

**IN THE MATTER OF THE** "Municipal Government Act" (the "Act")

**AND IN THE MATTER OF** an application by the Town of Stettler (the "Town"), in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the County of Stettler No. 6 (the "County").

**BEFORE:**

H. Kim, Presiding Officer  
L. Lundgren, Member  
V. Chatten, Member  
D. Hawthorne, Secretariat Advisor

**BACKGROUND**

The Town applied to the Municipal Government Board (the "Board") to annex 160 acres from the County. The County provided a letter of consent for the proposal, to annex one-quarter section of land adjacent to the south boundary of the Town. A 7.75-acre parcel in the northeast corner of the quarter section, adjacent to the Town boundary, is owned by William and Norma Stewart, and except for a railway right of way, which traverses the land, the balance of the quarter section is owned by McKay Fertilizer Holdings.

The Town is making the application at the request of McKay Fertilizer Holdings, the owner of the larger portion of the quarter section who wishes to develop this land into single-family lots.

The public consultation process prior to the application for annexation was limited to discussions with the two affected landowners, Alberta Infrastructure, and the owner of the railroad right-of-way. Because the Stewarts did not consent to the annexation, it was the opinion of the Town that a public hearing would have to be conducted by the Board as part of the annexation application therefore it did not hold any public meetings prior to making the application. Notice of annexation hearing by the Board, resulted in letters of objection from one affected landowner (Stewart) and three adjacent landowners.

On Wednesday, July 26, 2000 the Board conducted a public hearing in accordance with Section 120 of the Act.

## **SUMMARY OF PUBLIC HEARING**

The Town advised that it did not intend to make a formal submission but would be available to answer questions from the Board. Dave Dennis, Development Officer for the Town, stated that the Town had made the application at the request of the owner of the one of the properties, Mr. Grant McKay on behalf of McKay Fertilizer Holdings. The following information was elicited by questioning from the Board:

- The area of the proposed annexation north of the railway tracks would represent a five to seven year residential land supply if no other land in the Town were to be developed.
- At the present time, land within the Town boundaries zoned Urban Reserve (unsubdivided raw land) destined for residential purposes comprise approximately 120 acres. The Town owns some of this UR zoned land and is subdividing and selling the lots, and other private developers are also selling residential lots. The Town welcomes others to do the same. Some of the land is partially serviced, for example a proposed subdivision that was abandoned after construction was started and taken over by the Town for taxes. The current land within Town boundaries represents about 20-year supply of residential land.
- The Town considers that this annexation is a good idea because McKay Fertilizer wants to develop the triangular area north of the railway tracks. It represents an economical development as the services are in place to the edge of the property and have been in place since 1979. They were oversized at that time to accommodate further development and would be paid for by way of development agreement. The lots would be more readily serviceable than some of the other areas of the Town where only partial servicing is available.
- On average, 20 lots per year are absorbed in the Town. The northwest portion of the site that is readily serviceable represents a potential of about 80 lots

### **Position of the County**

The County did not make a formal presentation and indicated that they would be available to answer questions. The County stated that it had received inquiries by Mr. McKay with respect to proposals to develop his land. After some discussion the County recommended that the landowner seek annexation to the Town. The County has no objection to the proposed annexation.

**Position of Landowner McKay**

Grant McKay, the proponent of the annexation, stated that he was born and raised in Stettler and was familiar with the available vacant land in the Town. He stated that the Town's sewage lagoon is located to the northwest of the Town and with the prevailing winds, the land in the northwest portion of the Town would not be attractive for residential use, and suggested that the earlier proposed subdivisions were abandoned for that reason. He stated that the UR land in the southwest portion of the Town was lower and required fill to prevent flooding. McKay is of the opinion that development of his property would afford purchasers a choice that would be advantageous for people moving into the area.

**Position of Landowner Stewart**

William and Norma Stewart, the acreage owners within the application area, submitted a letter of objection to the proposal stating that benefits come with being a part of the County which would be lost if they became part of the Town. Mr. Stewart was available to answer questions and expanded on the letter by stating that he had farmed in the County for years and wanted to remain as part of the County. An example of a benefit derived from living in the County was that he was able to borrow their weed sprayer to maintain his property, as he no longer had a farming operation.

**Position of Adjacent Landowners within the Town**

- Friedrich von Krough, an adjacent property owner within the Town boundary, stated his objection to the proposal on the basis that he did not see a need for the annexation. He stated that there is not a big demand for lots and that there are numerous developments already available in the Town, indicating their locations. He questioned the statements about the lagoon and development in the northwest portion of the Town, citing an upscale subdivision that was built in that area. He also stated that when the southwest portion of the Town flooded, everyone was flooded and this was not an indication of the desirability of that land. He was advised at the time that he purchased his lot that the land to the south was planned for expansion of the subdivision. He believes that if there is a need, the land should be developed but does not think the need exists at this time. His further concern is that with the lack of need, the subdivision would take a long time to build and sell, and the construction trucks would be accessing the development through the existing residential streets over an unacceptably long period of time.
- Betty Birch, an adjacent property owner within the Town boundary, presented her objection to the proposal. She stated that her objection was of a personal nature, as she had chosen the

location for her home next to an empty field where deer, antelope and the occasional fox could be seen. Her concern is based on loss of value due to losing the proximity to the field and the comfort and safety of being on a dead-end street, although she was advised of the plans for residential to the south when she purchased her property. She shares the concern that Stettler is not a rapidly growing municipality and that the land would be slow to develop and her home will be in a construction zone for a long time. The subdivision in which they are located took about 13 years to fully develop. A further concern is the use of good agricultural land for residential purposes, and she stated that she was worried about the deterioration in the agricultural uses.

