on or before July 31, 2009,
 - (c) 60% of the compensation amount on or before July 31, 2010,
 - (d) 40% of the compensation amount on or before July 31, 2011, and
 - (e) 20% of the compensation amount on or before July 31, 2012.

(3) On or before March 31, 2008, the City of Red Deer must provide a property tax credit in respect of the annexed farm land, farm residences and farm buildings equal to the amount of the municipal taxes imposed by Red Deer County in respect of that property in 2007.

APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE MINISTER OF MUNICIPAL
GOVERNMENT AFFAIRS AND HOUSING RESPECTING THE CITY OF RED DEER
AND THE PROPOSED ANNEXATION OF TERRITORY FROM THE COUNTY OF
RED DEER**

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Executive Summary

In the annexation process the MGB is only a hearing and recommending body. The MGB, after hearing from the parties, prepares findings and recommendations for consideration by the Minister and the Lieutenant Governor in Council (LGC). The Minister and the LGC are not bound by the recommendations of the MGB.

The City of Red Deer is situated to the immediate east of the Queen Elizabeth II Highway (Highway 2) approximately half way between the two major Cities of Calgary to the south and Edmonton to the north. The area between Calgary and Edmonton is known as the Highway 2 Edmonton-Calgary Corridor. The City of Red Deer has applied to annex approximately 520 hectares located to the north and west of the current built up area of the City. The lands proposed for annexation include eight quarter sections located west of the present city limits (i.e. west of the Queen Elizabeth II Highway) and south of Highway 11A, and also include a small (75 m +/- wide) portion of the SE 1/4 Sec 5; 39-27-W4 located approximately 150 m west of the eastern boundary of the SE 1/4 Sec 5 and running north-south from the north side of Highway 11A to Hazlett Lake.

The City of Red Deer provided notification to the MGB, the County of Red Deer and local authorities of its intent to annex certain lands from the County. After negotiation and mediation were unsuccessful, a public hearing before the MGB was scheduled to commence May 28, 2007.

On March 13 and 14, 2007 the City and the County met in order to resolve their ongoing dispute regarding growth management and annexation in the Red Deer region. As a result of these discussions, the City of Red Deer withdrew its intermunicipal dispute regarding proposed planning bylaws in the County and the County in turn supported the City annexation. This annexation proposal and the resulting agreement between the City and the County has resulted in the County being able to pursue its growth options to the southwest of the City and the City being able to pursue industrial growth in the northwest as envisioned in this annexation and pursue other future annexation initiatives.

However, notwithstanding the agreement reached between the two municipalities, the MGB received objections to the annexation. Section 120 of the Act requires the MGB to hold a hearing if objections have been received. As a result interested parties were given notice of the public hearing through direct mail. The general public was given notice through advertisements placed in the two local newspapers. The MGB conducted a public hearing in order to discover details surrounding the following objections. An adjacent landowner opposed the annexation due to concerns over water drainage and flooding. One landowner and one electrical service provider made written submissions to the MGB. A second landowner made a presentation to the MGB in support of the annexation. Details of these submissions are provided in the main body of this report.

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Compensation being paid by the City to the County is consistent with historic MGB recommendations and Cabinet approvals. In addition, the City has offered to apply a tax credit in the 2008 tax year equal to the amount of municipal taxes imposed by the County in 2007 for the annexed farm land, farm residences, and farm buildings.

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

The annexation of a small (75 m +/- wide), isolated portion of land running north-south from the north boundary of the City to Hazlett Lake was supported by both the City and County. This strip of land was proposed by the City in order to provide storm drainage for the industrial land west of the Queen Elizabeth II Highway. However, the City did identify an alternate drainage route. Moreover, in light of the new spirit of cooperation between the City and County, the City's objectives can be met by simply purchasing this property. Although the MGB gives the agreement between the two municipalities a great deal of weight, the MGB finds that this piece of land does not represent a logical extension of future land use patterns and therefore does not recommend this parcel be included in the annexation.

The annexation of the industrial land west of the current City boundary represents a logical extension of future land use patterns and makes efficient use of existing municipal infrastructure including roads as well as providing the City with a reasonable 30 year supply of commercial and industrial lands. The annexation is in response to the diminishing supply of commercial and industrial lands in the City. The annexation is supported by various engineering and planning documents and the compensation conditions of the annexation address the financial impact of the annexation on each municipality. Both municipalities were in agreement with the financial compensation included in the agreement.

No other local authority raised any objections to the annexation and the management and maintenance of the Queen Elizabeth II Highway is currently being negotiated between the City and Alberta Infrastructure and Transportation. The conditions of annexation address the assessment and tax transition for properties included in the annexation.

Part 1 Introduction

1.0 Organization of Report

This report is organized into ten parts. The first five parts of the report provide background information on the proposed annexation, identify the proposed annexation area, summarize the City's annexation application, describe the annexation process in general, and detail the City's annexation process as well as events leading to the MGB hearing.

The next four parts deal with the concerns raised by the interested parties. Part six addresses the concerns raised by Fortis Alberta. Part seven deals with the objection of Mr. Peter Kooiman. Part eight deals with the concerns of Mr. J. R. Watson. Part nine deals with the concerns raised by Mr. Warren Fertig.

Part ten provides the MGB's general findings, recommendations, and reasons.

1.1 Background Facts

The City of Red Deer (City) is bounded by the County of Red Deer (County). This annexation affects lands in the County.

The City has applied to annex approximately eight quarter sections of land for a total of approximately 520 hectares from the County. The annexation involves two areas:

West: The lands proposed for annexation include eight quarter sections located west of the present city limits (i.e. west of the Queen Elizabeth II Highway) and south of Highway 11A.

North: The lands proposed for annexation include a small (75 m +/- wide) portion of the SE 1/4 Sec 5; 39-27-W4 located approximately 150 m west of the eastern boundary of the SE 1/4 Sec 5 and running north-south from the north side of Highway 11A to Hazlett Lake.

The main purpose of this annexation is to bring into the City an adequate supply of industrial land to accommodate and manage its high rate of growth.

The City has experienced significant population growth and economic development over the past 10 years. The 2006 Census indicates that the City's population has risen to 82,971. This represents a 4.9% increase over the 2005 population of 79,082 and a 38.1% increase over the 1996 population of 60,075. Red Deer's population (residential) growth continues at a high rate, but without available industrial land, the gap between residential and non-residential continues to widen. This will place a heavier tax burden on residential property ratepayers. Given this high level of growth, the City now finds itself virtually out of industrial land within its boundary.

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The City's Municipal Development Plan (MDP) outlines planning policies related to the annexation. The City aims "to ensure the availability of a supply of reasonably priced, serviced industrial/commercial land required to support residential development and provide local employment opportunities." Projections completed by PricewaterhouseCoopers indicate ongoing strong demand for industrial land. Over the next 25 years, they estimate 11.2 to 33.5 hectares of industrial land will be absorbed per year, at an average demand of 16.2 hectares per year. At these land absorption rates, the 2004 City of Red Deer Growth Study indicated that by 2006 the City would be out of serviced industrial land. The proposed annexation of territory from the County will provide the City with a 20 to 30 year supply of industrial land.

