

**BOARD ORDER NO. MGB 135/08**

**FILE: AN05/DIDS/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 Didsbury, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Mountain View County.

**BEFORE:**

Members:

W. Morgan, Presiding Officer  
T. Hudson, Member  
R. Strauss, Member

Case Manager:

R. Duncan

**SUMMARY**

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

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- (a) effective October 1, 2008, the land described in Appendix A and shown on the sketch in Appendix B is separated from Mountain View County and annexed to the Town of Didsbury,
- (b) any taxes owing to Mountain View County at the end of September 30, 2008 in respect of the annexed lands are transferred to and become payable to the Town of Didsbury together with any lawful penalties and costs levied in respect of those taxes, and the Town of Didsbury upon collecting those taxes, penalties and costs must pay them to Mountain View County,

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- (c) taxes payable in 2008 in respect of the assessable land and any improvements to it are to be paid to and retained by Mountain View County,
- (d) the assessor for the Town of Didsbury 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, this 12<sup>th</sup> day of November 2008.

MUNICIPAL GOVERNMENT BOARD

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(SGD.) W. Morgan, Presiding Officer

**APPENDIX "A"**

**DETAILED DESCRIPTION OF THE LANDS  
FROM MOUNTAIN VIEW COUNTY AND  
ANNEXED TO THE TOWN OF DIDSBURY**

THE NORTHWEST QUARTER OF SECTION SEVEN (7), TOWNSHIP THIRTY-ONE (31), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN AND THAT NORTH-SOUTH ROAD ALLOWANCE LYING WEST THEREOF

THE NORTHEAST QUARTER OF SECTION SEVEN (7), TOWNSHIP THIRTY-ONE (31), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

THE SOUTHWEST QUARTER OF SECTION EIGHT (8), TOWNSHIP THIRTY-ONE (31), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN EXCEPTING THEREOUT ROAD PLAN 2697 Q AND INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID QUARTER SECTION AND LAND NORTH OF THE PRODUCTION WEST OF THE NORTH LIMIT OF ROAD PLAN 2697 Q

THE NORTHWEST QUARTER OF SECTION EIGHT (8), TOWNSHIP THIRTY-ONE (31), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

THE SOUTHWEST QUARTER OF SECTION SEVENTEEN (17), TOWNSHIP THIRTY-ONE (31), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE LYING WEST THEREOF AND THE EAST-WEST ROAD ALLOWANCE LYING SOUTH THEREOF AND EXCEPTING THEREOUT ROAD PLAN 4532 EZ AND EXCEPTING THEREOUT THAT PORTION OF THE SAID NORTH-SOUTH ROAD ALLOWANCE LYING NORTH OF THE PRODUCTION WEST OF THE SOUTH LIMIT OF SAID ROAD PLAN 4532 EZ

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION SEVENTEEN (17), TOWNSHIP THIRTY-ONE (31), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF DIDSBURY AND LYING NORTH OF THE NORTH LIMITS OF PLANS OF SUBDIVISION 901 0959 AND 961 0883 AND THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE LYING WEST OF THE SAID QUARTER SECTION AND NORTH OF THE PRODUCTION WEST OF SAID PLAN 961 0883

THE SOUTHWEST QUARTER OF SECTION TWENTY (20), TOWNSHIP THIRTY-ONE (31), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN INCLUDING THE ROAD ALLOWANCE LYING WEST THEREOF

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THE NORTH HALF OF SECTION NINETEEN (19), TOWNSHIP THIRTY-ONE (31), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN INCLUDING THE ROAD ALLOWANCE LYING WEST THEREOF BUT EXCEPTING THE EAST-WEST ROAD ALLOWANCE LYING NORTH THEREOF AND EXCEPTING THEREOUT THE NORTH-SOUTH ROAD ALLOWANCE LYING EAST THEREOF

THE NORTH HALF OF SECTION TWENTY-FOUR (24), TOWNSHIP THIRTY-ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN EXCLUDING THE NORTH-SOUTH ROAD ALLOWANCE LYING WEST THEREOF AND EXCLUDING THE EAST-WEST ROAD ALLOWANCE LYING NORTHERLY THEREOF

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION TWENTY-FOUR (24), TOWNSHIP THIRTY-ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF DIDSBURY

THE SOUTHWEST QUARTER OF SECTION TWENTY-FOUR (24), TOWNSHIP THIRTY-ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN NOT INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE LYING WEST THEREOF

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION THIRTEEN (13), TOWNSHIP THIRTY ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN CONTAINED WITHIN ROAD PLAN 6582 JK BUT NOT INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE LYING WESTERLY THEREOF

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTEEN (13), TOWNSHIP THIRTY ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN CONTAINED IN PLAN OF SUBDIVISION 871 0799 AND ROAD PLAN 3931 JK INCLUDING THAT EAST-WEST ROAD ALLOWANCE LYING SOUTHERLY OF THE SOUTHWEST QUARTER OF SECTION THIRTEEN (13), TOWNSHIP THIRTY ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN AND THE NORTH-SOUTH ROAD ALLOWANCE LYING WESTERLY OF PLAN 871 0733 AND SOUTH OF THE PRODUCTION WEST OF THE MOST NORTHERLY LIMIT OF SAID PLAN 871 0799

THE SOUTHEAST QUARTER OF SECTION FOURTEEN (14), TOWNSHIP THIRTY ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN AND THAT EAST-WEST ROAD ALLOWANCE LYING SOUTHERLY THEREOF

THE NORTHEAST QUARTER OF SECTION ELEVEN (11), TOWNSHIP THIRTY ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN EXCEPTING THEREOUT ALL THAT PORTION OF ROAD PLAN 4416 JK LYING SOUTH OF THE PRODUCTION EAST OF THE SOUTH LIMIT OF SAID ROAD PLAN 3931 JK

