

## **MUNICIPAL GOVERNMENT BOARD**

### **ANNEXATION BULLETIN NO. 2 – 2008**

**Date: May 20, 2008**

#### **ANNEXATION CROSSING PRIMARY (PROVINCIAL) HIGHWAYS**

##### **INTRODUCTION**

In the recent past a number of annexation proposals have been delayed or after the fact municipalities have been surprised at the realization of the impact of the annexation crossing a provincial highway. As a result, this Information Bulletin addresses the municipal consequences and implications of annexations across or adjacent to provincial highways.

Municipalities should be aware that there are significant issues that they should be prepared to address if their annexation application contemplates crossing a primary\* (provincial) highway. These issues may include the following:

1. who retains ownership, control and management of the highway,
2. the operation and maintenance of the highway,
3. the spacing, location and type of access permitted to the highway,
4. the requirements for utility servicing along or across the highway, including the constraints on utilization of the highway right of way,
5. the costs of access improvements including interchange requirements, the method of payment and who bears the costs, and
6. other related matters.

Municipalities contemplating an annexation across a primary\* (provincial) highway should have prior discussions with Alberta Transportation (AT) before finalizing their annexation application and documents in their annexation application how they have dealt with all the related transportation issues. The initiating municipality should be prepared to address these issues during their public consultation process, discussions with impacted landowners and, finally at an annexation hearing before the Municipal Government Board (MGB), should a hearing be required.

These consequences impact cities and other urban municipalities somewhat differently due to the status of the ownership of the roads in each type of municipality.

## **OWNERSHIP AND CONTROL OF ROADS**

The ownership of road rights-of-way is prescribed in section 16 of the *Municipal Government Act* (MGA). A city owns the rights-of-way within its boundaries unless by agreement it has transferred title to the province. In other urban centers the ownership of the rights-of-way is with the province.

\* Primary Highways include all 1, 2 and 3 digit highways, including all former Secondary Highways

Once annexation occurs a city is responsible for all aspects of the road including its direction, control and management, including a primary highway. In the case of other urban centers (non-cities) the municipality is responsible for direction, control and management of all roads unless the road has been designated as a primary (provincial) highway. In those cases the province retains the direction control and management of the primary highway.

Municipalities which have highways that are part of the National Highway System in or adjacent to their proposed annexation should have specific discussions with AT. These would include Highways 1, 3, 4, 9, 16, 35, 43 and 63, and parts of Highways 2, 28A and 49. Under current legislation (section 16, 17 and 18 of the MGA), a city retains ownership, direction, control and management of these highways unless there is an agreement with the AT.

Currently, the MGA requires that a city enter into an agreement in order for the province to have ownership, direction, control and management of these highways. If there is no agreement, then the city becomes fully responsible for these highways, even though they may not want the associated responsibilities. This has been a major issue in at least three annexations in recent times.

## **PRIME FUNCTION OF PRIMARY (PROVINCIAL) HIGHWAYS**

Alberta Transportation plans, designs, constructs and maintains a world class highway system to move people and goods safely. These initiatives support the economic prosperity of the province.

Highways are managed based upon the function and purpose of the highway. Approvals for access (location and design) are managed to preserve the function of the highway system for safe and efficient use today and into the future.

The higher classifications of highways are key economic corridors that carry higher than average commercial vehicles, generally at higher speeds, with a significant portion of the traffic travelling (on average) for longer periods of time. Many of Alberta's highways exist to provide critical transportation and economic links between various parts of the country and within the province.

All roadways generally provide for through traffic movement and land access. The highest design of highway is a freeway, where no access is allowed except at interchange locations. From AT's perspective, it is critical to ensure an appropriate level of access control, depending upon the function of the highway in question. It is therefore important that municipalities enter into a discussion with AT before an annexation across a highway is proposed.

## **MUNICIPAL RESPONSIBILITIES**

Development adjacent to or crossing a provincial highway may involve removing existing intersections, constructing new intersections, building pedestrian facilities and adding capacity to the highway or contributing to these costs.

If a highway is part of a freeway system or part of the National Highway system the municipality may be responsible for new interchanges, improvements to existing interchanges, pedestrian over/under passes required to accommodate development approvals.

These various facilities must be constructed to the standards set by AT and the full cost may fall to the municipality. Municipalities may use regular provincial and federal grants for these improvements.

It should be noted that intersection and interchange construction can range from tens of thousands to 100's of millions of dollars for complex interchange construction.

Expansion of utility services must also be considered in the annexation plan by the municipality as special grants do not exist to facilitate upgrades and extending of services for the purposes of an expansion adjacent to or crossing a highway.

## **CONSULTATION WITH ALBERTA TRANSPORTATION**

Municipalities who are contemplating annexing lands across a primary or adjacent to (provincial) highways should initiate discussions with AT as early as possible in their annexation process. The annexation report prepared by the municipality should clearly address all the related issues, the required improvements and the methods being used to finance any of the required improvements.

The position of AT should be clearly documented in the report and the municipality should address the mitigation actions it is taking to address any concerns raised by AT.

## **COMMUNICATION WITH PUBLIC AND LAND OWNERS**

The annexing municipality should clearly indicate how it has communicated to its public and the impacted landowners any of the consequences (e.g. access plans, access modifications, financial considerations) of access improvements related to the impacted primary (provincial) highway. The annexation report should outline any concerns raised and how the municipality proposes to address those concerns.

## **SUMMARY**

Alberta's primary (provincial) highway system plays a major role in the safe movement of goods, services and people in Alberta and Western Canada. The preservation and enhancement of this transportation system is critical to the well being of all Albertans. Municipalities share in this responsibility (see Appendix A).

Annexing municipalities must ensure that they have fully addressed the consequences of annexing lands across or adjacent to primary (provincial) highways. Early dialogue with AT in the initiation of the annexation process can reduce the impact of these consequences, reduce any surprises at a latter date and ensure the feasibility of any annexation is fully explored.

## **Appendix A**

### **Provincial Land Use Policies Order in Council 522/96**

#### **7.0 TRANSPORTATION**

##### **Goal**

To contribute to a safe, efficient and cost effective provincial transportation network.

##### **Policies**

1. Municipalities are encouraged to identify, in consultation with Alberta Transportation, the location, nature and purpose of the key transportation corridors and facilities.
2. Municipalities are encouraged to minimize negative interactions between the transportation corridors and facilities identified in accordance with policy #1 and the surrounding areas and land uses through the establishment of compatible land use plans.
3. If subdivision and development is to be approved in the vicinity of the areas identified in accordance with policy #1, municipalities are encouraged to employ appropriate setback distances and other mitigation measures relating to noise, air pollution, and safety, to limit access and to enter into highway vicinity agreements with Alberta Transportation and Utilities.