1.2 The Annexation Process

Pursuant to section 116 of the Act, a municipality seeking annexation must first initiate the process by giving written notice of the proposal to the municipal authority from which the land is to be annexed. In addition, written notice must be given to any local authority considered to be affected by the proposal and to the MGB. The notice must describe the land proposed for annexation, set out the reasons for annexation, and include a scheme for consulting with the public and meeting with the landowners.

Once that notice has been given to the other municipality, the municipalities must negotiate in good faith, and if agreement cannot be reached the municipalities must attempt mediation to resolve the outstanding matters.

At the conclusion of the negotiations, the initiating municipality must prepare a report describing the results of the negotiations. The report must include a list of the matters agreed on and those on which there is no agreement between the municipalities. If there were matters on which there were no agreement, the report must describe the attempts to use mediation, and if no mediation occurred, the reasons for this. The report must also include a description of the public consultation process and the views expressed during this process. The report to be signed by both municipalities, and if not, the municipality that did not sign must provide reasons for not signing.

The report is then submitted to the MGB and, if the initiating municipality indicates in the report it wishes to proceed, becomes the application for annexation pursuant to section 119.

1.3 The Role of the MGB and the Lieutenant Governor in Council

In the annexation process, the MGB is only a hearing and recommending body. Pursuant to Part 4, Division 6 of the Act, the MGB only has authority to hear from parties to an annexation, and to make findings and recommendations to the Minister of Municipal Affairs and Housing and to Cabinet (the Lieutenant Governor in Council).

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Upon receipt of a complete annexation application, section 120 of the Act requires that the MGB determine whether or not there is general agreement with the proposal.

If the MGB is satisfied that the affected municipalities and the 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 specified date, the MGB will make its recommendation to the Minister without holding a public hearing.

But when it is determined that there is not general agreement with the proposal, section 121 of the Act requires the MGB to notify the parties and to conduct a public hearing. The Act further directs the MGB to investigate, analyze and make findings of fact about the annexation, including the probable effect on local authorities and on the residents of the area.

After hearing from the parties and affected persons, the MGB prepares a written report of its findings and recommendations for consideration by the Minister of Municipal Affairs and Housing and the Lieutenant Governor in Council (LGC).

The Minister and LGC have the authority to accept in whole or in part or to completely reject the findings and recommendations of the MGB.

Pursuant to section 126 of the Act, the LGC, upon a recommendation of the Minister, may annex land to a municipality without a report from the MGB.

1.4 Provincial Legislation (Act) and Policies

Section 123 of the Act requires the MGB, after considering the representations made to it, to prepare a written report of its findings and recommendations and to submit that report to the Minister of Municipal Affairs and Housing.

In order to investigate, analyze, and make findings respecting the annexation, the MGB must test the evidence and information in order to determine if the annexation is logical and beneficial, and to determine the probable effect on local authorities and residents of the area.

Section 123 further requires the MGB to consider the principles, standards, and criteria established under section 76 of the Act. However, there are no criteria for evaluating annexation proposals adopted pursuant to section 76.

Because of this, the MGB looks to the scheme of the Act, the planning part of the Act, the Provincial Land Use Policies, and the Principles established by the Board in its determination of the recommendations in the recent St. Albert and Calgary annexations, as accepted and adopted by the Lieutenant Governor in Council, for guidance. The MGB has also referred to its prior decisions in analyzing the proposal.

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The Annexation Parts of the Act

Part 4, Division 6 of the Act deals with annexations. Within the division, there are key themes to which the MGB gives consideration in their deliberations on the Red Deer annexation proposal.

One major theme is the emphasis on consultation with affected authorities, municipalities, and landowners. Especially significant is the consultation and participation encouraged and facilitated with the landowners.

Another major theme is the emphasis on an agreement or mediated solution between the affected municipalities. However, the emphasis on agreement between the municipalities is not to the point of being the sole or determinative factor in a proposal.

The MGB concludes that the Act purposefully sets broad parameters to ensure that the best interests of the municipalities, local authorities, landowners, and the general public will be fully explored.

The Planning Part of the Act

It is the MGB's opinion that land use matters involved in annexation must be viewed in light of section 617 of the Act. Section 617 states that the purpose of the planning part of the Act is to provide a means whereby plans and related matters may be prepared and adopted to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and to maintain and improve the quality to the physical environment of human settlements in Alberta without infringing on the rights of individuals except where necessary for the overall greater public interest.

The Alberta Land Use Policies

The Alberta Land Use Policies do not make reference to annexation of territory from one municipality to another, however the policies encourage intermunicipal planning and cooperation, which are exercises directly related to annexation issues.

Some of the key policies relative to the MGB review are contained in Sections 2, 3, and 4.

Section 2.0 directs that planning activities are to be carried out in a fair, open, considerate and equitable manner. The policy further states that municipalities are expected to allow meaningful participation in the planning process by residents, landowners, community groups, interest groups, municipal service providers and other stakeholders.

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Section 3.0 fosters cooperation and coordination between neighboring municipalities. In particular, adjoining municipalities are encouraged to cooperate in the planning of future land uses in the vicinity of their adjoining boundaries in a manner that does not inhibit or preclude appropriate long term land use. Accordingly, the municipalities are encouraged to jointly prepare and adopt intermunicipal development plans.

Section 4.0 fosters the establishment of land use patterns which make efficient use of land, infrastructure, public services and public facilities which promote resource conservation, enhance economic development activities, minimize environmental impact, protect significant natural environments and contribute to the development of healthy, safe and viable communities.

Annexation Principles

In the absence of Ministerial criteria authorized by section 76 of the Act and in order to deal with the various issues raised by the affected parties, the landowners and the interest groups, the MGB has developed a series of annexation principles. The MGB has developed these principles from the examination of the annexation provisions in the Act, the Provincial Land Use Policies and previous annexation orders and recommendations. These principles are based on significant annexation decisions prior to 1995 and a total of nearly 170 annexations processed since the introduction of the 1995 *Municipal Government Act*.

These annexation principals are best summarized in Board Orders MGB 123/06 and MGB 079/07 respecting the annexation applications made by the Cities of St. Albert and Calgary and outlined below:

1. Annexations that provide for intermunicipal cooperation will be given considerable weight. Cooperative intermunicipal policies in an intermunicipal development plan will be given careful consideration, weight and support so long as they do not conflict with Provincial policies or interests.
2. Accommodation of growth by all municipalities (urban or rural) must be accomplished without encumbering the initiating municipality and the responding municipality's ability to achieve rational growth directions, cost effective utilization of resources, fiscal accountability and the attainment of the purposes of a municipality described in the Act.
3. An annexation or annexation conditions should not infringe on the local autonomy given to municipalities in the Act unless provisions of the Act have been breached or the public interest and individual rights have been unnecessarily impacted.
4. An annexation must be supported by growth projections, availability of lands within current boundaries, consideration of reasonable development densities, accommodation of a variety

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of land uses and reasonable growth options within each municipality (initiating and responding municipality).

