

IN THE MATTER OF THE "Municipal Government Act"

AND IN THE MATTER OF an application by the Town of Brooks, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the County of Newell No. 4.

BEFORE:

Don Weideman, Presiding Officer
Jim Church, Member
Lillian Dirom, Member

BACKGROUND

On January 20, 1997 the Town of Brooks (the Town) filed notification with the Municipal Government Board (the MGB) of its intent to annex certain territory from the County of Newell No. 4 (the County). The Town also advised that it intended to continue negotiations with the County regarding the annexation application.

On May 22, 1997 the MGB received the negotiation report from the Town along with the history of the annexation proposal as well as the required technical information. The County refused to sign the negotiation report due to a disagreement regarding the exclusion of an adjacent road allowance along the south boundary of the lands proposed for annexation. The County wanted the road included because it is heavily used by traffic generated by the Town. The County felt the costs associated with upgrading and maintenance should be borne by the Town and therefore included in the annexation proposal.

On June 3, 1997, the MGB found there was no general agreement respecting the annexation application and directed that a public hearing be convened. The MGB established September 16, 1997 as the hearing date. Following information meetings prior to the hearing date, the Town and the County requested postponement of the hearing because an agreement between the two parties appeared to be imminent. On October 24, 1997, the Town submitted an amended annexation application. The amended application comprises an area of 574 acres and is located on the west side of the Town and south of the railway right-of-way. The Town has deleted the two most southerly quarter sections from the original proposal, therefore the controversial roadway (Antelope Creek Road) is no longer adjacent to any of the lands which are the subject of the amended application.

The MGB advertised the amended application in the local newspaper during the last week of November and the first week of December, 1997. There were no objections, comments or inquiries received as a result of the advertisement.

THE POSITION OF THE COUNTY OF NEWELL NO. 4

On November 7, 1997, the County advised the MGB that it had reached agreement with the Town respecting the amended application. The County formally withdrew its objection to the annexation proposal.

PURPOSE OF THE PROPOSED ANNEXATION

The Town presently has a population of approximately 10,000 persons and is experiencing rapid commercial and industrial growth. The Town is without a supply of residential land and the majority of the proposed annexation area is intended to accommodate a variety of residential uses including estate or acreage type developments. The subject lands can be easily serviced and there are no substantial obstacles to immediate construction of roads and buildings. In support of the proposed annexation the Town submitted a comprehensive report along with a copy of the Town's General Municipal Plan. The report provided the following information:

1. Introduction and Overview
2. Discussion and Negotiations with the County of Newell
3. Public Process
4. Consent Forms for Annexation
5. Description of Lands Proposed for Annexation
6. Brief description of Population and Land Needs
7. Summary of Financial Status
8. Summary of Engineering and Infrastructure
9. Description of Land by Titles

FINDINGS

1. There are no objections to the Town's amended annexation application.
2. There are no objections from the landowners involved regarding the Town's proposal for assessment and taxation.
3. The annexation application is consistent with the annexation policy adopted and published in the 1984 Brooks General Municipal Plan.

4. The Town held open houses and public hearings prior to making the application for annexation. There were no objections or negative comments received during the process, however the landowners did identify a concern regarding assessment and taxation. The Town followed up on the concerns and met separately with the individual landowners. The resulting agreements with the landowners form a special request by the Town to include certain assessment and taxation conditions if the Province decides to approve the annexation.

RECOMMENDATION

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

1. Effective December 31, 1997, the land described in Appendix A and shown on the sketch in Appendix B be separated from the County of Newell No. 4 and annexed to the Town of Brooks.
2. Any taxes owing to the County of Newell No. 4 on December 31, 1997, in respect of the annexed lands are transferred to and become payable to the Town of Brooks together with any lawful penalties and costs levied in respect of the those taxes, and the Town of Brooks upon collecting those taxes, penalties or costs shall pay them to the County of Newell No. 4, and
3. Subject to sections 4 and 5, the assessor for the Town of Brooks shall assess for the purpose of taxation in 1998, the annexed land and the assessable improvements to it and the assessment must be made on the same basis as the assessment of other property in the Town of Brooks.
4. (i) For the purpose of property taxes in the period 1998 to 2002 inclusive, the annexed land and the assessable improvements having an agricultural designation under the County of Newell No. 4 Land Use Bylaw on December 31, 1997, must be assessed on the same basis as if they had remained within the County of Newell No. 4, and taxed on the same mill rate as the mill rate of other similar property in the Town of Brooks. The difference between the mill rate of the County of Newell No. 4 and the mill rate in the Town of Brooks shall be phased in over the 5 year period from 1998 to 2002 inclusive, at a cumulative rate of 20% per annum of the difference between the two mill rates.