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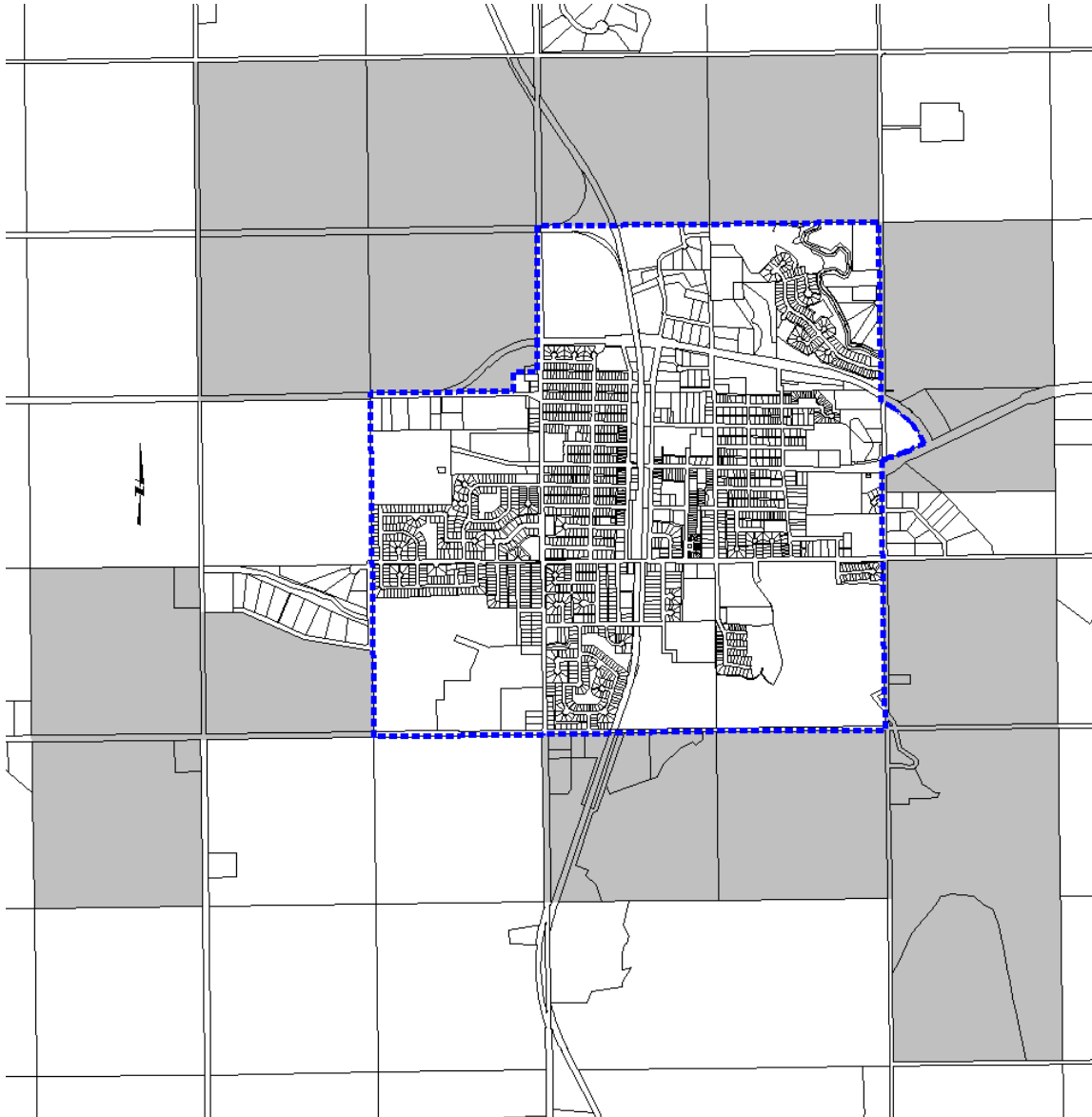
**FILE: AN05/DIDS/T-01**

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWELVE (12), TOWNSHIP THIRTY-ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN LYING NORTH OF THE SOUTHERN LIMIT OF ROAD PLAN 3931 JK AND THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE LYING WESTERLY THEREOF AND NORTH OF THE PRODUCTION WEST OF THE SOUTH LIMIT OF SAID PLAN 3931 JK

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION TWELVE (12), TOWNSHIP THIRTY-ONE (31), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN CONTAINED WITHIN ROAD PLAN 4444 JK

**APPENDIX "B"**

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



**Legend**



Area to be annexed to the Town of Didsbury

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**APPENDIX C**

**ORDER**

- 1 In this Order, “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B.
- 2 For taxation purposes in 2008 and subsequent years until December 31, 2017, the annexed land and the assessable improvements to it
  - (a) must be assessed by the Town of Didsbury on the same basis as if they had remained in Mountain View County, and
  - (b) must be taxed by the Town of Didsbury in respect of each assessment class that applies to the annexed land and the assessable improvement to it using
    - (i) the municipal tax rates established by Mountain View County, or
    - (ii) the municipal tax rates established by the Town of Didsbury,whichever is lower.
- 3 Section 2 ceases to apply to a portion of the annexed land and the assessable improvements to it in the taxation year immediately following the taxation year in which
  - (a) the portion becomes a new parcel of land created as a result of subdivision or separation of title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner, except for the subdivision of an existing farmstead from a previously unsubdivided quarter section,
  - (b) becomes a residual portion of 16 hectares or less after a new parcel referred to in clause (a) has been created,
  - (c) the portion redesignated, at the request of or on behalf of the landowner, under the Town of Didsbury Land Use Bylaw to a designation other than “Agricultural or Urban Reserve”,
  - (d) the portion is the subject of a local improvement project described in a local improvement bylaw initiated by or on behalf of or with the support of the landowner pursuant to which the Town of Didsbury water and sewer services are made available to it, or
  - (e) the portion is connected to the water or sanitary sewer services provided by the Town of Didsbury.

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- 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 same manner as other property of the same assessment class in the Town of Didsbury is assessed and taxed.
- 5 The Town of Didsbury shall, in addition to any amounts paid before the date this Order in Council is signed by the Lieutenant Governor in Council, pay to Mountain View County the amount of twenty-five thousand six hundred and eighty-five dollars and twenty-two cents (\$25,685.22) on or before September 15, 2009 and on or before September 15 of every year thereafter until and including 2018.