5. An annexation must achieve a logical extension of growth patterns, transportation and infrastructure servicing for the affected municipalities.
6. Each annexation must illustrate a cost effective, efficient and coordinated approach to the administration of services.
7. Annexations that demonstrate sensitivity and respect for key environmental and natural features will be regarded as meeting provincial land use policies.
8. Coordination and cost effective use of resources will be demonstrated when annexations are aligned with and supported by intermunicipal development plans, municipal development plans, economic development plans, transportation and utility servicing plans and other related infrastructure plans.
9. Annexation proposals must fully consider the financial impact on the initiating and responding municipality.
10. Inter-agency consultation, coordination and cooperation is demonstrated when annexation proposals fully consider the impacts on other institutions providing services to the area.
11. Annexation proposals that develop reasonable solutions to impacts on property owners and citizens with certainty and specific time horizons will be given careful consideration and weight.
12. Annexation proposals must be based on effective public consultation both prior to and during any annexation hearing or proceedings.
13. Revenue sharing may be warranted when the annexation proposal involves existing or future special properties that generate substantive and unique costs to the impacted municipality(s) as part of the annexation or as an alternative to annexation.
14. Annexation proposals must not simply be a tax initiative. Each annexation proposal must have consideration of the full scope of costs and revenues related to the affected municipalities. The financial status of the initiating or the responding municipality(s) cannot be affected to such an extent that one or the other is unable to reasonably achieve the purposes of a municipality as outlined in section 3 of the Act. The financial impact should be reasonable and be able to be mitigated through reasonable conditions of annexation.
15. Conditions of annexation must be certain, unambiguous, enforceable and be time specific.

Part II Description of Municipalities' Annexation Process

2.1 The Annexation Notification

The City formally initiated the annexation pursuant to the requirements of section 116 of the Act by providing the MGB with a written notice of intent to annex territory from the County on September 29, 2005. The notice of intent indicated that the proposed annexation territory was located west of the existing City boundary. The reason the City initiated the annexation process was to address a critical shortage of industrial land within its boundary. The notice also outlined a proposed landowner and public consultation process. Copies of the notice were sent to Red Deer County and local authorities affected by a possible annexation.

On November 23, 2006, the City sent a letter to the MGB amending the original notice of intent. The City requested that a 75-meter piece of land extending from the north boundary of the City to Hazlett Lake be included as part of the notice of intent. After reviewing the amendment, the County advised the City that it did not appear that the proposal complied with the County's Burnt Lake Area Storm Management Master plan and that the County did not support the amendment.

2.2 The Landowner/Public Consultation

The City conducted a series of open houses and public meetings from October 12, 2005 to December 6, 2006 to solicit input from the affected landowners, the general public and other stakeholders identified by the City. Concerns expressed by the affected landowners during these meetings focused primarily on future land uses, future servicing, and possible tax implications. Concerns expressed by the general public included the potential traffic impacts, and the future servicing logistics, the size of the annexation area, the wetlands, and the impact of industrial development on the annexed area. Although there was support for the proposed annexation, not all affected landowners and members of the general public were in favor of the annexation.

2.3 The Negotiation and Mediation Process

In January 2006, representatives from the City and County began negotiations regarding the annexation of eight quarter sections of land west of the Queen Elizabeth II Highway. In accordance with section 117 of the Act, City and County held six meetings in an attempt to negotiate an annexation agreement. The parties were unable to resolve their differences and negotiations broke off on April 21, 2006. Negotiations ended with the following negotiation items being contested:

1. Whether the IDP applies to this annexation? City believes it does, County does not as the lands proposed for annexation are not identified for annexation in the IDP. Committee

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members agreed to proceed with negotiations even though agreement not reached on this matter.

2. Review/amendment of IDP (City has no objection but does not believe this needs to occur prior to the industrial annexation). City is following both the IDP and the Act for the annexation process.
3. City's access (easement, right-of-way) to Hazlett Lake for drainage (Red Deer County engineers evaluating City's engineering comments/documents relative to this proposal).
4. Lost Revenue of the County (Compensation) – County request for 15 years, City believes formula as noted in IDP should be followed. County question if one quarter currently being developed should be removed from the annexation.
5. Agricultural rates of taxation to be harmonized – as land remains undeveloped it should remain at harmonized agriculture rate until rezoned. City in agreement with harmonization; however, the details as to how the harmonization would occur were not worked out during negotiations.
6. Costs of infrastructure for Burnt Lake area to be reimbursed to the County with adjustments being made for the implications of any applicable off site levies.
7. County reimbursed for costs incurred, as provided, for drafting of Burnt Lake Area Structure Plan (traffic study, storm water management).
8. Inclusion of Riverview Park in the current annexation proposal.
9. Provision of public work services – City believes IDP term should be followed; as land use is changing and development occurring right away (not staying as agricultural land), County does not wish to provide this service following annexation.
10. Written confirmation to be received from the City regarding the City's intended use of the lands and the City's intent to mitigate impacts to Linn Valley (berming, intensive landscaping, City properties to front onto highway adjacent to Linn Valley).
11. Discussions have occurred regarding the servicing of the area and the possibility of Red Deer County being able to access said servicing for lands located in the County or the possibility of joint development. (City has advised that they are not willing to consider a partnership).

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12. City's request to utilize a mediator. County believes negotiation process has not been completed yet. County Manager and City Manager to discuss the possibility of approaching Municipal Affairs with regard to their input regarding negotiation/mediation.
13. One hundred year vision for growth for both municipalities, as set out in the "Agreement in Principle" prepared by Municipal Affairs.

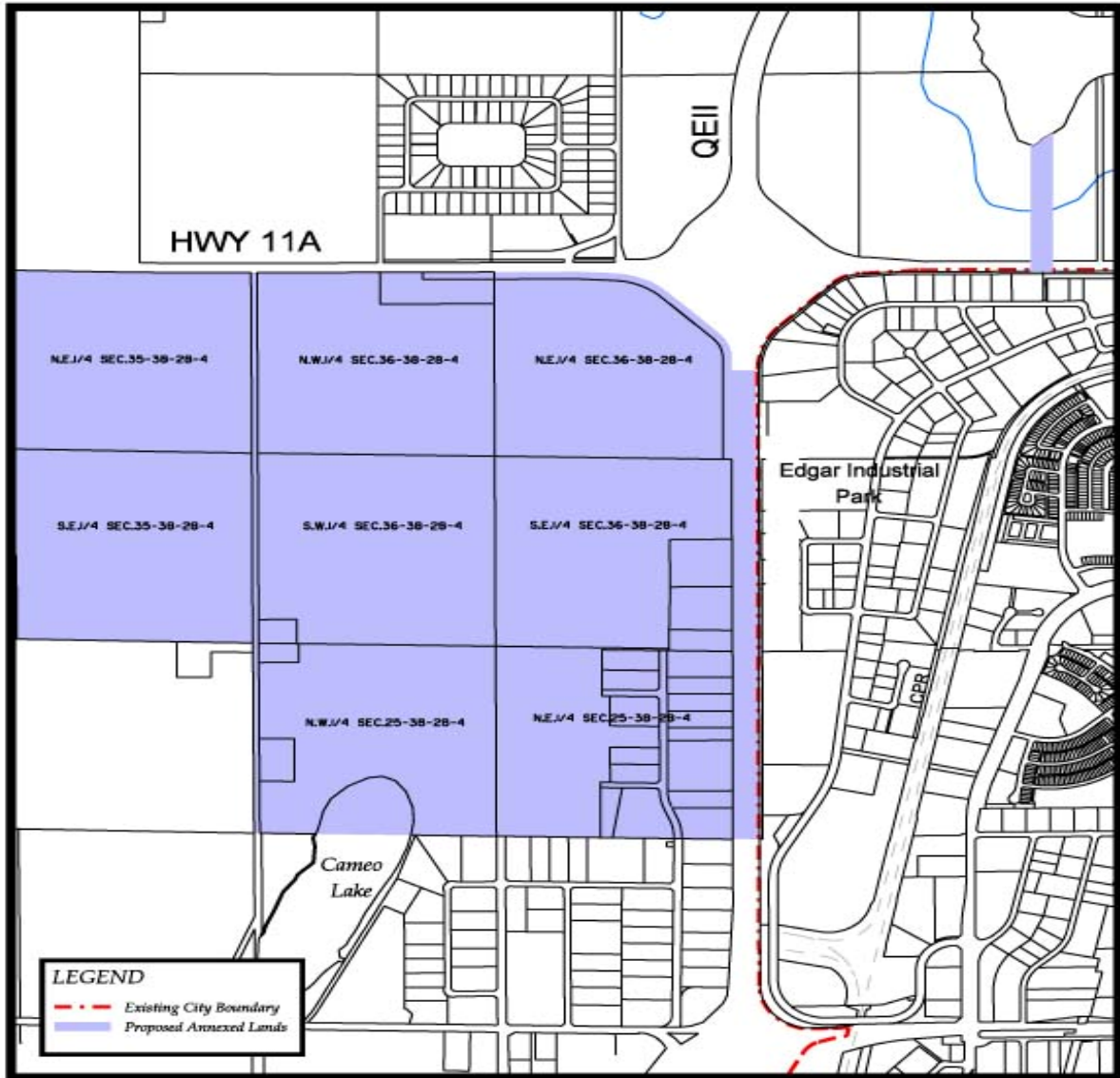
At the last negotiation meeting, the City and County agreed to attempt mediation as required by section 117 of the Act. Eight mediation sessions were held between May 5, 2006 and June 15, 2006. The City concluded that, despite the efforts of all participants and the mediators, a resolution could not be achieved and on June 23, 2006 the City advised the County that it was withdrawing from the mediation process.

