

BOARD ORDER: MGB 148/08

FILE: AN07/SEXS/T-1

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 Sexsmith, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the County of Grande Prairie No. 1.

BEFORE THE MUNICIPAL GOVERNMENT BOARD

Members:

T. Golden, Presiding Officer
L. Patrick, Member
D. Thomas, Member

MGB Staff:

R. Duncan, Case Manager
C. Young, Assistant Case Manager

SUMMARY

After examination of the submissions from the Town of Sexsmith (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 January 1, 2009, the land described in Appendix A and shown on the sketch in Appendix B is separated from the County of Grande Prairie No. 1 and annexed to the Town of Sexsmith,
- (b) any taxes owing to the County of Grande Prairie No. 1 at the end of December 31, 2008 in respect of the annexed lands are transferred to and become payable to the Town of Sexsmith together with any lawful penalties and costs levied in respect of those taxes, and the Town of Sexsmith upon collecting those taxes, penalties and costs must pay them to the County of Grande Prairie No. 1,

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- (c) the assessor for the Town of Sexsmith 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 9th day of December 2008.

MUNICIPAL GOVERNMENT BOARD

(SGD.) T. Golden, Presiding Officer

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**APPENDIX A
DETAILED DESCRIPTION OF THE LANDS RECOMMENDED FOR SEPARATION
FROM THE COUNTY OF GRANDE PRAIRIE NO. 1
AND ANNEXED TO THE TOWN OF SEXSMITH**

THE NORTHEAST QUARTER OF SECTION FOURTEEN (14), TOWNSHIP SEVENTY-THREE (73) RANGE SIX (6), WEST OF THE SIXTH MERIDIAN

THE SOUTHEAST QUARTER OF SECTION TWENTY-THREE (23), TOWNSHIP SEVENTY-THREE (73), RANGE SIX (6), WEST OF THE SIXTH MERIDIAN

ALL THAT PORTION OF SECTION TWENTY-FOUR (24), TOWNSHIP SEVENTY-THREE (73), RANGE SIX (6), WEST OF THE SIXTH MERIDIAN NOT WITHIN THE TOWN OF SEXSMITH

THE WEST HALF OF SECTION NINETEEN (19), TOWNSHIP SEVENTY-THREE (73), RANGE FIVE (5), WEST OF THE SIXTH MERIDIAN

THE WEST HALF OF SECTION THIRTY (30), TOWNSHIP SEVENTY-THREE (73), RANGE FIVE (5), WEST OF THE SIXTH MERIDIAN

THE SOUTHWEST QUARTER OF SECTION THIRTY-ONE (31), TOWNSHIP SEVENTY-THREE (73), RANGE FIVE (5), WEST OF THE SIXTH MERIDIAN

THE SOUTH HALF OF SECTION THIRTY-SIX (36), TOWNSHIP SEVENTY-THREE (73), RANGE SIX (6) WEST OF THE SIXTH MERIDIAN

THE SOUTHEAST QUARTER OF SECTION THIRTY-FIVE (35), TOWNSHIP SEVENTY-THREE (73), RANGE SIX (6) WEST OF THE SIXTH MERIDIAN

THE EAST HALF OF SECTION TWENTY-SIX (26), TOWNSHIP SEVENTY-THREE (73), RANGE SIX (6) WEST OF THE SIXTH MERIDIAN INCLUDING THE ROAD ALLOWANCE LYING SOUTH OF THE SAID HALF SECTION

ALL THAT PORTION OF SECTION TWENTY-FIVE (25), TOWNSHIP SEVENTY-THREE (73), RANGE SIX (6) WEST OF THE SIXTH MERIDIAN NOT WITHIN THE TOWN OF SEXSMITH

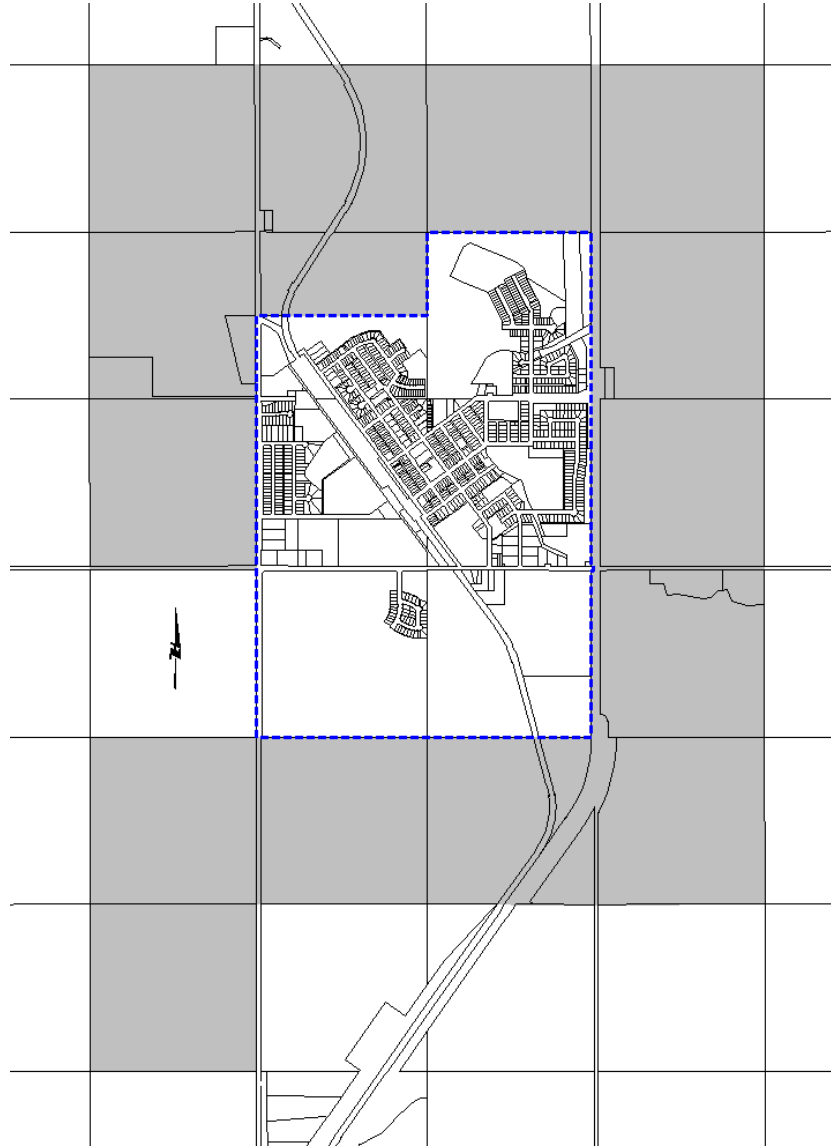
INCLUDING ALL INTERVENING ROAD ALLOWANCES, REGISTERED ROAD PLANS AND HIGHWAY PLAN RIGHTS-OF-WAY.