**APPENDIX D**

**MUNICIPAL GOVERNMENT BOARD REPORT  
TO THE MINISTER OF MUNICIPAL AFFAIRS RESPECTING  
THE TOWN OF DIDSBURY PROPOSED ANNEXATION OF  
TERRITORY FROM MOUNTAIN VIEW COUNTY**

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**EXECUTIVE SUMMARY**

In the annexation process the Municipal Government Board (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 Town of Didsbury (Town) is located in Mountain View County (County), approximately 72 km north of Calgary, and 72 km south of Red Deer. The Town has applied to annex approximately 952 hectares (2,352 acres) of land. The purpose of the annexation is to accommodate residential and industrial development.

On January 15, 2008 the MGB received the required negotiation report from the Town along with a letter requesting the MGB to proceed with the annexation. The Town and County had reached an agreement regarding the annexation application and there were no matters that had not been agreed upon by the two municipalities.

The MGB reviewed the documentation provided by the Town and determined that the application contained two objections from affected landowners. In accordance with the *Municipal Government Act* (Act), the MGB held a public hearing on March 5, 2008 to receive information, evidence and argument on the annexation proposal. The general public was notified of the hearing through advertisements placed in the local newspaper.

At the March 5, 2008 hearing the MGB received oral submissions from both landowners that had objected to the annexation. Both landowners objected to their farm property being annexed to the Town, stated that Town bylaws would adversely affect their farming operations/lifestyle, and voiced concerns regarding the public consultation process.

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 identified in the Town's application should be allowed to proceed with an effective date of October 1, 2008. The MGB finds that the amount of land and boundary being proposed by the Town is reasonable. The MGB is satisfied that the number of meetings and one-on-one discussions with landowners and the public demonstrates a sincere attempt on the part of the Town to conduct a thorough public and landowner consultation process. Finally, the MGB was not convinced that the bylaws of the Town would create a severe enough detriment to the farming operations of the landowners to remove these lands from the annexation.

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### **I Introduction**

The Town of Didsbury (Town) is located in Mountain View County (County), in south-central Alberta. This community of 4,275 is situated near Highway 2, approximately 72 km north of Calgary, and 72 km south of Red Deer. As the County seat and regional centre, the Town boasts over 130 businesses providing goods and services to a market area estimated at 25,000 people.

On August 22, 2007 the Town provided written notifications to the County, the Municipal Government Board (MGB) and other local authorities of the Town's intent to annex approximately 952 hectares (2,352 acres) of land from the County. The notification listed the legal descriptions of the lands being proposed for annexation and identified the process that would be used for soliciting landowner and public input. The notification stated that the annexation would allow the Town to remain a vibrant urban service centre.

The MGB received the Town's annexation application on January 15, 2008. The application stated that the Town and County had reached an agreement regarding the annexation application and there were no matters that had not been agreed upon by the two municipalities. The application states that the proposed annexation was negotiated as part of an intermunicipal development agreement between the two municipalities.

Although there was general agreement with the proposed annexation, the application contained two objections from affected landowners. In accordance with the *Municipal Government Act* (Act), the MGB held a public hearing on March 5, 2008 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 landowner issues, identifies the MGB annexation processing methodology, summarizes the March 5, 2008 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.

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If the MGB finds that there is general agreement but an objection has been filed, the MGB must conduct one or more public hearings (section 120(3)(b) of the Act). The MGB may investigate, analyze and make findings of fact about the annexation. The MGB must prepare a written report of its findings and provide a recommendation to the Minister of Municipal Affairs (Minister) and the Lieutenant Governor in Council (LGC). The Minister and the LGC have the authority to accept in whole or in part or completely reject the findings and recommendations of the MGB report.

### **III Annexation Application**

As stated previously, the MGB received the Town's annexation application on January 15, 2008. The following section describes the public consultation process used to develop the application, the annexation agreement between the Town and the County, the proposed assessment and taxation conditions requested by the Town, and the issues identified by the affected landowners.

#### **The Public Consultation Process**

The Town's public consultation process provided opportunities for affected landowners and the public to become informed about the proposed annexation and to express their opinions.

#### **Landowner Consultation**

At the start of the annexation process, which was undertaken in conjunction with the preparation of an intermunicipal development plan, a map showing the proposed "Short Term Annexation" lands was mailed to landowners as well as owners of neighbouring properties within one mile of the proposed annexation areas. The mailout included an invitation to attend landowner information meetings to discuss the proposed annexation and the intermunicipal development plan.

On July 10 and July 24, 2007, the Town and County held landowner information sessions. The target audience included landowners within the proposed annexation area as well as landowners who were part of the intermunicipal development plan. In total, 221 persons were invited, of which 121 attended one of the sessions. These information sessions attracted people whose lands were within the proposed annexation area; landowners wishing to be part of the annexation, and people with a general interest in the planning and development areas.

During the information sessions, landowners expressed concerns regarding the size of the annexation as well as tax implications. Through phone calls and e-mails prior to and after the event, many of the questions raised at the landowner information sessions were answered.

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The information sessions determined that many of the people living in Mountain View Estates and Rosebud Estates along with several County farmland owners had no desire to be annexed by the Town. Therefore, on August 17, 2008 the members of the Intermunicipal Planning Committee examined other options pertaining to lands which should be annexed. As such, some boundary and land use changes were made to both the proposed annexation and intermunicipal development plan fringe and referral areas.

On August 29, 2007 the Town hosted an open house to allow the landowners the opportunity to share their thoughts about the annexation and ask questions directly to the Town of Didsbury elected officials. Approximately 50 persons attended this session.

Thirty-eight parcels of land were identified to be part of the proposed annexation. The Town was able to obtain signed landowner consent forms for a total of nineteen of these parcels.

### **Public Consultation**

On October 11, 2007 the Town and County Councils hosted a joint public hearing to solicit public input regarding the Intermunicipal Development Plan and to present information on the proposed annexation.

### **Identified Landowner/Public Issues**

Written concerns were presented to the Town and County during the course of the landowner meetings and open houses. The written concerns contained in the annexation application are summarized below.

George and Louise McDonald and Grant and Lorraine McDonald stated they were opposed to the annexation on the basis of the conflict that may arise between the bylaws of the Town and their farm operations. Approximately 140 acres of the party's base land of operation has been included in the industrial area of the annexation. This property makes up the parties primary farm yard and comprises the main grain storage, the drying area and the heated shop for the farm machinery. The parties contend that it is not feasible to move the buildings and machinery since a very large investment has already been made. The parties question why it is necessary to include their main farm site in the annexation while leaving a full quarter section of their land on the south side of the Highway out of the annexation.