The City and County held additional negotiation sessions after the March 9, 2007 MGB preliminary hearing. On March 27, 2007, the County informed the MGB that after further negotiations, the County supported the City's proposed annexation.

Part III The City of Red Deer Annexation Application

3.1 Overall Annexation Map

The shaded areas are the proposed annexation areas as requested in the City of Red Deer Annexation Application



Source: City of Red Deer Annexation Application

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3.2 The Annexation Report / Annexation Application Submitted by the City

On January 2, 2007, the MGB received a Negotiation Report from the City in accordance with s 118(1). The Negotiation Report provided a list of the matters agree on and those which there was no agreement between the municipalities, a description of the attempt to use mediation, a description of the public consultation process, and a summary of the views expressed during the public consultation process. The County did not sign the Report. The Report indicated that the City wished to proceed with the annexation and, in accordance with section 119(2), the Report became the City's annexation application.

On January 11, 2007, the MGB received a letter from the County indicating that it had received the City's Negotiation Report on December 27, 2007 and required time to review the report. The January 17, 2007 correspondence from the County advised the MGB that a formal Council response would be sent after the March 6, 2007 Council meeting.

Part IV Description of MGB Process

4.1 Determination of Need for Public Hearing

After reviewing the Annexation Application and the correspondence from the County, the MGB identified that there were objections from the public to the annexation and that there was no signed agreement between the municipalities. Pursuant to Section 121, the MGB determined that it must hold a public hearing.

4.2 The Preliminary Matters – March 9, 2007 Preliminary Hearing

On March 9, 2007 the MGB held a Preliminary Hearing to identify if there were any outstanding issues, set dates for the exchange of information and determine a date for the public hearing. The MGB heard arguments and submissions from the City, the County, and affected landowners. In its Notice of Decision DL 023/07, the MGB decided that:

- a separate preliminary hearing would be held April 2, 2007 to determine whether the piece of land to the east of the Queen Elizabeth II Highway leading to Hazlett Lake is properly part of the annexation application,
- the County was to provide its position on the annexation report by April 16, 2007,
- the County was to provide its written submission of its position by March 20, 2007,
- the City was to provide its written submission by March 27, 2007, and
- seven days would be set aside for the public hearing which would commence on May 28, 2007 in the Provincial Building in Red Deer with the last scheduled day being June 5, 2007.

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In order to prepare for the public hearing, the MGB advised that it would notify the landowners by direct mail of the upcoming public hearing and publish an initial notification of the hearing in the local newspapers. The MGB direct mail and advertisement notifications requested that any person wishing to attend the public hearing to register directly with the MGB on or before May 11, 2007. In addition, any person wishing to make a submission at the public hearing was asked to inform the MGB of their intention and to provide a one page summary to the MGB by May 11, 2007.

4.3 The Preliminary Matters – April 2, 2007 Preliminary Hearing

On March 15, 2007, the solicitors for the City advised the MGB that the City and the County had come to an understanding regarding the annexation and that the two municipalities had signed an Agreement to Amend the Intermunicipal Development Plan (AAIDP).

A March 27, 2007 letter from the County confirmed that it had reviewed the application and was now in support of the City's proposed annexation. The County also confirmed that their support for the annexation included the lands east of Queen Elizabeth II Highway. Moreover, the County indicated that they supported the payment compensation as set out in the annexation application. The County advised the MGB that it was withdrawing its request for the preliminary hearing. As a result of this request, the MGB cancelled the April 2, 2007 preliminary hearing. A letter advising of the cancellation was sent to both municipalities, the affected landowners, and other interested parties.

4.4 The Agreement between City and County

The following is a summary of the signed agreement submitted to the MGB by the City and the County. This agreement reflects an understanding in the annexation matter between the two parties. The document is framed as the AAIDP.

Background

The City and County representatives met on March 13 and 14, 2007 in order to develop the terms of a new IDP and to thereby resolve ongoing disputes. The aforesaid meeting was successful and has resulted in the agreement to adopt a new IDP and to resolve ongoing disputes.

History of the IDP

The City and the County are adjacent municipal corporations who entered into an IDP in October of 1999. As a result of rapid growth and the resultant intense development activity in both the County and the City, the current IDP has become outdated.

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The rapid growth and intensive development has also led to disputes between the City and County under the existing IDP, as well as pursuant to provisions of the Act pertaining to fringe area development. The effect of the outdated IDP and the disputes has been to delay growth and development in both the City and the County, which both parties agree has been and continues to be detrimental to the region as a whole.

4.5 Terms of the Amended IDP

The AAIDP contemplates conditions of a new IDP which the City and County both agree to. One of the terms of the AAIDP was for the County to support the City's Industrial Annexation. This section outlines the agreement between the two parties as stated in the City of Red Deer Application to Annex Land – Annexation Condition letter of May 29, 2007 provided to the MGB.

Effective Date

The AAIDP is to be effective January 1, 2007.

Assessment

For 10 years the City shall assess farm land, residences and improvements used for farming operations using the rural (County) valuation standard. Thereafter, or at the end of any taxation year during which a new parcel of land is created (subdivision or separation of title) or upon rezoning for non-agricultural use, the City valuation standard shall apply.