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
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APPENDIX B

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



LEGEND

 Annexation Areas

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APPENDIX C

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

2 For the purpose of taxation in 2009 and in each subsequent year up to and including 2059, the annexed land and the assessable improvements to it

- (a) must be assessed by the Town of Sexsmith on the same basis as if they had remained in the County of Grande Prairie No. 1, and
- (b) must be taxed by the Town of Sexsmith in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the tax rate established by the County of Grande Prairie No. 1.

3(1) Where in any taxation year a portion of the annexed land

- (a) becomes a new parcel of land created
 - (i) as a result of subdivision,
 - (ii) as a result of separation of title by registered plan of subdivision, or
 - (iii) by instrument or any other method that occurs at the request of, or on behalf, of the landowner,
- or
- (b) ceases to be used as farmland,

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

(2) If under subsection (1) section 2 ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the following year in the same manner as other property of the same assessment class in the Town of Sexsmith is assessed and taxed.

4 The Town of Sexsmith must pay to the County of Grande Prairie No. 1,

- (a) on or before August 30, 2009, 25% of the municipal property taxes levied in 2009 by the Town of Sexsmith on the annexed lands,
- (b) on or before August 30, 2010, 25% of the municipal property taxes levied in 2009 by the Town of Sexsmith on the annexed lands, and
- (c) on or before August 30, 2011, 25% of the municipal property taxes levied in 2009 by the Town of Sexsmith on the annexed lands.

APPENDIX D

MUNICIPAL GOVERNMENT BOARD REPORT TO THE MINISTER OF
MUNICIPAL AFFAIRS RESPECTING THE TOWN OF SEXSMITH
PROPOSED ANNEXATION OF TERRITORY FROM
COUNTY OF GRANDE PRAIRE

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Executive Summary

The Town of Sexsmith (Town) is located in northern Alberta, approximately 20 kilometres north of the City of Grande Prairie. The Municipal Government Board (MGB) received a negotiations report signed by the Town and County of Grande Prairie No. 1 (County) on an annexation application by the Town. The proposed annexation would allow the Town to ensure the long term planning for growth and development through the addition of the annexed lands. More importantly it would facilitate a long term intermunicipal working relationship between the Town and the County.

This annexation provides the Town with a fifty year land supply. The extent of the land area was encouraged by the neighbouring County to avoid ongoing and repetitive annexation discussions in the future. In the absence of an intermunicipal development plan between the Town and the County, this annexation provides the Town with additional control of development near its fringe as well as provides it with an opportunity to share in the diversity of the economic growth in the region, however it does not alleviate the neighbouring municipalities from pursuing intermunicipal planning in the future. These additional lands are strategically located to provide the Town with the opportunity to expand its non-residential land base and secure a sustainable financial tax base. These initiatives are fully supported by the County.

Although the Town and County were in agreement with regard to the proposed annexation, the objections of a landowner were brought to the attention of the MGB. In accordance with the *Municipal Government Act* (Act), the MGB held a public hearing on August 21, 2008 to receive information, evidence and argument on the annexation proposal. The MGB received several presentations at the hearing and fully considered these representations in making a recommendation for approval of this annexation.

It should be noted that subsequent to the MGB hearing a settlement was reached between the only landowner in the annexation area with an objection. All the main participants in the annexation are now in agreement.

The major issue arising in this annexation is the extent of the lands involved and the associated time horizon. The general historical rule of thumb for an annexation in Alberta has been a 30 to 35 year land supply and associated assessment and tax conditions ranging from five to fifteen years. This annexation proposes a 50 year time horizon. The MGB gave careful consideration and considerable weight to submissions of the Town and County and the specific facts related to this annexation before recommending this annexation be considered for approval by the Minister and Lieutenant Governor in Council.

After reviewing the documentation provided both prior and subsequent to the hearing, as well as listening to the presentations by the parties affected by the proposed annexation, the MGB finds that the purpose of the annexation and amount of land being requested by the Town is reasonable

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and that the concerns of affected landowners have been given proper consideration. The MGB is also satisfied that the agreed-to compensation of 25% of the municipal property taxes levied by the Town on the annexed land in 2009, to be paid to the County for each of three years, is not excessive and will not cause financial hardship for the Town. Moreover, the MGB reviewed the arguments and evidence of all the parties and concluded that it was in the greater public interest to recommend approval of the annexation. The collaboration between the two municipalities meets the objectives of intermunicipal cooperation outlined in the Provincial Land Use Policies, the annexation principles set out by the MGB, and most importantly the legislative intent of intermunicipal cooperation described by the legislators in the Act. The detailed reasons and the MGB's analysis of the proposed annexation is contained in Part VIII of this report.

I Introduction/Background

The Town is a community of 2,255 persons (2007) located in the County, approximately 14 kilometres north of the City of Grande Prairie. The Town acts as a residential centre for the County and a residential suburb for the City of Grande Prairie. As a result of the economic prosperity in the Grande Prairie region, the Town's population growth over the last five years has exceeded five percent per year and shows little sign of slowing.

The Town originally considered a smaller annexation in order to secure the land needed for a school. However, during the annexation process, the Town identified that it has a limited amount of industrial and commercial land within its current boundary and that over ninety-five percent of the Town's current assessment base is residential. The Town is now attempting to position itself to share in the regional prosperity and benefit from recently upgraded access to Highway 2 through this annexation.

The Town and County were able to negotiate an annexation agreement and the Town submitted its annexation application to the MGB. The County encouraged the Town to submit a much larger annexation than initially discussed for the school site.

During the application review process, the MGB identified that the assessment and taxation condition agreed to by the landowners did not identify a finite termination date. After consulting with the Town and the affected landowners, objections were filed with MGB. In accordance with section 120 of the Act, the MGB conducted a hearing on August 21, 2008.

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, summarizes the August 21, 2008 public hearing, provides the MGB analysis and provides a recommendation to the Minister/Lieutenant Governor regarding this annexation matter.

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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 annexation application.

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, written objections to the proposed annexation were filed by affected landowners after the annexation application had been submitted to the MGB by the Town.

Section 120(3)(d) of the Act requires the MGB to hold a hearing if objections are filed with the MGB. In addition 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). This report meets the obligations set out in section 120 of the Act.

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 Process

The following outlines the notice of intent to annex and annexation application received by the MGB.

Notice of Intent to Annex

Section 116 of the Act specifies the steps required to initiate an annexation. On January 25, 2007, the Town provided written notification to the County, the MGB and other local authorities of the Town's intent to annex lands from the County. The notification listed the legal descriptions of the lands being proposed for annexation and provided a proposal for soliciting landowner and public input. The notification stated the purpose of the proposed annexation was to secure land for residential and commercial development.