The Town solicited input from Alberta Transportation (AT). AT had no objections to the annexation.

Following the July 10 and July 24, 2007 information sessions, exit surveys were tabulated with respect to questions pertaining to the annexation. Several surveys indicated concern over the size

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of the annexation application and question whether the Town would be able to retain its small town uniqueness and desirability upon increasing by such a substantial size. Many of concerns of residents related to changes that might come out of new tax assessments. There were several people who expressed concern over the types of land uses that had been presented at the meetings.

**The Annexation Agreement with Mountain View County**

Representatives from the Town and County met several times to discuss the proposed annexation and were able to negotiate an agreement. The application states that there are no matters related to the annexation application that have not been agreed upon by the Town and County. The Town and County have agreed to the following:

- 1) All of the lands shown as “Short Term Annexation Areas” on the “Intermunicipal Development Plan Map 1” on being annexed to the Town.
- 2) Mutual cooperation in signing the “Memorandum of Understanding”, the annexation process and the preparation of an intermunicipal development plan. Both municipalities agree to cooperate to ensure that the Town’s application is granted. The County agrees to provide written confirmation that it is not opposing annexation.
- 3) The County has agreed to transfer all municipal reserve, environmental reserve, public utility lots and road rights-of-way within the annexation area to the Town at no cost. The County has agreed that all interests in lands, including deferred reserve caveats, easements and utility rights-of-way, in the County’s favour will be transferred to the Town.
- 4) The date that will be requested as the effective date of annexation will be January 1, 2008.
- 5) a) In this section, “compensation amount” means the amount of taxes payable to Mountain View County under Part 10 of the *Municipal Government Act* in respect of the annexed land for the 2008 taxation year.  
b) The Town of Didsbury will pay Mountain View County
  - i) the sum of \$25,685.22 in Canadian money or the amount calculated each year according to section 6, “Treatment of Annexed Properties”
  - c) Payment shall be made within 30 days of the tax due date in effect within Mountain View County during the year to which the taxes are due and collectable for each year for the period 2008 to 2017 or for such 10 year period starting from the date of the Board Order with respect to annexation is made effective by the MGB
  - d) These funds are equivalent to the amount of municipal taxes, exclusive of any requisition and taxes on linear assessment, which would have been payable to Mountain View County under Part 10 of the *Municipal Government Act* in respect of annexed land in the 2007 tax year

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**Proposed Assessment and Taxation Conditions**

Based on the negotiations with the County and responses to concerns raised by the landowners, the Town requested the following assessment and taxation conditions be attached to the Order in Council.

1. For taxation purposes in 2008 and in subsequent years until December 31, 2017, the annexed lands and the assessable improvements to it:
  - a. Must be assessed by the Town of Didsbury on the same basis as if they had remained in Mountain View County, and
  - b. Must be taxed by the Town of Didsbury using
    - i. The municipal tax rates established by Mountain View County, or
    - ii. The municipal tax rates established by the Town of Didsbury, whichever is lower
2. Section 1 ceases to apply to a portion of the annexed land and the assessable improvements to it in the taxation year immediately following the taxation year in which
  - a. The portion becomes a new parcel of land created as a result of subdivision or separation of title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner, except for the subdivision of an existing farmstead from a previously un-subdivided quarter section,
  - b. Becomes a residual portion of 16 hectares or less after a new parcel referred to in clause (a) has been created,
  - c. The portion is redesignated, at the request of or on behalf of the landowner, under the Town of Didsbury Land Use Bylaw to a designation other than agricultural or urban reserve,
  - d. The portion is the subject of a local improvement project described in a local improvement bylaw initiated by or with the support of the landowner pursuant to which the Town of Didsbury water and sewer services are made available to the land, or
  - e. The portion is connected to the water or sanitary sewer services provided by the Town of Didsbury.

The Town also acknowledges that the annexation process is being completed at the request of the Town of Didsbury and as such the Town will be responsible for all costs incurred by Mountain View County to retain the services of the consultants required to complete the annexation application process. Total cost not to exceed \$15,000.

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**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 March 5, 2008.

**MGB Application Processing**

In accordance with section 118 of the Act, the Town submitted the required Negotiation Report to the MGB on January 15, 2008. A letter requested the MGB to accept the Report and accompanying package as the Town's official annexation application. The package submitted by the Town included a copy of: the Town of Didsbury Municipal Development Plan, the Mountain View County/Town of Didsbury Intermunicipal Development Plan, resolutions passed by the Town and County Councils approving the negotiation report and a cheque for the annexation fees.

Although both the Town and County were in agreement with the annexation, the application contained objections from landowners. 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 am on Wednesday, March 5, 2008 at the 5-0 Club in Didsbury, Alberta.

On January 31, 2008 the MGB sent letters to the Town and County with copies to each of the affected landowners to notify the parties of the March 5, 2008 hearing. The letter requested any affected landowner that planned to attend the hearing or make a submission at the hearing to notify the MGB on or before February 27, 2008. The MGB also published hearing notices in the February 11, 2008 and February 28, 2008 editions of the **Didsbury Review**, a newspaper circulating in the affected area. The newspaper notifications also requested that anyone that planned to attend the hearing or make a submission at the hearing should notify the MGB on or before February 27, 2008.

The MGB received objections to the proposed annexation from George and Louise McDonald, owners of the land located at the south part of SE 24-31-2 W5, and Grant and Loraine McDonald, owners of the land located at the south part of SW 24-31-2 W5. Both parcels of land are within the proposed annexation area. The written submissions received by the MGB were provided to the panel and the two municipalities prior to the hearing.

At the hearing, the MGB received submissions from the Town, the County, and affected landowners/general public. Twenty-eight people completed the registration form at the March 5, 2008 hearing.



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**Town's Submission**

Jeff Greene, Planning Consultant, made the Town's presentation to the MGB.

This annexation request is the culmination of two years worth of effort, which has resulted in the preparation of a "Memorandum of Understanding" (MOU) and "Intermunicipal Development Plan" (IDP) between the County and the Town. The IDP defines growth, servicing, and cost and revenue sharing associated with the Town's annexation.