Taxation

- a) All property within the annexed area shall be subject to municipal and requisitioning authority taxes and rates as approved in the annual City of Red Deer Tax Rate Bylaw commencing 2008, and the City shall be responsible for the property assessment and taxation process commencing January 1, 2008.
- b) The City of Red Deer shall provide a one-time payment to property owners of annexed farm land and associated buildings, including farm residences, equivalent to the amount of Red Deer County municipal tax levied for 2007. This payment will be applied as a credit to the property tax levied on such properties by the City in 2008.
- c) Any property tax arrears currently outstanding on annexed property are to be subject to penalties as per the City of Red Deer Bylaw 2929/87.

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Supplementary Assessment and Taxation

All property within the annexation area will be subject to the City of Red Deer supplementary assessment and taxation bylaws commencing 2008.

Compensation to Red Deer County

Compensation to Red Deer County shall be based on the County's 2007 municipal tax levy (2006 assessment). The compensation to Red Deer County shall be:

- a) 2008 – 100% of the County's 2007 municipal tax levy
- b) 2009 – 80% of the County's 2007 municipal tax levy
- c) 2010 – 60% of the County's 2007 municipal tax levy
- d) 2011 – 40% of the County's 2007 municipal tax levy
- e) 2012 – 20% of the County's 2007 municipal tax levy

Additional Items Agreed to Between the City and County but not part of the Board Recommendation.

Exchange of Information

- a) Red Deer County agrees to provide the City of Red Deer with a copy (or originals) of all assessment information used for the taxation year prior to annexation with respect to all annexed properties at the request of the City.
- b) Red Deer County agrees to provide the City of Red Deer with a copy of all current assessment and taxation information that is required to prepare the assessment roll and tax roll for the year following annexation within a reasonable time of receipt of the Board Order.
- c) Red Deer County agrees to provide the City of Red Deer with a copy (or originals) of all historical assessment and taxation information on annexed properties within a reasonable time of receipt of the Board Order.

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Public Utility Lot and Reserved Parcels

Titles of all municipality owned public utility lots and reserve parcels within the boundaries of the annexation area are to be transferred to the City within 45 working days of the receipt of the Board Order.

Municipal Services

The City shall assume the provisions of all municipal services for the annexation area effective May 1, 2008, the County shall continue to provide all those services it has been providing until then.

Part V Public Hearing

Despite the agreement between the City and the County, the MGB identified that there were still objections from affected landowners and the general public to the annexation and determined that a public hearing was still required. However, with the County having provided support for the proposed annexation, the length of the hearing was reduced to three days, commencing May 28, 2007. Again, the MGB used direct mail and advertising to inform the public of the hearing.

5.1 Initial Advertising and Registration

On April 24, 2007, the MGB sent a public hearing notice to approximately 27 adjacent landowners and known interested parties by direct mail. The notice stated that the City and the County had reached an agreement regarding the proposed annexation, informed the landowners and known interested parties where they could view the complete annexation agreement, informed the parties that the MGB would accept written submissions about the annexation, and provided the time, date and location of the public hearing.

5.2 Advertising of Hearing Dates

As required by section 122(1) of the Act, the MGB advertised the public hearing in the Red Deer Advocate and the Red Deer Express during the weeks of April 30, 2007 and May 7, 2007. These advertisements stated that the City and County had reached an agreement regarding the proposed annexation, informed the public where they could view the complete annexation agreement, notified all known landowners and interested parties that the MGB would accept written submissions about the annexation, and the time, date and location of the public hearing.

5.3 The City's Interest

The following is a summary of the City's presentation at the public hearing.

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The City initiated the annexation application to address the extensive growth it has experienced in recent years. The City views annexation as an important tool in its approach to growth management. Maintaining a long-term supply of land for growth enables the City to comprehensively plan for new development necessitated by growth, facilitating the orderly and economic development of the City. The City has six guiding goals which necessitate the annexation.

First, the City needs to obtain land for urban land development. Additional serviceable industrial land is necessary to accommodate and create balanced growth. Secondly, the City commented that it is a key regional service and employment center within Central Alberta. The availability of well-located serviced industrial land is a critical component that will benefit not only the City, but the region as a whole. Thirdly, the City focused on requirements of the IDP. The IDP states that a municipality should have a 20 to 30 years supply of land in its inventory. The proposed annexation area complies with the IDP by providing the City with this inventory of industrial land. Fourthly, the City's MDP sets out the goal of ensuring the availability of a supply of serviced industrial land and creating a balanced functional mix of growth within the City. The proposed annexation will implement this MDP goal. Fifthly, the City states that a number of landowners support the annexation of their lands to the City. Finally, the City has offered to purchase two undeveloped quarter sections of land within the proposed annexation area.

On March 23, 2007 the City's representative signed an agreement to amend the Intermunicipal Development Plan. This included agreement to full and frank communication and cooperation in the implementation of the principles of the Agreement. The County, under this agreement supports the current City Industrial Annexation which is outlined on map 2 of the agreement. In addition to this, the agreement outlines the growth areas for both the City and County, states that gasoline alley will remain part of the County with specified population and size limits, and describes an area north of the airport that will serve as a buffer between the City and the agricultural areas to the south.

The MGB noted that the annexation extended west from the existing City Boundary, across the Queen Elizabeth II Highway and asked the City if they were working with Alberta Infrastructure and Transportation (AIT). The City has indicated that they are in negotiations with AIT to ensure AIT would retain control of the Highway after the annexation was complete.

5.4 The County's Interest

The following is a summary of the County's presentation at the Public Hearing.

The County informed the MGB that it had reviewed the City's Report on Negotiations/Annexation Application. After careful review and further negotiation with the City, the County confirmed that it supported the City's proposed annexation. This support included the lands east of Queen Elizabeth II Highway, being the proposed storm drainage corridor to Hazlett Lake, and

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the payment of compensation to the County. The County also indicated that it would have preferred that the City follow the process required by the Act by providing the report to the County prior to the submission to the MGB.

On March 23, 2007 the County’s representative signed an agreement to amend the Intermunicipal Development Plan. This included agreement to full and frank communication, and full cooperation in the implementation in the implementation of the principles of the Agreement. The County, under this agreement supports the current City Industrial Annexation which is outlined Map 2 of the agreement.

The MGB asked the County to quantify the compensation amount. The County was not able to provide the Panel with the amount at the hearing, but stated that they would provide this amount to the MGB after consulting with County personnel. A letter to the MGB dated June 20, 2007 from the County with copies sent to the City states that compensation to the County is to be calculated in relation to the 2007 municipal tax levy. Consequently, in relation to the taxation details, the County believes that only the total property taxes levied in the proposed annexation area for 2007 tax year are relevant. A letter to the MGB on August 8, 2007 signed by both the City and County advises that the value of the total municipal property taxes levied in the proposed annexation for the 2007 tax year was \$193,406.94. Table 6.4.1, as prepared by the MGB, provides the amount of compensation to be paid by the City to the County over the five year period.

The City offered to also provide a one-time payment to property owners of annexed farm land and associated building, including farm residences, equivalent to the amount of Red Deer County municipal tax levy for 2007. This payment is to be applied as a tax credit to the property tax levied on such properties by the City in 2008. The August 8, 2007 letter signed by both the City and County identifies this amount to be \$2,334.35.