Annexation Application

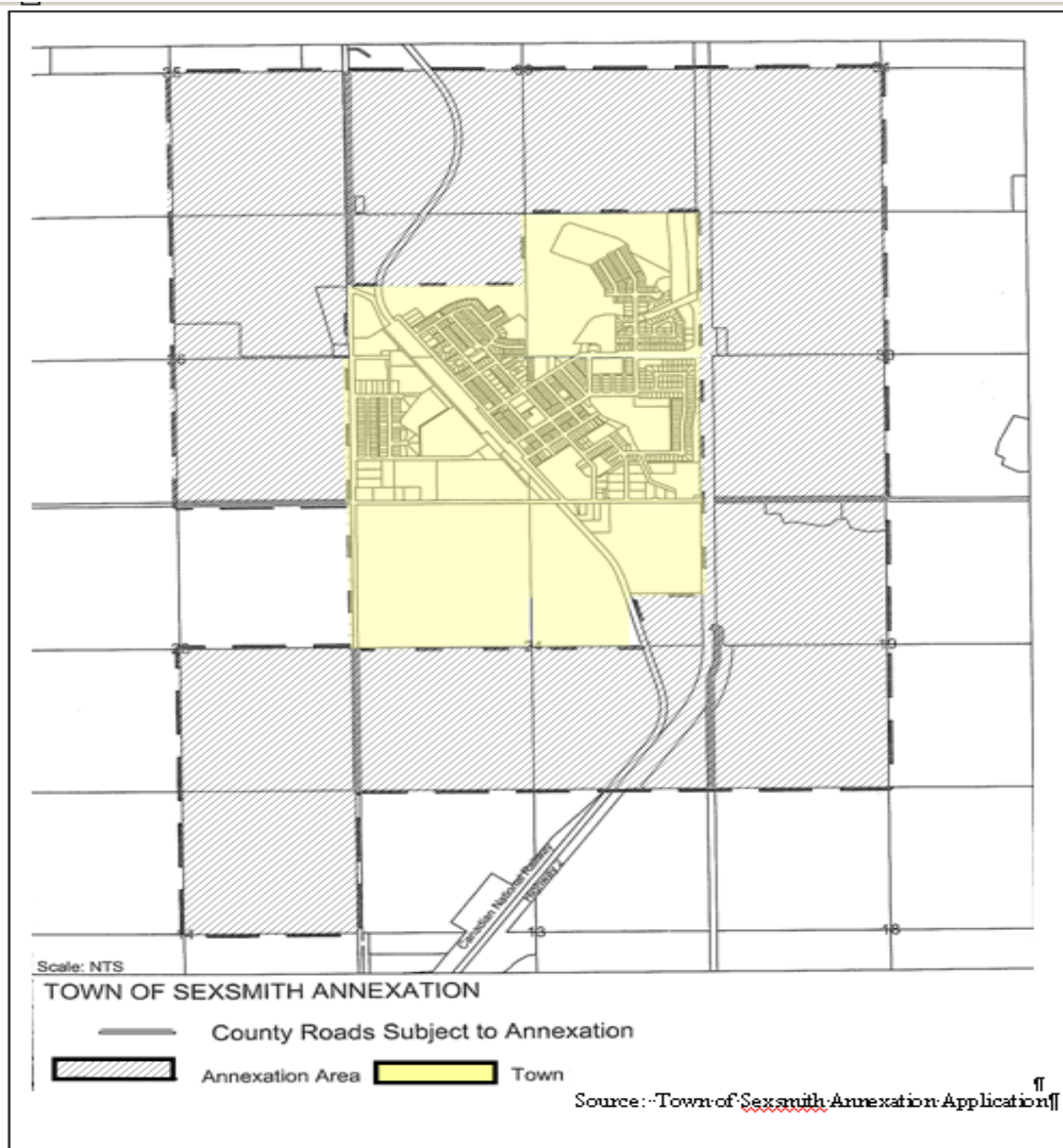
On June 25, 2008, the Town submitted its negotiation report, the required fee, and a letter requesting the MGB to process the annexation. The application identified that the Town proposed to annex approximately 956 hectares (2362 acres) of land from the County. This

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represents a 420 percent increase over the current Town area. Map 1: Proposed Town annexation shows the area being proposed for the annexation. Table 1: Town annexation application affected landowner list identifies the affected landowners within the proposed annexation area.

Map 1: Proposed Town of Sexsmith Annexation



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Table 1: Town of Sexsmith Annexation Application Affected Landowner List

<u>Reference</u>	<u>Legal</u>	<u>Owner</u>	<u>Area (ha)</u>
1	SE 26-73-6-6	Franklin Moller	64.70
2	NE 26-73-6-6	Leo & Raymonde Tremblay	53.63
3	Lot A, Plan 7621747	Town of Sexsmith	6.68
4	Lot A, Plan 8322098	Norman & Diane Pimm	3.46
5	Pt. NE 26-73-6-6	Gerald & Gail Rutledge	0.48
6	SE 35-73-6-6	Larry & Vella Anderson	64.30
7	SW 36-73-6-6	Larry & Vella Anderson	61.05
8	Block W, Plan 5417HW	Bud Waite & Paulette Sirockman	0.61
9	NW 25-73-6-6	Michael & William Sharko	31.01
10	SE 36-73-6-6	1088947 Alberta Ltd.	63.27
11	SW 31-73-5-6	Wayne & Marilyn Hovdebo	63.67
12	NW 30-73-5-6	Robert & Kim Hovdebo	62.67
13	Lot 1, Plan 5141KS	Alberta Infrastructure and Transportation	0.70
14	SW 30-73-5-6	Walter Paszkowski	63.67
15	NW 19-73-5-6	Walter Paszkowski	56.41
16	L. 1, Bl. 1, Plan 0525500	Walter Paszkowski	3.06
17	L. 2, Bl. 1, Plan 0525500	Walter Paszkowski	3.84
18	SW 19-73-5-6	1088947 Alberta Ltd.	62.53
19	NE 24-73-6-6	Cody Foster	8.56
20	SE 24-73-6-6	1088947 Alberta Ltd.	47.93
21	Pt. SE 24-73-6-6	Alberta Infrastructure and Transportation	7.48
22	SW 24-73-6-6	Dwayne & Lois Paziuk	64.70
23	SE 23-73-6-6	Randy Obniawka	64.70
24	NE 14-73-6-6	Rodney & Tera Dueck	64.70
	Sub-Total		923.81
	Road Plan 8006ET	Road Widening	0.08
	Road Plan 9022440	Road Widening	0.41
	Road Plan 5439JY	Highway Widening	9.31
	Road Plan 9624014	Highway Widening	5.34
	Rail Plan 3285BU		6.65
	Road Allowances		12.00
	ROW Sub-Total		33.79

Source: Town of Sexsmith Annexation

In addition to the lands being annexed, the Town has made an agreement with the County to “maintain current assessment levels until such time as the land use changes or intensifies”. As will be discussed, further separate commitments were made to individual landowners as well.