- John Irwin, an adjacent property owner within the Town boundary, stated his objection to the proposal echoing some of the points made by his neighbours. In addition, there is only one main route to access the area and Mr. Irwin is concerned with the traffic burden that would be created.

#### **Response of Landowner McKay**

In rebuttal and summary, Mr. McKay made the point that he would not want to lose the proximity to the field either, but he would like to develop his land. He stated that his property has good features, such as natural bush and good elevation and would be more desirable. His development would offer a wider choice for a person moving into the Town to build a house. He agreed that Stettler was not growing by leaps and bounds, and common sense would dictate that the project be built over time. He stated that he fenced his property 50 feet in from the property line and had offered to rent the intervening land to the neighbours for \$100 per year for gardens, and it was currently being used in that way. He is of the opinion that the concerns with respect to negative impacts can be dealt with and the only way to get development is to work together and be flexible with respect to giving people what they want.

#### **Response of the Town**

Keith Ryder, Mayor of Stettler, stated in summary, for clarification, that the annexation request was brought to the Town by a developer, and that the proposal was brought forward as a result of that request. He stated that the Town owns property and lots and would be in direct competition. He noted that a lot of the concerns were subdivision-related, and he appreciated the comments, as Town Council will be dealing with the future subdivision application. It was Council's decision to support the annexation in order to increase their tax base.

Dave Dennis concluded with the observation that with the annexation, concerns with respect to access points and subdivision layout would be dealt with in Stettler and the landowners would

not be forced to go to Parkland Community Planning Services in Red Deer, to voice their views. He stressed that at this point no subdivision proposal has been made, and that any future application would be reviewed by the Town.

### **RECOMMENDATION**

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

1. Effective July 1, 2000, the land described in Appendix A and shown on the sketch in Appendix B be separated from the County of Stettler No. 6 and annexed to the Town of Stettler.
2. Any taxes owing to the County of Stettler No. 6 at the end of on December 31, 2000, in respect of the annexed lands are transferred to and become payable to the Town of Stettler together with any lawful penalties and costs levied in respect of the those taxes, and the Town of Stettler upon collecting those taxes, penalties or costs shall pay them to the County of Stettler No. 6, and
3. The assessor for the Town of Stettler shall assess in 2000, for the purpose of taxation in 2001, the annexed land and the assessable improvements to it.

And make the Order in Appendix C.

### **REASONS**

The Town of Stettler did not demonstrate that it required additional vacant land within its boundaries to accommodate the foreseeable growth of the Town, but did support the application. The circumstances are that the orderly and economic development of the Town would be better accomplished by development of at least the northwest portion of the parcel, because of the existence of services that were installed many years in the past in anticipation of expansion in that direction. To deny the annexation would be to ensure that the existing oversized services would remain untapped for the foreseeable future while new services installed at greater expense would be required to accommodate the Town's needs.

The concerns expressed in the hearing by the adjacent landowners were issues that could and would likely be addressed in the various stages leading to an actual subdivision application. Public hearings form part of that process, and the Board is of the opinion that such process by the Town of Stettler would serve the interests of the affected residents. Further, by including all the

land owned by Mr. McKay into the annexation, alternatives can be considered for redirecting future construction traffic away from the existing developed areas.

The Board had sympathy for the objection expressed by the acreage owner, Mr. Stewart, based on his desire to remain in the County for emotional reasons. Unfortunately, without planning-related or other tangible reasons for excluding his parcel, it is difficult to justify creating a Town boundary that would not follow the natural boundary created by Highway 57. The proposal by the Town to continue to tax the parcel for a period of five years as if it had remained in the County is considered and determined to be helpful in alleviating the concerns expressed by Mr. Stewart.

Finally, the Board is aware that the Act and the Provincial Land Use Policies, place high importance on agreements reached between two municipalities. The Board recognizes the agreement reached between the Town and the County in this case. Therefore, the Board is of the opinion that the objections of Mr. and Mrs. Stewart and the adjacent landowners will be addressed through the planning stages leading to actual subdivision and development.

Dated at the City of Edmonton, in the Province of Alberta, 28th day of September 2000.

