

LOCAL AUTHORITIES BOARD

ORDER NO. 2520

FILE: L.A. 43-A

MONDAY—THE TWENTY-FIFTH DAY OF APRIL, 1966

Before,:

The Local Authorities Board for
the Province of Alberta

In the matter of The Local
Authorities Board Act:

And in the matter of The Town
and Village Act:

And in the matter of an ap-
plication by the Town of Brooks,
Alberta; for annexation of certain
territory adjacent thereto.

Pursuant to a petition by the Town of Brooks under date of November 19, 1965, requesting annexation of certain territory lying adjacent to the town, the Board conducted a public hearing of the matter on Thursday, December 16, 1965 in the Town of Brooks.

The Town of Brooks was represented by Counsel H. R. Eamon and Mayor I. L. Nonnecke. Witnesses called by the town were Mr. Harold Thompson, Medicine Hat Regional Planning Commission, and Mr. Roy I. Woodward, town assessor.

The County of Newell No. 4 was represented by Secretary-Treasurer H. C. Scammell and Reeve J. Hajash Jr.

The Medicine Hat Regional Planning Commission was represented by Mr. Harold Thompson, assistant planner.

Counsel K. W. Lutes of Brown, MacLean, Wiedemann and Lutes, Medicine Hat solicitors, represented the following persons and businesses who have an interest in lands which are the subject of the annexation application:

Mr. Chris Beck; Mr. J. D. Bradshaw; Mr. Chris Brunen; Mr. F. L. Charlton; Mr. Wm. Delday, M.L.A.; Mr. Ivan Russell; Mr. Chris Mathieson; Mr. Masota Nakamura, O.K. Rubber Welders; Dr. J. A. Reynar; Mr. Pask of Stewart-Mason-Pask Service Limited; Mr. Peter Ubertino; and Mr. G. Weber. Certain of these persons expanded on their counsel's representations.

Mr. R. Hobbs appeared for Imperial Oil Limited.

The town based its petition upon the following general submissions:

1. There is not sufficient suitable land in the town limits to take care of a twenty-year requirement for residential, commercial and industrial expansion based on the projected rapid growth in town population and economy. (Population now 3,400 . . . estimated at 8,500 in twenty years.) There were over 60 new homes constructed in the town in 1965 and only about 100 residential lots remain. The town will require about 500 additional acres of land for residential development over the next twenty years and 500 acres for commercial, school land and industrial purposes. The trading area population of over 10,000 is very favorable to continued growth of Brooks.

2. There is a scarcity of commercial lots in the town which situation has led to twelve new businesses being established north of the

town's limits. The north access road requires adequate town-type street lighting and businesses establishing outside town limits are limited in securing mortgage monies.

3. The town has had some demand for small holdings for which purpose lands are not available in the present limits.

4. There is no desirable building permit control in the developing fringe areas outside the town limits and considerable subdividing of farmlands has occurred in these areas.

5. The town's cemetery should be within the town limits.

6. The town's new water system and other services will be available to the developable areas. The outside fringe areas are dependent on town's services, but do not contribute to town's government or necessarily to the up-keep of the services.

7. Since the bases of assessments for lands other than farm lands, in both the town and the County of Newell are similar (1959 Assessment Manual) and the aggregate mill rates are 58 and 59 mills respectively for the year 1965, real property taxation is almost equivalent in the two municipalities. Local improvements (sewer, water, paving, etc.) are undertaken in the town by a petition from benefitting owners or by council giving notice of intention to construct same. Owners of lands abutting on the proposed improvement have the opportunity to petition against such a proposal, (section 403 of The Town and Village Act). Irrigation services will not be affected by annexation.

8. The town's development should extend generally northward since economical expansion is limited to the south by the C.P.R. right-of-way, to the west by topography and to the east by topography and the established golf course.

9. The present town boundary splits certain parcels of land causing taxation (and assessment) problems.

10. Protection from excessive taxation of any farmlands that may be annexed to the town may be ordered by the board and the town could effect by-laws to ensure that a farm operation or small holding enterprise would not be interfered with until the property was subdivided or developed.