Purpose of the Annexation

The Town’s application provided the following five reasons for the annexation.

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First, the proposed annexation completely surrounds the Town with the exception of one quarter section on the west side. The proposed annexation areas provide the Town with the opportunity for growth in all directions and provide logical extensions of the current land use patterns. These lands are also contiguous with the existing Town boundary.

Second, the Town requires more land for residential development. The Town's annual population growth since 1986 has been averaging in excess of three percent. However, in recent years this growth rate has increased to over five percent. The Town estimates that the remaining residential land inventory within its existing boundary is between 15 to 20 years. The Town states that the proposed annexation will increase its residential land inventory to 43 years.

Third, the Town requires more industrial land. At the present time, only 17 hectares of vacant commercial and industrial land remains available within the Town. Based on a three percent growth rate, this represents less than 40 percent of the Town's long-term needs. The annexation on the east provides the Town with the opportunity to extend much needed highway commercial/industrial development. This pattern of development may be similar to that currently developing in the County north of the City of Grande Prairie. These lands will permit the Town to share in this regional growth.

Fourth, the proposed annexation will serve to provide a long-term supply of land. The Town acknowledges that the amount of land being sought exceeds the 30 year land supply suggested by the MGB. However, the Town contends the additional land is required so that it can maximize its growth options. The proposed annexation will encourage development by increasing the supply of available land within the Town and encourage competition by increasing the number landowners within the market.

Finally, the proposed annexation responds to landowner requests to be part of this annexation. Furthermore, this annexation responds to the encouragement by the neighbouring municipality, the County of Grande Prairie to examine a large enough area to avoid numerous annexation discussions in the future. The County's position is that this will provide a positive base for intermunicipal cooperation.

Development Plans

The Town's Municipal Development Plan (MDP) indicates that any annexation shall be preceded by the preparation of a joint Municipal Development Plan with the County. However, in 1998, the Town, in cooperation with the Village of Hythe and the Towns of Beaverlodge and Wemby initiated a Regional Intermunicipal Development Plan with the County. The County did not express interest in participating at that time. As such, the Town of Sexsmith and County do not currently have an Intermunicipal Development Plan (IDP). No Area Structure Plans were contained within the application.

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Landowner/Public Consultation

The Town consulted with the affected landowners and the public regarding the annexation.

The Town initiated the landowner consultation process by sending a letter to each of the affected landowners. As a result of the correspondence, the Town conducted a series of one-on-one meetings with landowners on an as required basis. The Town also held landowner meetings on November 23 and December 21, 2006. The issues expressed by the landowners at these meetings included potential changes in assessment and the continuation of existing agricultural operations. The Town then sought written approval of the proposed annexation from the affected landowners. The annexation application submitted to the MGB contained signed consent forms from 21 of the 24 parcels of land within the proposed annexation area. While the application acknowledges that the consent form submitted by landowner Walter Paszkowski contained 14 conditions, the Town indicated that these conditions had been addressed.

The Town conducted one formal public meeting on March 20, 2007. The Town indicates that no objections were received at the public hearing regarding the proposed annexation.

The annexation application indicates that the Town provided copies of the annexation notice to a number of public sector agencies and local authorities. A letter from Alberta Transportation (AT), forwarded to the MGB by the Town on June 27, 2007, states that AT has no concerns with the proposed annexation. No response was received from the other organizations notified.

Negotiations with the County

The initial joint meeting between the Town and the County was held on April 20, 2006. The intent of the meeting was to give the County an opportunity to provide input to the Town prior to the Town filing its notice of intent to annex. The County was in agreement with the annexation and encouraged the Town to apply for more land than might otherwise be required in order to avoid having to repeat the process in the near future. Throughout the annexation process the County was supportive of a much larger area than would normally be considered.

A second meeting between the Town and the County Councils was held on January 22, 2007. The Town identified the lands proposed for the annexation and provided a summary of accompanying conditions. The County indicated that it would not oppose the annexation if the affected landowners were interested in being annexed. However, the County did request that the Town include as part of the application the 800 metres of Township Road 734 along the south boundary of the Southeast Quarter of Section 26.

The application states that the Town and County have reached an agreement regarding the annexation and there are no matters that have not been agreed upon by the two municipalities. In summary, the Town and County agreed to the following:

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1. Assessment and Taxation

Current assessment levels to remain until such time as the land use changes or intensifies.

The Town agrees to pay compensation to the County in the amount of 25 percent of the tax revenue generated on the annexed lands for a period of three years commencing in the 2008 tax year. This agreement only applies to existing development and would not apply to new development occurring in the annexation area during the three year period.

2. Land Use

The treatment of lands after annexation is a concern that is limited to the Town of Sexsmith and the affected landowners. It is agreed by the Town that the current zoning and use of the annexed lands will remain until such time as the land is rezoned for another use. The Town agrees that the subdivision of up to two parcels out of an unsubdivided quarter section will be supported by the Town in advance of more detailed planning and urban development.

3. Roadway Acquisition and Maintenance

With the exception of Highway 2, all roadways within the annexation area as illustrated in Exhibit 4.1 shall become the responsibility of the Town.

4. Servicing

Existing private water and sewage disposal systems may remain in operation after annexation until such time as they may connect to municipal systems. Future servicing of the annexed lands with municipal waste and sewer facilities will be the responsibility of the owner/developer.

5. Transfer of Public Lands

Any municipal reserve lands, environmental reserve lands, deferred reserve caveats or public utility lots that are currently registered on the subdivided from the annexed lands shall be transferred from the County of Grande Prairie No. 1 to the Town of Sexsmith.

6. Consent of Landowners

The County of Grande Prairie No. 1 agrees to the annexation on the condition that written consent from the affected landowners is provided.

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IV MGB Processing of the Annexation Application

After reviewing the documentation, the MGB identified several areas in which the Town's proposed annexation varied from the norm. The following identifies these variances and outlines the actions taken by the MGB to determine if there were any landowner objections to the proposed annexation.

Assessment and Taxation Conditions

The assessment and taxation conditions contained in the Town's annexation application did not provide a termination date. It is common for annexation applications to request special conditions that allow the landowners being brought into a new municipality time to transition to the new municipality's assessment and taxation rules. However, in accordance with MGB Annexation Bulletin No. 1-08, these conditions should have a finite end point. The application submitted by the Town indicated that during the consultation process, the Town had assured the landowners that the assessment and taxation of their land would not change unless the land was subdivided at the request of the landowner. Based on this fact, the MGB sought additional clarification from the Town.

Further, the Town advised the MGB that there are only three farmland classed properties within its boundary and that all these properties have been rezoned for residential use. An application for subdivision has already been submitted for one of these properties, preliminary drawings have been submitted for the second property, and the owner of the third property has been in discussions with the Town about residential planning. Thus, the 50 year assessment and tax conditions being applied to the new lands added to the Town will not result in a long term inequity with farming operations currently in the Town.