MUNICIPAL GOVERNMENT BOARD



L. Lundgren, Member

**APPENDIX "A"**

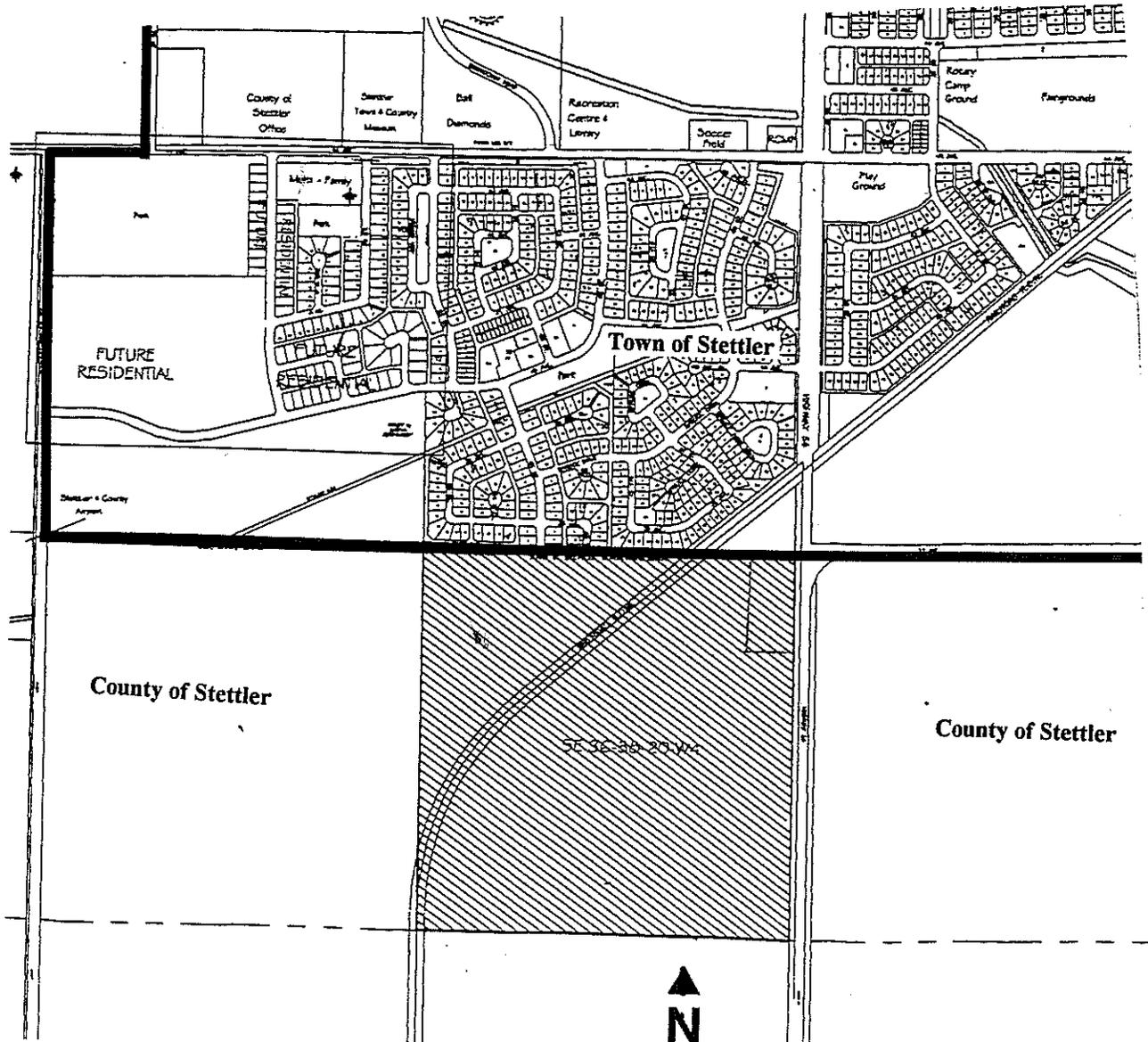
DETAILED DESCRIPTION OF THE LANDS RECOMMENDED FOR SEPARATION FROM  
THE COUNTY OF STETTLER NO. 6 AND ANNEXED TO THE TOWN OF STETTLER

THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 38, RANGE 20, WEST OF  
THE FOURTH MERIDIAN.

APPENDIX "B"

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

AFFECTED AREA(S)



**APPENDIX C**

**ORDER**

1. In this Order “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B.
2. For taxation purposes in 2001 and later years up to and including 2005, the annexed land and the assessable improvements to it must
  - (a) be assessed by the Town of Stettler on the same basis as if they had remained in County of Stettler No.6, and
  - (b) be taxed by the Town of Stettler in respect of each assessment class that applies to the annexed land and the assessable improvement to it using the tax rate established by County of Stettler No.6.
3. Section 2 ceases to apply to a portion of the annexed land and the assessable improvement to it in the taxation year immediately following the taxation year in which
  - (a) the portion becomes a new parcel of land created as a result of subdivision or separation of title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner,
  - (b) the portion becomes a residual portion after a new parcel referred to in clause (a) has been created and the residual portion is 3 acres or less, or
  - (c) the portion is, at the request of, or on behalf of, the landowner, redesignated by an amendment to the Town of Stettler Land Use Bylaw
4. After section 2 ceases to apply to a portion of the annexed land in a taxation year, the portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in that year on the same basis as the assessment and taxation of property of the same assessment class in the Town of Stettler.