The Town has grown significantly in recent years, particularly with respect to residential development. Since 1951, the Town's annual growth has averaged 5% per annum. However, a study of residential construction from 1996 to the present year demonstrates dramatic growth. Annual housing starts have increased from 20 units in 1998 to nearly 80 units in 2006. Housing starts are expected to increase significantly in the near term as the new community of Fieldstone is built and the limited supply of available housing decreases. It is expected that the Town will reach a population of 11,910 persons by 2027, representing an increase of over 7,600 persons.

In estimating population growth, the Town has looked to other communities in the Calgary region which has experienced similar growth pressures. As a means of comparison, in the core of the City of Airdrie (City) residential construction occurred initially followed by an increased need for the availability of industrial land. This increased need for industrial land was a natural progression, which helped the City balance its residential and commercial/industrial assessment base so that it could provide adequate services to residents without overburdening the landowners. It was noted that, currently the Town has an 89% residential land and 11% commercial/industrial assessment split. The annexation being proposed by the Town is designed to meet both future residential and commercial/industrial needs. The proposed annexation will provide the Town with the land inventory it needs to facilitate a shift towards the desired 70% residential and 30% commercial/industrial assessment split.

The County and Town IDP identify the need for the Town to acquire a 20 year supply of land for its own internal growth as well as the preservation of land for future urban development. The Town's current land consumption necessitates a comprehensive annexation of lands to ensure that the Town can continue to grow at an average rate of 5% per year over the next 20 years. It is the opinion of both municipalities that an average growth rate of 5% per year is manageable and is an accurate reflection of the anticipated growth. As such, the Town anticipates that, over the next 20 years, an average of 150 new homes will be added per year. To accommodate future growth, the Town requires 1,487 developable acres – 647 acres of residential land, 840 acres of commercial/industrial and 297 acres for other land uses. The inventory of vacant developable land within the Town includes 279 acres of residential land and 53 acres of industrial land, totaling 332 acres. As such, 1,452 acres of new land is required.

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A comprehensive review of all lands within and around the Town was performed to determine suitability for future urban growth based on existing land base, roadways, utility servicing, physical constraints, growth opportunities, and landowner preferences. Further, the Town was influenced by a number of principles in determining which lands would be most suitable. These principles included: considering where existing municipal services are located and determining how they could be efficiently extended; planning for roads to be ‘double fronted’ to promote efficient and uniform standards; reducing the loss of good agricultural lands when possible; avoiding areas that are challenged due to constraints like pipelines or sour gas wells; preserving important recreational/environmental areas; ensuring the annexed land is contiguous to the Town; determining if the land can be serviced in the foreseeable future; preserving the character of the community; protecting and enhancing the valleys, and; meeting landowner, County and Town objectives.

Specific areas located to the north, west and south of the current Town limits were found to be best in meeting the criteria for urban development. These lands tend to create a more “contiguous” urban boundary and a more “concentric” form of community, rather than an extended linear growth pattern that would require additional investment to extend infrastructure in other directions. The recommended growth strategy directs short term residential growth to the south and west of the current Town corporate limits. Furthermore, there is an opportunity to develop a new golf course and estate community in the southeast and long term residential expansion has been identified for lands in the northeast. New industrial growth is recommended north and west of the existing Didsbury Industrial Park, along Secondary Highway 582 and the CPR lines abutting the Rosebud River valley. This growth strategy assumes that growth within the existing Town corporate limits will be distributed in conformity with the Municipal Development Plan (MDP). Preferred future growth directions to accommodate growth beyond the 20 year period include lands to the west, south and north. These areas can provide large parcels that can be efficiently integrated with the planned system of urban arterial roadways and intersections.

Much of the annexation area is currently outside of the scope of the Town’s long term servicing studies. However, water will be brought into the areas from existing lines in adjacent neighbourhoods. The supply of water is not anticipated to be problematic. Further, new sewer trunk lines will have to be installed to service the annexation lands. These lines will provide enough capacity to service the entire annexation area. The Town is presently in discussions with regional partners with respect to a long term solution with respect to wastewater treatment and disposal. Stormwater management plans for all annexed areas will need to be completed as part of an Area Structure Plan and/or as an update to the current stormwater management plan. There are existing natural drainage features in some of the areas that can easily provide a framework for the development of the future drainage system.

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The Town indicated that it engaged in a thorough public consultation effort as part of the annexation process. As part of this process, the Town took part in intermunicipal discussions with the County, solicited feedback from County landowners and Town residents, confirmed the lands to be annexed and subsequently submitted a formal annexation application.

As a result of the public consultation process, the Town modified its proposed annexation. The initial option discussed in the course of intermunicipal and public consultation met the Town's land requirements as well as addressed river valley protection concerns. Further, the option presented contiguous plots of land which could be efficiently serviced, while promoting a compact and concentric community. However, while the majority of landowners were in support, a number of concerns were expressed by some of the landowners. As a result, the Town developed as a variant of the original option. This option provided for greater flexibility to accommodate landowners who did not want to immediately develop. It was noted that this option meets the Town's land requirements and constitutes a contiguous plot of land and can be serviced. Further, this option addresses all new development plans and removes most lands where concerns were previously raised.

As a result of the process, the Town and County have agreed upon the annexation and included it as part of the Mountain View/Didsbury Intermunicipal Development Plan (DIP), Bylaw 2007-23. The IDP establishes the Town's growth areas, fringe areas, referral areas, and areas of interest. Further, the IDP establishes mutual servicing as well as revenue and cost sharing principles.

The Town noted that the development of annexed lands will be subject to future MDP and ASP planning studies, which will include opportunities for public input. Existing County land uses will be respected and can continue under the provisions of the annexation agreement.