- (ii) For the purpose of property taxes in the period 2003 to 2012 inclusive, the annexed land and the assessable improvements having an agricultural designation under the County of Newell No. 4 Land Use Bylaw on December 31, 1997, must be assessed by the Town of Brooks on the same basis as if they had remained within the County of Newell No. 4. The mill rate shall be the same mill rate of other similar property in the Town of Brooks.
- (iii) For the purposes of property taxes in the period 2013 to 2017 inclusive, the annexed land and assessable improvements having an agricultural designation under the County of Newell No. 4 Land Use Bylaw on December 31, 1997 must be assessed by the Town of Brooks on the same basis as the assessment of other property in the Town of Brooks. The difference between the assessment in the County of Newell No. 4 and the assessment in the Town of Brooks shall be phased in over the 5 year period from 2013 to 2017 inclusive, at a cumulative rate of 20% per annum of the difference between the two assessments. The mill rate shall be the same mill rate of other similar property in the Town of Brooks.
5. (i) Section 4(i), 4(ii), and 4(iii) cease to apply to a parcel of the annexed land and the assessable improvement on it in the first complete taxation year immediately following the taxation year in which the event in subsection 5(ii)(a), (b), (c), or (d) occurs.
- (ii) Subsection 5(i) applies to a parcel of the annexed land and the assessable improvements on it if any of the following occur after December 31, 1997 at the request of, or on behalf of the landowner:
- (a) The parcel is the subject of a subdivision or separation of title, whether by registered plan of subdivision, by instrument or by any other method whereby a new parcel of land, including the residual parcel, is created;
- (b) The designation of the parcel is changed from "DC" - Direct Control District to another designation pursuant to the Town of Brooks Land Use bylaw;
- (c) The parcel is the subject of a development permit, issued for a new land use or development pursuant to the Town of Brooks Land Use Bylaw;
- (d) Municipal water or sewer services provided by the Town of Brooks are extended to a new or existing development located on the parcel.

6. After section 4 ceases to apply to a parcel of the annexed land in a taxation year, the land and the assessable improvements on it must be assessed, for the purposes of property taxes in that year, on the same basis as the assessment of other property in the Town of Brooks.

REASONS

After reviewing the Town's original and the amended negotiation reports, the Board has concluded that all parties are now in full agreement with the amended annexation application.

The only issue of concern raised during this process was the status of Antelope Creek Road and that issue was resolved through the alteration of the boundaries of the proposed annexation. The Board is also cognizant of the fact that the Town has properly planned for this annexation through adopted provisions in its General Municipal Plan and the rapid growth of the Town demonstrates the urgent need for additional forms of residential development.

In this recommendation, the MGB has included several conditions related to assessment and taxation. These conditions have been included at the direct request of the Town and with the written consent of the affected landowners. These conditions have the effect of a slow increase to urban mill rates over a 20 year period. The net effect is that the ultimate tax payments will not be significantly different than if the land remained in the County. The only time this will change is when alterations to the status of the land occur in terms of zoning, subdivision and/or development.

Dated at the City of Edmonton, in the Province of Alberta, this 13th day of January, 1998.

MUNICIPAL GOVERNMENT BOARD



D. Weideman, Presiding Officer

APPENDIX "A"

**DETAILED DESCRIPTION OF THE LANDS RECOMMENDED FOR SEPARATION FROM
THE COUNTY OF NEWELL NO. 4 AND ANNEXED TO THE TOWN OF BROOKS**

All that portion of the northwest quarter of section thirty-one(31), township eighteen (18), range fourteen (14), west of the fourth meridian which lie to the south of the southerly limit of the railway right-of-way on Plan RY 11.

The southwest quarter section of thirty-one (31), township eighteen (18), range fourteen (14), west of the fourth meridian.

All that portion of the southeast quarter of section thirty-one (31), township eighteen (18), range fourteen (14), west of the fourth meridian, not within the Town of Brooks.

The northwest quarter of section thirty (30), township eighteen (18), range fourteen (14), west of the fourth meridian.