11. Sufficient lands should be annexed to the town to ensure their orderly development over the next twenty years and the areas which the town has applied to annex are those chosen by professional engineers and planners and town council as suitable for future economical development.

12. The value of affected lands would increase if they are annexed to the town and mortgage monies would be available for subdivision purposes.

The County of Newell No. 4 represented generally as follows:

1. The owners and occupants of lands proposed to be annexed to the town have not evidenced a desire to be annexed to the town.

2. The town's claim that the areas proposed for annexation are necessary for proper future development is exaggerated.

3. The town's present area is ample for development for a reasonable time and the town will not need the areas proposed for annexation

for 20, 30 or 40 years. Oil development which caused residential growth will not expand so much more and demand for homes will not be there. There are some 230 acres within the town limits available for commercial and residential development.

4. The town's application is prompted more from the financial consideration than from concern over development of the areas proposed to be annexed.

5. The loss to the county of assessment totalling \$128,120.00 is of serious consequence and represents one mill or approximately \$9,000.00.

6. The town's fear of improper development in the areas proposed for annexation is not justified since the county only approves developments subject to approval of the town and the Highways Department has control of developments within 2,000' of the centre lines of highways.

7. The town should develop to the west.

8. In the event of their annexation, the town is unlikely to service the businesses in north areas for a long time since it would be too costly. They have not serviced (Cassils Road) area within the town to the west.

9. There is no need to annex lands for industrial development. This should await arrival of industries and could be accommodated south of present town limits.

Mr. Lutes on behalf of his clients, who are interested in real properties and businesses in the areas proposed for annexation, and some of his witnesses represented that . . .

1. They are opposed to annexation of their properties to the town. (Note: In this respect the clients named represented about 35% of the registered owners of properties in the areas proposed for annexation.)

2. It is not necessary to annex land at this time. The town has not used undeveloped areas in the town limits to their fullest extent. A lift station (in N.E. 33-18-14-1) could make undeveloped lands in Parcels A and B (N $\frac{1}{2}$ 31-18-14-4) and the south half of the south-east quarter of section 4, township 18, range 14, west of the fourth meridian, and other areas developable.

3. Why does the town apply to annex some 900 acres when 500 acres only are needed according to the town's projections?

4. Development could expand to the south and west of the town limits rather than to the north.

5. There is no demand for services from the outside fringe areas and the town has not serviced certain areas within its own limits.

6. His clients have provided themselves with their own pressure water systems and septic tanks and belong to a rural fire protection association and do not require the duplicate town services.

7. Development outside the town limits is not substandard and is controlled through the Provincial Planning Director and the Department of Highways. The town should not develop closer to the Trans-Canada Highway and aggravate access problems.

8. His clients are fearful of increased taxes which accompany increased services, restrictions on farm operations, business taxes, assessment and taxation of farm residences, assumption of debenture debts for town's existing services and restrictions on buildings.

Before and subsequent to the public hearing, the board members who conducted the inquiry, Messrs. C. G. Macgregor and Ian Morris, carried out an inspection of the town's development as well as development of areas surrounding the town's limits. A thorough study and review of the evidence presented to the Board was undertaken and has now been completed.

The Board has now come to the following substantial conclusions:

1. The present town limits do not contain a sufficiently large area to meet a projection of its requirements for the orderly and economical development of new residential and commercial expansion for a reasonably long period of planning.

The Board estimates that there are some 250 to 280 acres of developable lands within the present town limits and that a consumption rate of up to 30 acres per annum, may be expected on the basis of the town's present rate of growth. Over a period of 20 years, some 600 developable acres will thus be required leaving a deficiency of development land in amount of from 320 to 350 acres. We are accordingly granting to the town the request for inclusion of the cemetery area of the north-west quarter of section 4, township 19, range 14, west of the fourth meridian, 10 acres, and the north half of section 5, township 19, range 14, west of the fourth meridian 320 acres and the north half of the south-west quarter of section 5, township 19, range 14, west of the fourth meridian, 40 acres.