### **County's Submission**

Dave Dittrick, Planning Consultant, made the County's presentation to the MGB. Mr. Dittrick confirmed that the County had negotiated an annexation agreement with the Town and that the County is in favor of the annexation. In 2004, the Councils of six municipalities (Mountain View County, Carstairs, Cremona, Didsbury, Olds and Sundre) approved the formation of the Intermunicipal Cooperation Steering Committee (ICSC) to be the working group for the six municipalities. Included in the successes of this group was the development of a consistent Intermunicipal Development Plan negotiation procedure between the County and each of the urban communities looking to annex lands. A common template for an Intermunicipal Development Plan Agreement, as a result of this agreement, provides for each annexation to include land for 20 years of growth and to identify a fringe area reserved for future annexations that provides for a further 20 years of growth. Further, a Memorandum of Agreement (MOA) has also been adopted with each community, which addresses such issues such as recreation and culture

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program funding, property tax sharing, and water and wastewater access for developments in the County.

With respect to the annexation agreement reached, the treatment of annexed property was important to County Council. The County supports a 10 year assessment and taxation period whereby annexed properties will be taxed on the same basis as if they had remained in Mountain View County. This taxation relief will cease if the property is subdivided, is redesignated at the request of the landowner to a land use other than agriculture or urban reserve, is subject to a local improvement bylaw initiated by or with the support of the landowner, or is connected at the request of the landowner to water and sanitary services from the Town. It should also be noted that the Town's taxation rate for agricultural land mirrors that of the County, therefore, those annexed properties desiring to remain in agriculture will be taxed on the lands at the same rates as they have been historically.

**Landowner/Public Submissions**

At the hearing, the MGB received presentations from Grant McDonald and George McDonald.

**Grant McDonald**

Grant McDonald indicated that he is not opposed to the annexation, but rather questions the growth projections and the need for his land to be included in the proposed annexation area. Mr. McDonald stated that the Town's population has grown by 27.4% in the last 15 years. This rate of growth requires only three to four additional quarter sections, as opposed to the 16 quarter sections proposed by this annexation, which would in essence triple the size of the Town. Further, Mr. McDonald indicated that the growth rate calculations are questionable, in consideration of the fact that a recently built high school in the Town is almost full to capacity. He questioned why the Department of Education would not have taken the same projected increase in population into consideration when building the school, and suggested that a different growth rate must have been used. Mr. McDonald also indicated that the Town currently has 47 acres of land that was sold to an industrial plant seven years ago. This industrial land has been on the market for the past three years without any interest from buyers. This, in Mr. McDonald's opinion, indicates that the Town has sufficient commercial land available for industrial use.

Mr. McDonald also expressed concern over the number of bylaws and regulations that he would be subject to in order to satisfy the safety and lifestyle of the residential population, and the inherent restrictions that would be placed on his business and farming operations.

Again, Mr. McDonald reiterated that he is not opposed to the annexation but believes that it would be better to develop the land to the east of the Town, next to Highway 2A and 582 where the traffic flow is better, as opposed to the land currently proposed to be annexed. It is his

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position that Highway 2A and 582 are better suited for the proposed annexation and subsequent growth as it can accommodate the heavy truck traffic that will be inherent. Further, he indicated that this land has been the object of substantial offers by developers, thus indicating that the land and its related infrastructure are more desirable. As well, the classification of these Highways is better than that of Highway 582 to the west of the Town, which will lead to a wider road and better maintenance and repairs. Further, Mr. McDonald indicated that a study of the by-pass road of Highway 582 was completed a few years ago by the provincial government but has not been acknowledged in the annexation process by the Town or County. The study indicates that Highway 582 has limited and will likely have to be upgraded within the next 20 years. As such, the land next to the highway would not be required by the Town to gain access to the north. Mr. McDonald emphasized that he is not seeking to inhibit growth, but suggests that the lack of access to the north should have had a more significant impact on the annexation plan.

As the Highway 2A and 582 intersection provide a much better business opportunity, it is Mr. McDonald's belief that the County was aware of this practical reality throughout its negotiations with the Town. However, as the County already had an industrial subdivision in the proposed area, it was looking to expand the water and wastewater services with the assistance of the Town. It is Mr. McDonald's belief that, with the County competing with the Town for commercial and industrial land, the Town will continue to have difficulty attracting new business. Proportionately, when compared to other urban municipalities, the Town should require less commercial and industrial land as the County will supply it in adjacent parcels.

Mr. McDonald presented a number of limitations placed on the farm as a result of the farm becoming part of the Town and thus, being subject to the Town's bylaws. In particular he referenced that his hours of operation would be constricted by noise bylaws; pest control limited by firearm bylaws; residual management by burning bylaws; use of fertilizers (NH<sub>3</sub>) and herbicides by dangerous goods regulations; water supply would be affected by the water supply in Town; ability to scout fields inhibited by regulations controlling off highway vehicles; and generally his freedom to take any number of different actions would be limited by the injurious occupation regulations. In support of his contention that the bylaws of the Town are not as well suited to the activities regularly performed on his land, as compared to the bylaws of the County, and thus will have a detrimental effect on farming operations, Mr. McDonald referenced MGB 107/97. It is Mr. McDonald's position that a similar situation should apply here. Further, the affected landowners suggested that the annexation of prime farmland into the Town goes against the County's policies, goals and objectives.

In regard to the land owned by himself, Mr. McDonald indicated that he and his family have invested a great deal of capital into improving the land and that many of the improvements are necessary for farming to continue. He estimates that it would cost approximately \$700,000 to relocate the buildings or rebuild to replace the existing farming operation. Further, he indicated that he believes a number of the Town bylaws that would be applicable to the farm upon being

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annexed into the Town would place limitations on the farming operations. In addition, Mr. McDonald stated that the family made a conscious choice to build their home as far away from industrial development as was possible at the time. With young children at home, it had been his hope that it would be at least another 15 years before the land became subject to an annexation proposal. Mr. McDonald stated that the annexation would not allow his children to be bussed to school, drive their quads, care for a horse, among various other limitations that the Town bylaws would place on the family's enjoyment of life and daily lifestyle. Further, Mr. McDonald stated that his property was prime agricultural land and that the annexation of prime farmland into the Town goes against the County's policies, goals and objectives.

Mr. McDonald stated that he objected to his land being included in the annexation at the first public meeting, but was not given the opportunity to fully voice his objections. However, he noted that at the second public meeting his land was not included in the proposed annexation, and therefore did not make any additional comments. When the land was put back into the proposed annexation area, he was not approached by the Town nor the County. Mr. McDonald voiced his discontent with the fact that neither the Mayor, the County Reeve, a Town/County Councilor, the Chief Administrative Officer nor any other representative of the Town or the County approached him to resolve the issues. He noted that neither the Town nor the County seemed to be aware that there were two different owners involved until after the negotiations were concluded.