The Town confirmed that it had assured the landowners that their tax rates would remain the same as those of the County until there was a change in the land use and that no end date had been discussed. Consequently, the Town provided a revised position stating that since the proposed annexation would give the Town enough land for at least fifty years, it seemed plausible that the taxation and assessment conditions would remain in place for the same period. Therefore, the Town requested that the assessment and taxation transition period extend for fifty years. The Town submitted that only three properties totalling approximately 153 acres were assessed as farmland within its current boundary and that the total assessment of these properties in 2007 was \$20,700. Moreover, the Town informed the MGB that subdivision applications and conceptual drawings were being developed for these parcels.

Size of the Annexation & Time Horizon

The proposed annexation would provide the Town with a 50 year land inventory, beyond the 30 to 35 year annexation request typically received by the MGB. It is common for an urban

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municipality to have a 30 year supply of land within its boundary to allow it to plan in an efficient and effective manner. However, the annexation being proposed by the Town would increase its total size from 347 hectares (857 acres) to 1,305 hectares (3,224 acres). In response to the MGB's inquiry about the size of the annexation, the Town indicated that the County had encouraged the Town to consider a longer than normal time frame in order to avoid having to undertake the annexation process again within the near future. Moreover, the proposed annexation would also allow the Town to keep its boundary relatively square with the quarter section lines.

The negotiations between the Town and County provide a substitute in the interim for intermunicipal planning. In the absence of an intermunicipal development plan this larger area allows the Town and County to work cooperatively in sharing regional economic growth. The lands along the highway provide are strategically located to provide opportunity for the Town to diversify its economic base.

Landowner Consent

The annexation application submitted by the Town did not contain consent from all of the affected landowners or Alberta Transportation (AT). The Town was later able to obtain what it viewed to be consent from these parties and indicated that there were no objections to the annexation. However, a letter from M. Roy Carter, solicitor for affected landowners, Walter Pazskowski and Dwayne Paziuk, to the Minister of Municipal Affairs suggested that the concerns raised by his clients regarding the annexation had not been fully addressed by the Town. Although the Town discussed the annexation with Mr. Pazskowski and Mr. Carter, the MGB did not receive any additional correspondence from these landowners.

Landowner Consent Verification

At the request of the MGB, the Town provided the following revised assessment and taxation conditions.

1. For taxation purposes in 2008 and subsequent years, up to and including 2058, the annexed land and the assessable improvements to it
 - (a) must be assessed by the Town of Sexsmith on the same basis as if they had remained in the County of Grande Prairie No. 1
 - (b) must be taxed by the Town of Sexsmith in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the tax rate established by the County of Grande Prairie No. 1 and taxation and assessment regulations as per CanLII, Assessment and Taxation Regulation, Alta. Reg. 220/2004.

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2. Where in any taxation year, a portion of the annexed land
 - (a) becomes a new parcel of land created as a result of subdivision 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 use changes from that of farmland.

Section 1 ceases to apply at the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.

3. After Section 1 ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the following year in the same manner as other property of the same assessment class in the Town of Sexsmith is assessed and taxed.

In order to verify there were no landowner objections to the revised assessment and taxation conditions, the MGB sent a notification to each of the landowners. In accordance with section 120(1)(b) of the Act, landowners were requested to file objections with the MGB by Monday, May 12, 2008.

On May 12, 2008, Gail Morgan, a landowner within the proposed annexation area, informed the MGB that she had concerns regarding the assessment and taxation conditions as well as the Town's landowner consultation process. Ms. Morgan indicated that she wished to discuss these matters with the Town, but that the Town's Chief Administrative Officer (CAO) was not available. To accommodate Ms. Morgan, the MGB extended the date for filing of objections. Discussions between Ms. Morgan and the Town continued and, at the request of both parties, the MGB granted a number of further extensions for the filing of objections. On June 17, 2008, the Town informed the MGB that it would not agree to any additional extensions. On June 18, 2008 the MGB received objections from Ms. Morgan and Larry and Vella Anderson.

V The Public Hearing

At the August 21, 2008 MGB hearing, the MGB received submissions from the Town, the County and affected landowners/general public. Sixteen people registered for the MGB hearing. The following provides a summary of the submissions made to the MGB.

Town's Submission

The Town was represented by Carolyn Gaunt, CAO and Mayor Claude Lagace. The MGB was informed that this annexation was first considered by the Town after a meeting with the school board to discuss the location of a new school site. During the discussion, it was discovered that

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the school would likely have to be located outside the existing Town boundary. A proposal for the annexation of approximately five quarter sections was then prepared.

This proposal was placed before the County, which then encouraged the Town to request a larger amount of land in order to ensure that there would be no further annexation requests in the near future. The amount of land being requested in the proposed annexation could provide for a supply of land in excess of 50 years. The report provided to the MGB estimates that the Town's current boundaries contain enough land to provide for 30 years of development at a 3% growth rate, or 15-20 years of development in the event of higher growth rates.

The Town indicated that it has recently been experiencing a rate of growth that has exceeded projections. Over the last five years, the Town's population has grown at a rate of 5.3%. The Town indicated that it expects this trend to continue.

Not all the lands currently in the Town and the proposed annexation areas are developable. There are some low lands, small water bodies and water drainage courses in the proposed annexation area. These areas will largely remain undeveloped. This will recognize the environmentally sensitive lands in the proposed annexation area.

The Town estimated that taxes generated from the proposed annexation area are approximately \$37,000 per year. This annexation is not a tax grab. At this time taxes for agricultural land are lower in the Town than the current rate in the County. The Town contends that it is reasonable to guarantee that taxes would be unaffected until the land use changes which could be 50 years and it was felt this was not restrictive to future the future financial position of the Town.

As part of the agreement with the County, 25% of the taxes collected by the Town from the annexation area would be paid back to the County for a three year period. Again this was not a fiscal burden to the Town.

Upon approval, the amount of land being annexed could provide for a total of 11,300 persons if and when all the lands are built out. Long-term growth would be accommodated by the annexation of more than a 50 year land supply.

It was stated that the land being proposed for annexation is a logical extension of the Town's existing boundaries and land use patterns. Flexibility is provided for the Town to grow in a variety of directions and not be restricted by the desires of one or two landowners.

The proposal would also satisfy the requirement for industrial land, as two parcels are currently being planned through the County for industrial use. This will assist the Town in its goal to shift its current assessment ratio of 7.45% residential/92.5% non residential to a more desirable ratio.

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During the public review of the annexation, two additional landowners requested to be included into the Town boundaries and one requested to be removed from the application. The Town acted to accommodate these requests.