Year	%	\$
a) 2008 – 100% of the County’s 2007 municipal tax levy	100	\$193,406.94
b) 2009 – 80% of the County’s 2007 municipal tax levy	80	\$154,725.55
c) 2010 – 60% of the County’s 2007 municipal tax levy	60	\$116,044.16
d) 2011 – 40% of the County’s 2007 municipal tax levy	40	\$77,362.78
e) 2012 – 20% of the County’s 2007 municipal tax levy	20	\$38,681.39
f) No compensation thereafter		
Total Amount to be Paid over the Five Years		\$580,220.82

Part VI Submissions from Fortis Alberta

6.1 Submissions of FortisAlberta

FortisAlberta is the electricity distribution service for the people in the County, and as such is affected by the City's annexation application. If the annexation proceeds and FortisAlberta is required to surrender part of its service area established under the provisions of the Hydro and Electric Act, RSA 2000, c. H-16, (HEE Act), the company contends that it will negatively impact their customers.

FortisAlberta submits that the annexation plan has not dealt with issues of avoiding adverse impacts on customers arising from changes to the provider of electricity distribution services. Additional costs incurred by both utilities to reconfigure the distribution system to allow for the transfer of facilities from one service provider to another become the burden of all ratepayers. In addition to the added costs, FortisAlberta's lost revenue from these customers also becomes the burden of remaining customers through upward pressure on rates.

It should not be taken as a given that forcing customers to switch electric service providers because of an annexation is appropriate, or that FortisAlberta will accede to any such proposal. FortisAlberta currently provides electrical distribution services within the boundaries of various municipalities and there are examples of city owned utilities providing service to customers outside the municipal boundary in FortisAlberta's service area. In these situations both utilities have worked together to provide the most economic and efficient solution for electricity distribution and this concept should prevail through the annexation process regardless of the municipal boundary.

FortisAlberta accordingly asks that any report made by the MGB in this matter include commentary that is the view of the MGB that nothing in the report should be taken to suggest or conclude that a change in electric service area boundaries should be assumed to be in the public interest.

6.2 The City's Position

The concerns raised by FortisAlberta are not specifically relevant to the MGB's consideration of the proposed annexation application. The matter of electrical distribution boundaries is regulated by the Energy and Utility Board (EUB) as per sections 25 and 29 of the *Hydro and Electric Act* (HEE) Act. "Public interest" is one of the factors considered by the EUB when considering an application to alter the boundaries of an electrical distribution service area.

However, the City does not object to the proposal by FortisAlberta that the MGB include in its report on the proposed annexation a comment to the effect that nothing in the report should be taken as suggesting that a change in electric service area boundaries is in the public interest.

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The City has in the past notified FortisAlberta in advance, should the City decide to make an application to alter its electrical distribution service area and has given an undertaking to FortisAlberta that it will do so in the future in respect to the proposed annexation lands.

6.3 The County's Position

The County believes the correspondence from FortisAlberta was its method of providing notice to the City of its desire to continue to provide electrical services in the proposed annexation area. The county is not a provider of electrical utility service. Consequently, the County believes this is a matter for discussion and negotiation between FortisAlberta and the City.

6.4 MGB's Findings

1. The service area for an electric service company and the details of rates and other marketing issues are matters dealt with under the HEE Act administered by the Alberta Energy and Utilities Board.
1. Nothing in this report should be taken as suggesting that a change in electric service area boundaries is in the public interest.

6.5 MGB's Recommendations & Reasons

Section 127(1) of the Act allows municipalities to grant a right to a person to provide a public utility in all or part of the municipality. Section 127(2) states that the annexation of land does not affect any right under a utility agreement to provide a public utility on the annexed land unless the annexation order provides otherwise.

Electricity distribution services are to be dealt with under the provisions of the HEE Act and are within the authority of the Alberta Energy and Utilities Board. The interests of FortisAlberta and its customers are protected under the HEE Act.

Part VII Submissions from Peter Kooiman

7.1 Submissions of Peter Kooiman

Mr. Kooiman made submission pertaining to the annexation of a 75 meter wide strip of land that will run north of Highway 11A to a body of water known as Hazlett Lake. He became aware of the annexation through notification given in the Red Deer Advocate on May 9, 2007.

Mr. Kooiman is a landowner on the east side of Hazlett Lake. He submitted that the north end of his property adjoins the natural drainage waterway, which drains excess water to the east and

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eventually into the Red Deer River. Moreover, Mr. Kooiman stated that currently the north 100 meters of his property are under water. It was submitted that he requires additional information about how the City plans to act in this area and how it will affect his property.

Mr. Kooiman submitted that as the land to the west of Hazlett Lake becomes developed, he fears that the water flow will become intensified leading to increased flooding of his property. Moreover, Mr. Kooiman submitted that he wants a guarantee from the City of Red Deer that its plans for Hazlett Lake and the connected waterway will not affect the water table or the value of his property. Further, it was stated that if the City could not make a guarantee pertaining to the water level, he asked how they would plan to compensate him for his loss.

Mr. Kooiman proposed that an improvement to the Hazlett Lake drainage outlet be created to prevent future drainage problems. He also suggested that a weir be built to control drainage of excess water.

7.2 The City's Position

The City made submission which addressed Mr. Kooiman's concerns pertaining to drainage from Hazlett Lake. Mr. Tom Warder, Engineering Services Manager for the City, spoke to the concerns.

Mr. Warder spoke of actions that the City has taken to study Hazlett Lake and its surrounding water system. He submitted that the City has hired an engineering firm with biologists on staff to make sure the proposed drainage system would not cause any environmental damage to the lake. Moreover, consultation would make sure that the lake is performing well with control systems to manage elevation of lake levels as to not cause property damage to adjacent lands.

Moreover, the City submitted that Alberta Environment and the Government of Canada Department of Oceans and Fisheries would need to approve the Lake Management Plan to ensure it would not have negative effects. Public hearings will be held in regard to having the Lake Management Plan approved.

Mr. Warder made specific submissions in relation to Mr. Kooiman's property. He stated that the heavy rain during the spring of 2007 caused Hazlett Lake to rise a foot above planned high water levels. This year, problems with flooding were precipitated because the Lake's run off channel was dammed up by recreational uses. However, it should be noted there are easements and right-of-ways protecting the drainage course. Overall, Mr. Warder submitted that the annexation would make the Hazlett Lake drainage area more effectively managed under the City's two objectives: minimizing the expense of storm drainage and enhancing the body of water. Mr. Warder summarized by saying annexation and related work would allow for better control of the lake levels than is occurring at the present time.

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7.3 The County's Position

The County made no submission.

7.4 The MGB's Finding

1. Any concerns regarding a proposal to drain storm water into Hazlet Lake are best dealt with through discussion at a public hearing pertaining to the approval of the Lake Management Plan or during any hearings associated with any permits issued by Alberta Environment.
2. The MGB is recommending that the small (75 m +/- wide) portion of land running north-south from the north boundary of the City to Hazlett Lake not be included in the annexation, but not for the reasons concerning Mr. Kooiman.

7.5 The MGB's Recommendations & Reasons

The concerns of Mr. Kooiman regarding Hazlett Lake and associated drainage channels cannot be resolved through conditions of the annexation, modification of the annexation area or denial of the annexation. Nevertheless, the MGB is not recommending that the corridor for such proposed option for the stormwater drainage of the annexation area be included in the annexation for reasons explained elsewhere in this report.