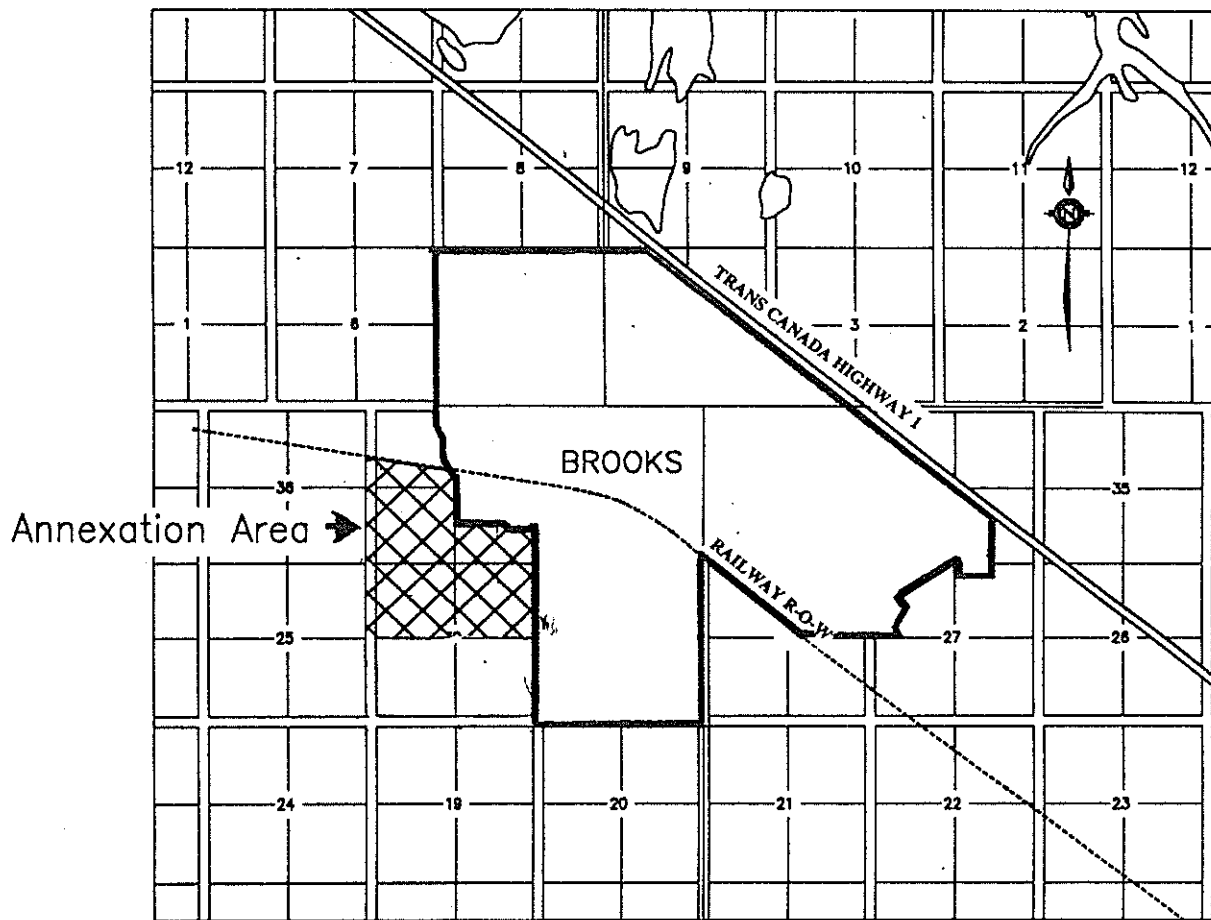
The northeast quarter of section thirty (30), township eighteen (18), range fourteen (14), west of the fourth meridian.

All government road allowances adjoining the above described lands

APPENDIX "B"

**A KEY PLAN SHOWING THE GENERAL LOCATION OF THE AREAS
RECOMMENDED FOR ANNEXATION TO THE TOWN OF BROOKS FROM THE
COUNTY OF NEWELL NO. 4**

AFFECTED AREA(S)



Appendix "B" continued next page -

APPENDIX "B" continued

A MAP SHOWING THE SPECIFIC LOCATION OF THE AREAS RECOMMENDED FOR ANNEXATION TO THE TOWN OF BROOKS FROM THE COUNTY OF NEWELL NO. 4

AFFECTED AREA(S)