Two landowners, Walter Paszkowski and Dwayne Paziuk, indicated concerns with the annexation and placed a number of conditions on their consent. Discussions between the Town and the landowners after the annexation application had been submitted to the MGB resulted in the Town agreeing to the following conditions for these lands:

1. Land will be treated as if it is in the County of Grande Prairie until such time as the land use changes.
2. Existing farming operations may continue until such time as the land use changes with no interference or restrictions by the Town on normal farming operation on said land.
3. Property taxes will remain at County rates until such time as the lands are developed for a different use, or in the case of a single subdivision, until additional subdivision is requested.
4. Lands would be connected to the municipal services when possible through a development agreement with the landowner.
5. Dust control, if requested by landowners, may be provided at the then standard County of Grande Prairie rate.
6. Any change from existing zoning allocation will require written approval of the landowner.
7. The Town will support the development of the land in such a manner that they will not require a pedway and/interchange be placed over Highway #2.
8. The Town agrees not to oppose any future highway access to the lands.
9. The Town agrees to the development and subdivision of lands in Phases of 15 - 20 acres.
10. The Town agrees to enforce late comers' fees, as requested by the developer, for any oversized servicing installed on subject lands.
11. The Town agrees to support timely and orderly development on the said lands with a view to developing the lands as soon practicable having due regard to market conditions.
12. The Town agrees to support applications as they come in for re-zoning pending approval of the developer's area structure plan.
13. The Town is committed to apply to the Province for all utility grants that it may be eligible to receive to mitigate the cost of construction of infrastructure.

The Town later stated that the individual agreements offered to Mr. Paszkowski and Mr. Paziuk would be available to any person included in the annexation.

The Town does not expect that it will experience a large financial impact in terms of taxes or maintenance costs. The Town indicated that it expects the costs of the land to remain constant, and explained that developers would pay for additional services at the time of development. Additional infrastructure for water would be at no expense to the Town, as the water services are

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provided by the regional water provider Aquatera. The Town's sewer system is also provided through the regional service provider Aquatera.

It was noted that the Town's finances are generally improving since being negatively impacted by the closure of a local canola plant. This closure was cited in emphasizing the need for industrial diversification and thus the need for lands to accommodate other non-residential uses.

The Town stated that its MDP was somewhat dated and that no preliminary engineering was prepared for the areas proposed for annexation. It was also proposed that the effective date of annexation should be January 1, 2009.

County's Submission

The County was represented by John Simpson, Director of Planning, and Barry Donovan, County Assessor. It was explained that during initial discussions, the Town was informed that the County would prefer larger annexation than what would be normal. The County outlined that it contains a number of urban municipalities within its boundary that are experiencing growth pressures. As such, it is seeking to encourage longer term annexations in order to avoid numerous piecemeal applications.

The County noted that, as a policy, it supports the sustainability of its urban neighbours. Part of this emphasis on cooperation includes the County sharing many services with adjacent municipalities. The County recognizes that with recent growth, resources have been stretched and its urban neighbours face new challenges to their sustainability. The County therefore submitted that it encouraged the Town to apply for a larger annexation area in order for the Town to maximize its opportunities and ensure that it may remain sustainable.

The County confirmed that while it initially made landowner consent a condition to its agreement, any objections now would not affect its support of the annexation.

The County acknowledged that no IDP currently exists. However, the annexation was noted to fit in with the County's urban fringe area plans, including industrial development south of the annexed lands. It was also suggested that the lands being considered for annexation contained some undevelopable areas but were largely developable.

The County recognizes that growth in some urban municipalities can be inhibited because a majority of the vacant land within the community is owned or controlled by a small number of individuals. The County explained its belief that the size of this annexation will create competition which can spur development, but also assist the Town to diversify by allowing it to develop industrial and commercial land uses.

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The County submitted that the financial impact of the proposed annexation would be minimal. It was suggested that the County would lose approximately \$35,000 in taxes annually, part of which would be recovered through the conditions contained in the Annexation Agreement. The annexation would also lead to approximately two and one-half miles of roads being removed from the County, which would lower maintenance costs. A future industrial area within the County is being planned as well; however, the County believes it is important that urban municipalities within its boundary should be sustainable and this annexation achieves this goal.

It is expected that with the twinning of the highway, the Town will increasingly serve as an important part of the region. The County noted that tremendous growth has occurred in the area over the last few years, and that development is starting to move north from the City of Grande Prairie and toward the Town.

It was submitted by the County that the Town's application meets the requirements of the Act, and that the Town has made every effort to respond to landowner concerns. The County concluded by noting that it is in full support of the annexation as proposed.

Landowner/Public Submissions

At the hearing, the MGB received presentations from Gail Morgan, Larry and Vetta Anderson, Mary Kirkham and Nellie Sterr. A summary of each presentation is provided below.

Gail Morgan, representing 1088947 Alberta Ltd. (Landowner)

Ms. Morgan represents a company that owns four parcels of land located in the annexation area. It was Ms. Morgan's correspondence with the MGB and her opposition to the annexation that caused a hearing to be held. Of particular concern were the conditions relating to assessment and taxation. Ms. Morgan's presentation included suggestions for revisions to the wording of these conditions. It was also suggested that separate agreements which had been reached between other landowners and the Town contained more concise wording.

Ms. Morgan's presentation indicated that her company had no issue with the annexation as a whole, but wished the wording to be modified in order to clearly reflect the she submitted was the intended meaning of the agreement. After the hearing the MGB received correspondence that Ms. Morgan was in agreement to have her lands included in the annexation.

Larry and Vella Anderson (Landowners)

The Andersons own a farm located within the annexation area. It was indicated that they were originally skeptical of the annexation, but had since come to support it. Some concerns were expressed with regard to the possibility of the Town's bylaws impacting their agricultural lifestyle. Noise, dust, and the use of agricultural chemicals may be controlled in such a way as to

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restrict their agricultural production. The Andersons indicated that they would like to see some commitment to protect the agricultural parcels located within the proposed annexation area.

Mary Kirkham (Outside the Annexation Area)

The Kirkham's operate a farm west of the Town. Ms. Kirkham stated that, in her opinion, the Town did not need all of the agricultural land being applied for. It was submitted that the annexation would eventually affect agricultural use of the land and reduce production. Ms. Kirkham suggested that agricultural land should be protected and remain within the rural municipality. In support of this, Ms. Kirkham expressed concern that Town bylaws would impact agricultural operations and suggested that the County currently provides good service to farms.

Concern was also expressed about the financial position of the Town and that the additional costs involved with the annexation could prove to be a burden. Ms. Kirkham submitted that the Town's priority should be to pay down existing debts.

Nellie Sterr (Town Resident)

Mrs. Sterr had questions with respect to the water reservoir and the waterline from the City of Grande Prairie. The Sterr's questioned who would pay for the expanded services to accommodate the anticipated future growth.

Town Responses to Landowner/Public Submissions

Town Response to Gail Morgan

The Town explained the notice procedure utilized and submitted that it was comprehensive and proper. The Town also stated that it has respected farmers and will continue to do so by allowing farming operations to continue within the Town boundaries.