The MGB notes that the City has a plan for water and drainage management in the Hazlett Lake. Moreover, the MGB accepts that City's evidence that Alberta Environment and the Government of Canada Department of Oceans and Fisheries would need to approve the Lake Management Plan to ensure it would not have negative effects. The MGB further notes that public hearings would have to be held in regard to having the Lake Management Plan approved if the City desires to pursue this particular storm water drainage option. The concerns of Mr. Kooiman could be further addressed at such a hearing.

Part VIII Submissions from J. Ross Watson

Mr. Watson made written submissions prior to the hearing that were received by the MGB on May 14, 2007. Mr. Watson was not present when his name was called on numerous occasions to speak, but he did appear at the Red Deer Provincial Building after the MGB annexation hearing had been formally closed. Following consent from the MGB, Mr. Watson made a further June 1, 2007 written submission to the MGB. These submissions were considered by the MGB as follows.

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8.1 Submissions of Mr. Watson

Mr. Watson agreed that urban municipalities must be able to expand vertically and also in land base. Moreover, Mr. Watson acknowledges the need for the City to annex land in some form which the City and County can agree upon.

Mr. Watson submitted that in terms of the annexation process, he is absolutely opposed to the City purchasing land and being in direct competition with the private sector in development and sales of such property as it creates an unfair playing field. Moreover, Mr. Watson submitted general concerns that the City's services, connection costs, off-site levy charges, hook-up costs, local and improvement taxes however, he did not specify detailed issues. Finally, Mr. Watson questioned how much land will be brought into the marketplace as a result of the annexation, at what price and over what period of time?

8.2 The City's Position

The City submitted that Mr. Watson's questions concerning the City's role in development are addressed in the position paper entitled City as Development Position Statement. This document was sent to every landowner in the annexation area and was available at the landowner and public meetings. It was also included in the City's annexation application in the section entitled Attachment # 10, City of Red Deer Position Papers.

The position paper states that the City acts as a developer of serviced industrial land, but it is certainly not the only developer. The City currently owns two of the eight quarter sections of land in the proposed annexation area. The provision of serviced industrial land by the City is used as an economic development tool to ensure that an adequate supply of both land and infrastructure is in place to attract and accommodate new and expanding businesses. By acting as a developer, the City assumes some of the costs and risks necessary to stimulate development in a new area such as the proposed annexation area.

Historically, no private developers have been willing to develop serviced industrial land in Red Deer. This is probably due in large part to the very significant costs of paying for the installation of municipal services in advance, and then having to take the risk of waiting for sales to come in order to recover those costs. While the risk is mitigated to some extent by phasing in the installation of services, the trunks may need to be constructed well in advance. The City's last industrial land area (Edgar Industrial) took over twenty years to sell out, although significant services were installed and paid for in the early 1980s.

With respect to Mr. Watson's question about such things as City costs or charges for service connections, off-site levies, and local improvement taxes for the proposed area, exact figures have not been determined as all the necessary studies and planning have not been completed.

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Similarly, the issue of how much land will be brought onto the market, at what price, and over what time period, are difficult questions to answer at this time. However, development will follow an orderly extension of services, likely being the NE 1/4 Sec 36 and gradually progressing westward and southward. The amount of land brought on by the City and other developers will be based on market demand. Land prices for City land will be established by an independent appraisal based on current market values and approved by City Council. The rate of development may fluctuate from year to year, but at this time it is anticipated that the eight quarter sections will be developed and absorbed over roughly a twenty year period.

The City stated it would be happy to meet with Mr. Watson to discuss the issues in more detail.

8.3 The Country's Position

The County indicated to the MGB that under the terms of the Act, a municipality has the ability to be the developer of land that the municipality owns. As such, the City has in the past made a policy decision regarding its development of land within the City. It is not the jurisdiction of one municipality, or the MGB, to dictate to a municipality whether the municipality should be a developer of land or not.

The information requested in the June 1, 2007 letter from Mr. Watson relates to servicing connection costs, offsite levy changes, hook-up costs, local improvement taxes, etc. and would be information that the City may be able to provide. The County does not have this information. As mentioned previously, the City has jurisdiction to determine how much land it will develop, the timelines for selling lots, and the price for which it will sell the properties.

8.4 The MGB's Findings

1. Concerns regarding the purchase and development of lands by a municipality should be dealt with at the local level.
2. The costs associated with the provision of municipal servicing as well as subdivision and/or development costs should be dealt with at the local level.

8.5 The MGB's Recommendations & Reasons

The concerns of Mr. Watson regarding the City's right to purchase and develop land cannot be resolved through conditions of the annexation, modification of the annexation area or denial of the annexation.

In the St. Albert Annexation Report MGB 123/06, the MGB established a number of principles to evaluate annexation proposals. One of these principles stated that an annexation or annexation conditions should not infringe on the local autonomy given to municipalities in the Act unless

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provisions of the Act have been breached or the public interest and individual rights have been unnecessarily impacted. The natural person powers of the Act allow a municipality to purchase and develop land. The City has established that it is in the interest of the public to maintain a balance between residential and industrial lands within its boundary and has in the past purchased, developed and sold industrial land to ensure this balance. The submission by the City indicates that it has also encouraged other industrial land developers. Mr. Watson's concern regarding an uneven playing field is addressed by section 70(1) of the Act which limits the powers of a municipality and provides a process if the proposed transfer of interest in land is less than its market value.

Costs associated with service connection costs, off-site levy changes, hook-up costs, local improvement taxes are a local issue. The MGB notes that the Act provides a number of processes which can be utilized by Mr. Watson.

Part IV Submissions from Warren Fertig

At the March 9, 2007 preliminary hearing, Mr. Fertig indicated he would like to proceed with the merit hearing for the annexation and indicated that he was anxious to voice his concerns at the public hearing. Mr. Fertig did not provide a written submission to the MGB, however he was present at the public hearing and asked to make a presentation.

9.1 Submissions of Mr. Fertig

Mr. Fertig indicated he was pleased that the City and County had come to an agreement regarding the annexation. He indicated that development around the City had been somewhat disjointed and commended the municipalities for considering the long-term benefit of the area.

9.2 The City's Position

The City did not respond.

9.3 The County's Position

The County did not respond.

9.4 The MGB's Finding

Mr. Fertig has no lingering opposition to the proposed annexation.

9.5 The MGB's Recommendations & Reasons

The MGB is of the opinion that Mr. Fertig supports intermunicipal cooperation and has no objections to the proposed annexation. Moreover, based on the submissions of Mr. Fertig, the MGB finds that Mr. Fertig has expressed only support for the future annexation.

Part V- Summary

10.1 Summary of Annexation Proposal

After considering the submissions of the City, the County, all the affected landowners, persons and authorities, the MGB is satisfied that the annexation of the industrial lands located to the west of Queen Elizabeth II Highway as applied by the City in its application dated January 2, 2007 should be recommended to the Minister and Cabinet for approval. However, the MGB does not believe the small (75 m +/- wide), isolated strip of land running perpendicular to the north boundary of the City to Hazlett Lake represent a logical extension of future land use patterns and therefore does not recommend this parcel be included in the annexation.

This annexation proposal has been the subject of exhaustive negotiation, mediation and public consultation since 2005. This is a regional urban centre experiencing rapid growth and the MGB is satisfied that it is reasonable for the annexation to target a 30 to 35 year land supply to ensure long range planning and coordination of services. The economic, financial, population, land use projections and servicing proposals submitted by the City supported this target.