In conclusion, Mr. McDonald reiterated that he is not opposed to the growth and development of the Town through annexation. However, he suggested that, as the Town and County have agreed to review the growth and land requirements every three years, leaving his land out of the currently proposed annexation would allow him the time to raise his family in the lifestyle they have chosen, allow him to continue farming, give him the time to adjust the farming operation to account for the changes that will be brought about by the annexation, allow the Town time to prove its growth predictions, allow Highway 582 to be upgraded and modified, and will prevent the Town from being inhibited in its growth to the North.

**George McDonald**

George McDonald stated that he supports the presentation made by Grant McDonald. He further indicated that he agreed to the annexation of 100 acres of his farmland in the SW-13-31-2-W5 which adjoins the proposed development of a residential community. He noted that a subdivision is currently being developed in that area and the inclusion of his land will allow an extra 100 acres if needed. However, he does not intend to take his land out of farming production at the current time and would only consider doing so if the development expected occurred.

Mr. McDonald indicated that he is concerned that the farmland will not be protected passed the 10 year annexation and assessment period when the Town tax rate is applied. Further, he is

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concerned that the proposed annexation will affect what he can and cannot develop on his property in accordance with the new bylaws. Mr. McDonald contends that there are no assurances that Town bylaws and regulations, either in the present or future form, will not have an effect on their farm operation. Finally, he indicated that the land is part of his estate and will be passed on to Grant McDonald in the future, thus the concerns and preferences express by Grant should be taken into consideration with respect to this property, as well.

### **Town Response to the Landowner Submissions**

#### **Consultation Process**

In response to the comment by Grant McDonald that he was not consulted with regard to the inclusion of his land in the proposed annexation, the Town indicated that it conducted a great deal of consultation with the public, including the hand delivery of letters to Grant McDonald and George McDonald on January 25, 2008. The Mayor acknowledges that the Town may have been confused and thought that both properties were owned by George and Louise McDonald, while in reality one parcel is owned by Grant and Lorraine McDonald while the other parcel is owned by George and Louise McDonald. The Town indicated this may have been the reason why both landowners were not notified, as the Town was not aware of the true ownership of land.

#### **Growth Projections**

The Town indicated that the projections referenced by Grant McDonald are those of the province and are utilized in capital projects. However, the Town stated that, as a result of other towns in the area experiencing a much higher growth rate, these projections are changing and it is difficult to apply developed rates across the entire province consistently.

#### **Absorption of Land**

The projections on current development is upwards of 1,600 units and there is a desire for more. It is the Town's position that there is a need to annex more industrial land to balance the assessment base. The Town contends that the most logical area for industrial/commercial growth in is in the area to the north west.

#### **Highway 582 Study**

The Town indicated that the Highway 582 study referenced by Grant McDonald was undertaken by the Province and did not include the involvement of the Town. It has been the experience of the region that growth must happen before the Province will 'react' and upgrade the roads. As

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such, it is the Town's position that this plan is no more than a conceptual plan that does not affect development. However, development may assist in pushing the plan forward.

**Industrial/Commercial Development**

The Town noted that the land referenced by Grant McDonald as having been on the market for three years without much buyer interest, has recently been serviced. As a result, the lands have received more interest from buyers.

**Prevailing Winds**

The Town noted that the Land Use Bylaw (LUB) is being changed to limit the type of development that is permitted in the area and emphasized that it is not intended that the lands be developed to be a 'smoke stack' area.

**Development of County Lands along Highway 2A Before Town**

In response to Grant McDonald's suggestion, the Town indicated that the IDP makes the Town and County partners and that the appropriate infrastructure must be in place before any development can occur.

**Gas Line Issue**

The Town indicated that, as part of its due diligence, it met with the Alberta Energy and Utility Board and Nexxon, as well as 'other service providers', with regard to pipelines and sour gas wells to the north east of the municipality. The Town indicated that one company official indicated that he would not recommend building in that area.

**Coaldale Annexation**

In response to Mr. McDonald's reference to the Coaldale Annexation (MGB 107/97), the Town indicated that the emphasis of that order was on intermunicipal cooperation and comprehensive planning. The Town indicated that it was working with the County in a cooperative manner, as is exhibited by the IDP.

**Lifestyle Concerns**

The Town provided the following responses to the lifestyle concerns identified by Grant McDonald:



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Busing

The Town indicated that this is an issue for the school board to deal with and should not be considered an annexation issue.

Quads

The Town indicated that quads are permitted by the Town bylaws, but are not permitted to be driven on streets and roads.

Horses

In response to the concern of Grant McDonald that his children would not be able to care for horses should his land be annexed, the Town stated that there are other situations where horses are being kept within the Town. As such, this concern is unnecessary.

Urban Reserve District (UR)

The Town indicated that designation as an Urban Reserve District reflects the uses that currently exists. As such, if the land is being used for agricultural purposes, it will continue to be allowed. The Town stated that it currently has land that is still being farmed within its boundary. Moreover, the Town asserted it has not received any complaints regarding this land use.

Fireworks

In response to the concern of Grant McDonald that his children would no longer be able to set off fireworks on his land should it become part of the Town, the Town indicated that the allowance for the use of fireworks is a provincially mandated issue that is out of its control.

Fire/Burning of Garbage

The Didsbury and District Fire Department is the authority in this area, thus any concerns as to activities involving fire or burning of garbage should appropriately be directed to it.

Noxious Operations

The Town indicated that this bylaw was basically enacted as a nuisance bylaw to control such behavior as yelling on the streets after bars close. Its enactment was requested by the RCMP as an alternative to a curfew bylaw.

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The Town stated that there are numerous cases where agricultural operations exist in urban settings. The purpose of annexing the disputed lands was to increase the balance between residential and industrial/commercial land. The Town indicated that it required these lands in order to improve the between residential and commercial/industrial assessment ratio.

**County Response to the Landowner Submissions**

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

**V. MGB Recommendation**

After reviewing the documentation provided prior to the hearing as well as listening to the presentations by the parties affected by the proposed annexation, the MGB makes the recommends that the annexation of the lands indentified in the Town's application should be allowed to proceed with an effective date of October 1, 2008.