In response to Ms. Morgan's interest in the separate agreement reached between the Town and some of the other landowners, the Town's Mayor suggested that the same agreement that was reached with other individual landowners would be made available to everyone.

Town Response to Larry and Vella Anderson

The Town assured the Andersons that the Town would respect the farming community and allow farmers to continue their operations.

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Town Response to Mary Kirkham

The Town explained that its current debt load is just over two million dollars, almost all of which is borrowed from the province. It was indicated that the Town is growing and will need the requested lands. The Town reiterated that it is committed to respecting the landowners and the land. It was expressed that the annexation was not a tax grab and that the Town will work to ensure that farmers in the area will be able to continue to farm their land.

Town Response to Ms. Sterr

The Town addressed Ms. Sterr's questions and explained that the future water reservoir alluded to would be serviced by Aquatera and future costs would be shared by future developers.

VI Subsequent Agreement

Prior to the conclusion of the hearing, the MGB suggested that Ms. Morgan meet with the Town and inform the MGB of the company's final position regarding whether or not it wished its land to be included in the annexation. The MGB subsequently received notice in writing that the company's initial objection had been addressed and that no issues remain disputed. On September 4, 2008 the MGB received a communication stating

It is with pleasure we would like to confirm our support for and desire to be included in the current 50-year annexation plan being undertaken by the Town of Sexsmith, Alberta.

Relative to this, we have included a copy of the agreement confirmed by way of Sexsmith Town Council Resolution No. 273-09-08 dated Sept. 2, 2008. This written agreement accurately reflects our understanding of the original agreement between The Town of Sexsmith and the owners of lands being annexed and re-affirms our confidence in The Town's commitment to that agreement

The MGB views this agreement as being an important step in the decision process. The intent of the Act with respect to annexation is to encourage agreement and with this agreement, the annexation application is no longer contested by any affected landowners.

VII MGB Recommendations

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 be approved with an effective date of January 1, 2009 subject to the proposed assessment and tax conditions and the agreed-to compensation.

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VIII Analysis and Reasons

In light of the 50 year land supply and the request for a 50 year time horizon on the assessment and tax conditions the MGB reviewed the proposed annexation carefully in light of the requirements of the Act, the MGB's annexation principles, the local facts surrounding the annexation and the positions of the impacted parties.

It was evident from the submissions of the two municipalities that substantial intermunicipal cooperation was being achieved through the annexation process. The support of the County to include such a large area within the Town's administration was sufficiently persuasive to recommend an annexation with considerations beyond the normal 30 to 35 year time horizon and an extended period of time for the assessment and tax considerations. The Town of Sexsmith originally started out with a much smaller annexation and were convinced by the County to consider a much larger more comprehensive approach to the annexation. The two municipalities convinced the MGB that the change of municipal administrative jurisdiction would have a minimal impact on both municipal jurisdictions and in fact have a number of beneficial results. Notwithstanding, this recommendation should not be viewed as a reason not to pursue the completion of an intermunicipal development plan for the new fringe area of Sexsmith.

Both municipalities wished to achieve sustainable economic growth and the annexation assists in achieving that objective. Currently the Town has a very limited land supply for non-residential growth and the addition of lands strategically located adjacent to the highway will provide that opportunity to the Town. As a result of the annexation the Town will have an increased opportunity to share in regional growth and thus pursue more balance growth and achieve a higher degree of sustainability. This is fully supported by the County which also has established a pattern on non-residential growth south of the Town. The future growth initiatives of both municipalities is achieved in a cooperative atmosphere. This atmosphere of intermunicipal cooperation is consistent with the intent of the annexation part of the Act and the Provincial Land Use Policies. Recently the legislature has given even more emphasis towards achieving inter-municipal co-operation in other parts of the province.

Even though the annexation involves a large territory in relation to the existing area and population of the Town, the financial implication to the County is minimal as the area contains a very small assessment base. The County identified no substantial financial impact on the County and the compensation agreement over three years provides a reasonable transition for the County. The loss of \$35,000 in taxes to the County did not warrant the MGB directing a more robust financial analysis or undertaking a more in depth analysis itself. This annexation proposal is clearly not an initiative to annex revenue producing property. The MGB finds that the amount of compensation provided for in the Annexation Agreement is reasonable. Further, the MGB is satisfied that the compensation arrangement agreed to by the municipalities will not constitute an undue financial burden on the Town.

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Although the financial analysis provided by the Town was not as robust and in depth as the MGB would normally expect. The CAO and the CEO of the Town submitted that if growth did not occur as projected or to the extent to utilize all the lands within the expected time horizon the Town would not be faced with any extensive financial burden to serve the agricultural uses in the area.

As well, financial records available to the MGB confirm that the financial health of the Town is indeed improving as reported by the CAO and the CEO. With continued sound financial management the Town should be able to manage the incremental impacts of growth over the next 50 years. The provision of additional lands to accommodate an expanded non-residential tax base for the community will assist in this endeavour. Water treatment and waste water treatment are supplied through a regional water authority, Aquatera. No limitations were identified to the expansion of these facilities by the Town. In its presentation, the Town stated that the financial implications of the annexation were understood and would not impose a serious financial burden on the Town. Responsibilities for maintenance in the annexation areas were also understood by the Town, and were not presented to be a significant hurdle.

The Town was convincing in the position that the current tax ratio of 7.5% non-residential needs to be increased. A goal of the Town is to increase that percentage and part of the solution is to annex additional land. Currently, the supply of industrial and commercial land within the Town boundary is virtually exhausted and additional land for industrial use is required. Both municipalities expect that the Town's growth will continue for many reasons, including the recent twinning of the highway. A portion of the annexed lands are currently being planned through the County for industrial development. Annexation of these lands will assist the Town's financial position in the near future. The MGB also accepts that a need for an increased supply of residential land to accommodate future population growth was demonstrated by the Town.

Even though the growth projections for the Town were considered to be somewhat dated and optimistic and are using a longer range target than normal, the MGB appreciates the need for additional growth options argued by the Town and the County. The MGB appreciates the arguments by the Town and the County that sufficient growth options need to be available to the Town in order not to be reliant on the intentions of one or a small number of land owners. This can become more of pronounced problem in an annexation involving a small town where adjacent lands are held by one or two landowners. The proposed annexation will provide the Town with a variety of growth directions and options.

The MGB accepts the Town's submission that the proposed boundaries were arrived at through consultation with the County and reflect a legitimate requirement for additional land in order to accommodate long term growth needs. Growth projections were presented to the MGB in a report, but the Town was unable to elaborate on the assumptions and techniques used in its preparation. A review of the growth projections raises some questions. However, both

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municipalities agree that the Town will likely continue to experience a rapid growth rate. Although the report suggests that the Town's existing boundaries may contain a 15 to 20 year supply of residential lands, the MGB accepts the position that the land within Town is unsuitable for other uses. The MGB also accepts that, understanding an annexation was required, the County advocated for a large area to be annexed during the negotiation process.