The "Annexation Agreement" reached between the City and the County exemplifies a significant turning event in the relationship between the City and the County. These current efforts exemplify intermunicipal cooperation between an urban centre and its neighbour and establishes measures to address the concerns raised by landowners and parties at the MGB hearing and throughout the annexation process. These cooperative efforts and the support of the County received considerable weight and consideration by the MGB.

10.2 General Findings

1. The March 23, 2007 Agreement between the City and County provides a basis on which the growth interests of the City and the County are met in accordance with section 3.0 of the Provincial Land Use Policies and in accordance with the MGB's second principle of annexation.
2. The City and the County demonstrated cooperation and coordination in accordance with section 3.0 of the Provincial Land Use Policies and in accordance with the MGB's first principle of annexation.

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3. The City and the County consulted with affected land owners and the general public in accordance with section 2 of the Provincial Land Use Policies and the MGB's twelfth principle of annexation.
4. The City and County have amended their IDP which will allow both municipalities to achieve rational growth directions.
5. The small (75 m +/- wide) portion of land running north-south from the north boundary of the City to Hazlett Lake is not a logical extension of growth patterns.

10.3 Decision

The MGB recommends to the Minister of Municipal Affairs and Housing that the lands west of Queen Elizabeth II Highway be approved in accordance with the annexation application and that the small (75 m +/- wide) portion of land running north-south from the north boundary of the City to Hazlett Lake not be approved. The MGB also recommends that the lands west of Queen Elizabeth II Highway be subject to those conditions reflected in the annexation agreement but limited to those conditions normally associated with annexation Orders in Council.

10.4 Reasons

The importance of cooperation between municipalities in reaching an effective and well crafted agreement on the proposed annexation.

In this case, the City and the County clearly confirmed that the annexation agreement fully meets the interest of both municipalities. The City and the County have clearly and positively demonstrated cooperation and the MGB can find no reason to recommend different conditions of annexation not contemplated in the agreement.

The reaching of agreement on this annexation is a positive major turning point in the relationship between the County and the City. This annexation proposal and the associated agreement allows the County to pursue its growth initiatives in Gasoline Alley and areas to the south-west of the City while the City is able to pursue its industrial growth initiatives in the north west as well as pursue other phases of annexation and growth management.

The annexation and the annexation conditions do not infringe on the local autonomy given to municipalities in the Act and is supported by reasonable growth projections and options for industrial growth for the City. The MGB accepts that a city the size of Red Deer will require a reasonably sized commercial/industrial area to assist balance the financial needs of a rapidly increasing residential tax base.

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The proposed financial compensations package agreed to by the municipalities provides for a reasonable transition for the County to adjust to the loss of the property tax base in the annexation territory and is based on the more traditional tax compensation approach declining over a period of five years. There was no indication in the written materials or during the hearing that the annexation is merely driven by tax considerations and is focused on achieving additional lands to accommodate future commercial and industrial lands for the City.

The MGB heard little concern from existing land owners in the proposed annexation territory regarding the need for more extensive assessment and tax transition conditions. The MGB accepts that the conditions in the agreement and recommended for the Order in Council have satisfied any concerns.

The Annexation Agreement represents not only an agreement to deal with the immediate annexation issues but also provides a framework for the City and the County to expand their inter-municipal relationship in the future with the Agreement provisions dealing with Agreement implementation, transition, future inter-municipal planning and conflict resolution. The Agreement is a logical extension of growth for both municipalities and can be used in the future to further the efficient use of land, infrastructure, public services, and public facilities.

The Agreement satisfies the requirement of Division 6 of the Act and the established principles of annexation. To that regard, the City and the County engaged in an extensive mediation process facilitated by provincially appointed mediators and undertook an extensive public consultation process. The purpose of interest based mediation is to resolve annexation through a mediated agreement that acknowledges the equal and legitimate interests of each municipality.

The Agreement will provide the City with the land it needs to balance residential and industrial land uses. The terms do not infringe on local autonomy

The importance of consulting with the general public respecting the proposed annexation.

The City and the County held a number of public consultation meetings over the course of the annexation process. The first public consultation meeting was held on October 12, 2005. The purpose of this meeting was to allow the public to learn more about the City's annexation proposal.

A generally public meeting for landowners was scheduled a week later on October 18, 2005. Landowners received a letter mailed to the address on title inviting them to both meetings. On December 5, 2006 a landowners meeting was held. The purpose of this meeting was to outline the proposal and process for annexation. This meeting also allowed landowners to ask questions and give comments relating to the annexation. On December 6, 2006 a public meeting was held to allow the public and affected stakeholders to gain information about the proposed annexation

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and the process. Advertisement was given twice in both the Red Deer Advocate and the Red Deer Express Newspapers.

The City and County responded to additional concerns expressed at the May 28, 2007 Public Hearing. By addressing the concerns of one affected landowners regarding a proposal to direct storm water drainage into Hazlett Lake, the City and County have shown a desire to minimize environmental impact and demonstrated respect for this key environment feature. The municipalities demonstrated inter-agency consultation by responding to a concern from an electrical utility provider and by working with a Provincial department to reduce the impact on these other institutions providing services to the annexation area.

To the MGB this demonstrates that the City made important efforts to inform the affected landowners, stakeholders, and the public of the proposal and the issues.

Of the concerns raised by the very few that opposing the annexation, none of the concerns were sufficient enough to persuade the MGB that the annexation was not in the greater public interest.

The importance of a logical extension of growth patterns, transportation and infrastructure servicing for the affected municipalities.

The City and County have crafted an agreement which identifies the lands to be annexed and the conditions. The main purpose of the annexation is to provide the City with industrial and commercial lands required for growth. The lands to the west of Queen Elizabeth II Highway will provide the City industrial land it needs to replenish its inventory. Water, sanitary sewer, transportation, utilities and other services can easily be provided through the extension of existing infrastructure in the general area. This allows for the cost effective, efficient and coordinated approach to the administration of services

The same cannot be said for the small (75 m +/- wide) portion of land running north-south from the north boundary of the City to Hazlett Lake. The City's annexation application indicates this isolated strip of land is required to accommodate a drainage right-of-way to the lake. However, an alternative solution does exist. The City's annexation application indicates that an alternative drainage route is available along the Queen Elizabeth II Highway and the CP Railway to the Red Deer River, adjacent to the industrial lands. Detention and water quality improvements would still need to be provided within the development area for either option to limit peak flows to the drainage route.

The City and County have shown a willingness to work cooperatively. The AAIDP identifies the future growth areas for both municipalities and shows the desire of both parties to improve communications and become active participants in the planning process associated with the identified growth areas to ensure each municipality's interests are given ample consideration. The City's desire to obtain the storm sewer right-of-way to Hazlett Lake can be met by simply

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requesting the County for its consent to acquire the 75 m corridor pursuant to s 72 of the Act. Accordingly, there is little reason to include the corridor in the annexation.

The MGB finds that the small, isolated portion of land running at right angles from the north boundary of the City to Hazlett Lake does not represent a logical extension of future land use patterns.

10.5 Recommendations

The MGB recommends the annexation be implemented in accordance with the City's application, excluding portion of land running north-south from the north boundary of the City to Hazlett Lake, pursuant to Section 119 of the Act and based on the annexation agreement between the City and the County.