Land Needed for Residential and Commercial/Industrial Land Requirements

The MGB is comfortable with the amount of residential land being requested by the Town. The MGB acknowledges that the annual growth rate of the Town has been 5% since 1951. Moreover, the MGB accepts that the Town will expand at an average growth rate of 5% per year for the next 20 years, reaching a population of 11,910 persons by 2027, and that the Town will require an additional 647 acres of land to accommodate residential growth.

The MGB was informed that the Town currently has only 54 acres of available industrial/commercial land within its boundary. This clearly demonstrates the Town's need for the additional industrial/commercial lands being requested by the Town. Moreover, the growth projections for industrial/commercial lands, necessitating 840 acres of land, are reasonable. Further, it was noted that the commercial/industrial growth is recommended north and west of the existing Didsbury Industrial park, along Highway 582 and the CPR lines abutting the Rosebud River Valley. Growth in this direction will make the provision of municipal services to this area more efficient.

The MGB heard that a comprehensive review of the lands within and around the Town was conducted and that water, wastewater, stormwater and roads can be efficiently extended to the lands identified in the annexation application. The MGB finds that the lands being requested by the Town can be serviced from logical extensions of existing areas. While much of the annexation area is currently outside the scope of the Town's long term servicing studies, water can be brought into the areas from existing lines in adjacent neighborhoods and new sewer trunk lines can be installed. Further, it was noted that the Town is in discussion with regional partners with respect to a long term solution regarding wastewater treatment and disposal and it was

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indicated that there are existing natural drainage features in the area that can easily provide a framework for the development of the future drainage system. The MGB did not hear any concerns from the Town, the County, the affected landowners or the public regarding the financial capability of the Town to accommodate the provision of these services.

The MGB finds the direction of growth is rational. The MGB was informed that the Town is attempting to grow in a manner that will minimize the removal of prime agricultural land from production and that the two municipalities considered the preservation of environmental as well as recreational areas during their negotiations. Further, the Town is proposing a concentric growth pattern rather than an extended boundary in a linear manner. This can make the provision of municipal services more efficient and may assist the municipality to retain its unique identify.

### Intermunicipal Cooperation

Provincial policies emphasize the need for neighbouring municipalities to demonstrate intermunicipal cooperation. The Town and County are to be commended on their efforts in reaching an agreement on this annexation which appropriately addresses the needs of each municipality and the majority of the affected landowners. As a result, the MGB gave considerable weight to this display of intermunicipal cooperation in reviewing this annexation application. The annexation is supported by the IDP adopted by the Town and County. The thrust for intermunicipal cooperation envisioned by the Act and Provincial Land Use Policies (PLUP) is well demonstrated in this annexation proposal through the IDP and the annexation agreement. Further, the MGB finds the successful negotiations with the County and consenting landowners to be demonstrative of the effective use of the concepts outlined in the Provincial Land Use Policies for encouraging intermunicipal cooperation and the intermunicipal coordination of land use planning.

### Public and Landowner Support

The MGB finds that the consultation process conducted by the Town prior to submitting the annexation application was comprehensive. Affected landowners, the public, other local authorities and AT were given opportunities to provide input regarding the annexation process. Modifications made by the Town to the annexation boundary demonstrate that the input obtained through the consultation process was given serious consideration. Moreover, the Town and County agreed to a ten year assessment and taxation transition period in order to address tax concerns from affected landowners. Moreover, the conditions requested by the Town do not infringe upon local autonomy or unnecessarily impact individual rights.

During the annexation process, several concerns were raised which the MGB is satisfied have been resolved or can be resolved in the processes following the annexation of the lands. The MGB is satisfied with the growth projections provided by the Town, despite Mr. Grant

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McDonald's questioning of their accuracy. The MGB finds that the Town applied an accepted growth analysis and has substantiated the projections to the satisfaction of the MGB. Further, the MGB finds that the Town and the County have identified growth areas, which should provide more certainty for future development.

It was suggested by the affected landowners that the commercial/industrial development should occur to the east of the Town as Highway 2A and Highway 582 can better accommodate the heavy truck traffic. However, the MGB notes that development on this land is constrained due to the underlying pipelines and finds that proposed commercial/industrial development on the lands to the west of the Town is the best suited for the proposed annexation. Further, the affected landowners suggested that the annexation of prime farmland into the Town goes against the County's policies, goals and objectives. However, the MGB finds that the proposed annexation constitutes good planning and notes that the existing use of the subject lands will continue to be allowed, thus there is no negative impact on farming operations. Further, the MGB gives substantial credence to the assertions of both the Town and County that the affected landowners will not be unreasonably restricted with regard to their farming operations unless the land is needed for development.

An affected landowner contends that the annexation will be detrimental to his farming operation and cited MGB Board Order 107/97 in which lands were removed from an annexation because the bylaws of the rural municipality were better suited than bylaws of the urban municipality. The MGB is not convinced that Board Order 107/97 is applicable in this situation. Board Order 107/97 states that the MGB heard evidence that the tree nursery in question produces a crop that takes ten to twelve years to mature. The MGB found that the crop maturity period demonstrated that "the area is intended to remain in use for long term agricultural purposes". Moreover, the reference to the rural bylaws being better suited than the urban bylaws was specific to the "operational needs of the nursery" and was not generalized to other farming operations in Board Order 107/97. The affected landowner objecting to the annexation of his land does not operate a tree nursery.

The MGB is also satisfied that the lifestyle concerns of the affected landowners have been sufficiently addressed by the Town. The MGB finds that many of the concerns of the landowners, including bussing, setting off fireworks and the burning of garbage are local matters and are beyond the scope of an annexation. Further, the MGB notes that the Town currently has land within its boundary that is being used for farming purposes. The Town indicated that it is not aware of any farm operations related conflicts. In addition, the MGB accepts the Town's explanation as to why a nuisance bylaw was enacted and the behavior it sought to curb.

The MGB finds that, given the effort of the Town and the County to establish a process which enables a logical evaluation of annexation through the annexation process, the MGB is of the opinion that the annexation agreement reflects the local needs and concerns.