Although the supporting planning and engineering documents were not as complete as the MGB would expect for such a large annexation area the MGB relied heavily on the testimony of the County who assured the MGB that no significant barriers to development existed. The Town will need to ensure that its planning and engineering strategies are updated to meet these demands.

The Town and County did identify that not all the lands in the proposed annexation area developable because they contain environmentally sensitive lands with water bodies and drainage courses. These environmentally sensitive lands would be incorporated into the future planning and development of these areas.

The cooperation evident in the relationship between the Town and the County is significant and commended by the MGB. In particular, it was noted the County has a desire to assist the urban municipalities within its boundaries to be sustainable and that this taken into account in the context of the proposed annexation. The County supported the information provided by the Town with respect to future growth and the suitability of the land for urban development.

The MGB notes that, although there is no IDP, the County believes the annexation application to be consistent with its plans for the development in the vicinity of the Town. This includes lands in the annexation area in which the County is currently assessing plans for industrial uses. Currently, the County is engaged in the development of industrial lands that will be adjacent to the new town boundaries. In addition to the fringe area lands, the general proposed uses for annexed lands seem to be consistent with the growth patterns expected to occur within the Town.

Agreement from all Affected Landowners

Through meetings with the County, the public consultation process and meetings subsequent to the MGB hearing, the Town has reached an agreement with all of the affected landowners. The MGB notes that some opposition remains from the public, as general concerns were expressed regarding the amount of land being requested and the financial condition of the Town. The MGB listened to these arguments, but did not award them sufficient weight to recommend denying the annexation application especially in light of the support to the annexation from the County. The MGB finds that the responses from the Town adequately addressed these concerns, as well as those respecting the impact on agriculture, financial concerns, infrastructure, and assessment and taxation issues.

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Section 120 of the Act allows for the speedier processing of an annexation if overall agreement exists among the participants. This indicates to the MGB that a major intent of the legislation is to achieve agreement among the parties. Municipalities are to negotiate the annexation and failing agreement must embark on a formal process which includes a MGB hearing. When all parties are in agreement, the Act allows an annexation to proceed meeting only a series of administrative criteria. In this case, the objection held by an affected landowner was more an issue of wording acceptable to the parties and not opposition to the annexation as a whole. Based on information exchanged at the hearing, the Town and only objecting landowner quickly came to a mutual understanding and the objection was changed to support. Had this discussion occurred earlier in the process a hearing may not have been required.

The MGB is somewhat concerned that the Town reached separate signed agreements with three owners of land in the annexed area. However, the MGB places considerable emphasis on respecting local autonomy, and therefore respects the ability of municipalities to enter into agreements as is deemed necessary. The MGB further notes that the Town later agreed to extend the conditions in these separate agreements to all affected landowners. These third party agreements are not part of the approval of the annexation. However, of importance to the MGB is the agreement of the parties. The approval will not include these separate agreements, as they are concerned with local municipal issues such as dust control, development promotion, municipal servicing, and the land use bylaw. The MGB places a great deal of weight on the fact that none of the affected landowners remain in opposition to the application.

Through the hearing and the correspondence available, the MGB has determined the main issues voiced by the public. A primary concern was the proposed wording of assessment and taxation provisions. Additionally, concerns were expressed with regard to the potential impact on agricultural operations, the notice provided by the Town, the Town's financial sustainability, and the considerable size of the proposed annexation.

Evidence provided indicates that the Town is aware of the concerns and has shown that the impacts will be minimized. The 50 year assessment and taxation transition provisions will provide a substantial period of adjustment and certainty for landowners. Further, the MGB notes that farm land is currently taxed at a lower rate within the Town. The MGB concludes that the assessment and taxation provisions will not serve to create an inequity between landowners in the annexation area and those already within the Town's boundaries.

The MGB recognizes that the Town expressed an attitude of respect toward farmers and indicated that agricultural operations would be allowed to continue. The MGB also accepts the Town's submission that the annexation does not constitute a "tax grab," as the annexation area is primarily agricultural and has a relatively low assessed value.

The MGB is aware that the Town engaged in individual meetings with several landowners in addition to holding more formal landowner meetings on November 23 and December 21, 2006.

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A public meeting was also held on March 20, 2007. The MGB is satisfied that the public consultation process was properly conducted and that landowners and members of the public had adequate opportunities to voice opinions and concerns.

The MGB affirms that the usual maximum assessment and taxation period provided for in MGB recommendations is 15 years, as outlined in the 2005 MGB Annexation Bulletin No. 1. Nonetheless, the MGB feels that a longer period is justified in this case due to the specific circumstances presented. Moreover, the MGB is satisfied that the annexation will not create inequity between agricultural landowners currently in the Town and those in the newly annexed area. The agricultural lands currently in the Town are actively being developed and have a current tax rate less than that applied in the County. It is expected that in the short term these land will be exhausted resulting in the agricultural lands in the new annexation area being all treated similarly under the conditions of the annexation. No inequity will result.

With respect to the subject application, the MGB finds that the annexation principles have been satisfied. Considerable weight and emphasis is given to the display of intermunicipal cooperation between the Town and the County in making this recommendation. The MGB finds that the annexation conditions are now unambiguous, and that the proposed annexation reflects legitimate local needs and concerns. As such, the MGB feels it appropriate to recommend approval of the proposed annexation.

Other Considerations

The Town, in accordance with the legislation, notified government departments, utility companies, and other local authorities. No objections were received to the annexation application from these entities. Alberta Transportation raised no objections to the annexation of the lands across the highway.

The MGB observed that the legal land titles currently around the Town are largely limited to the quarter section. In order to provide an annexation boundary with a legal and certain boundary consideration must be given to this land title pattern even though it results in a large amount of land annexed to the Town.

50 Year Time Horizon

Should the Minister and/or the Lieutenant Governor in Council find the time horizon of 50 years unacceptable for provincial policy reasons, the MGB would recommend that additional discussion be held with the Town to determine those areas that should or should not be removed from the annexation application. The Town does have a need for additional lands and therefore careful analysis would be required to determine which of the lands should be removed and which lands should be considered in an annexation.

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Summary

The Town and County have engaged in intermunicipal discussions and reached agreement. Both jurisdictions believe that the annexation meets each of their municipal planning objectives and that the tax revenues being exchanged are of mutual interest. The Town demonstrated a need for more land, and the lands applied for constitute a logical extension of existing development patterns.

Citizens and agencies were contacted and any issues arising were dealt with by Town staff as evidenced by the eventual agreement reached with all affected landowners. The MGB also understands that the Town is aware of a number of environmentally sensitive areas in the proposed annexation area and intends to ensure they are protected through the design process.

In summary, the MGB has placed great weight in the fact that the parties to this annexation are in full agreement. The annexation application presented, along with the testimony of the Town and County, indicate the criteria for annexation are met. As such, the MGB recommends approval of the proposed annexation.