The Board is of the opinion that after infilling of developable areas within the present town limits, expansion to the generally higher north-west seems logical and preferable particularly for residential and commercial needs to extending the town southward across the tracks or eastward where lie lower lands. At the present time, and based upon the evidence presented to the Board, we do not believe that the town established a sufficient need to justify annexation of lands for which it applied in section 4 (other than cemetery land), section 8 or section 9, all in township 19, range 14, west of the fourth meridian.

2. The Board does not consider that the owners of properties in the areas proposed for annexation will, on balance, suffer from having their lands and improvements and businesses come into the expanded town limits. Lands within growing urban centres normally have a higher re-sale value than lands situate in areas not served by municipally operated sewer and water systems. Mortgage loans for residential and commercial developments will be more readily obtainable by reason of their location in the urban municipality. The mill rate differential between the town and county is minimal at this time.

3. Persons carrying on farming operations and whose lands are annexed to the town should be allowed to continue those endeavors on the present assessment and taxation basis without change of basis or restrictions of present operations until subdivision of their properties is undertaken or until either the owners of property affected or the town council by letter or by resolution respectively establish before the Board that the aforesaid basis of assessment and taxation or either of them should be varied.

4. The loss of assessment (less than \$40,000 or one-third of one per cent of taxable assessment) by the County of Newell or the gain by the Town of Brooks (less than one per cent of the taxable assessment) will not be a significant factor to either municipality.

5. The Board considers that annexed properties should generally pay their proper share of the town expenditures, including debt costs.

In this regard, the property owner who abuts existing town local improvements has already been charged directly or notified of an impending charge for his share of the costs of such improvements. The remaining general benefit or town portion of such improvement costs, in the Board's opinion, should be shared by all properties within the town limits as a part of the general mill rate since such costs include pumping stations, lagoons, intake lines, outfall lines, etc. which benefit all town properties and residents.

The Board does therefore order as follows:

I. That the following described lands shall be annexed to the Town of Brooks and be separated from the County of Newell No. 4.

Firstly All that portion of section 5 in, township 19, range 14, west of the fourth meridian, not presently within the town limits.

Reserving thereout all mines and minerals.

Secondly The southerly four hundred, and sixty, -six and seven tenths (466.7) feet of the westerly nine hundred and thirty-three and four tenths (933.4) feet of the north-west quarter of section 4, township 19, range 14, west of the fourth meridian.

Reserving thereout all mines and minerals.

Thirdly: The road allowances adjoining the westerly boundaries of the said sections 4 and 5, not presently within the town limits.

Fourthly: That portion of the north-west quarter of section 4, said township and range, which lies within the widening of the No. 36 Highway on Plan 1900 H.X.

(A sketch showing the general location of the annexed land is attached to this order marked Schedule "A".)

II. That any taxes owing to the County of Newell No. 4 as at the 31st day of December, 1966, in respect of the property by this order annexed to the Town of Brooks shall transfer to and become payable to the Town of Brooks, together with the amount of any lawful penalties and costs levied thereon in respect of such taxes; however, upon the Town of Brooks, collecting any or all of the said taxes, penalties and costs, such collections shall forthwith be paid by the town to the County of Newell No. 4.

III. That

(a) for taxation purposes commencing in the year 1967, the assessor for the Town of Brooks shall re-assess the assessable properties which are by this order included in the town, so that the assessments thereof shall be fair and equitable with other related assessable properties in the town, and

(b) for taxation and grant purposes commencing in the year 1967, the chief provincial assessor, appointed pursuant to the provisions of The Municipalities Assessment and Equalization Act, shall re-assess or revalue, as the case may be, all properties that are assessable or subject to valuation under the provisions of The Electric Power and Pipeline Assessment Act and The Municipal and Provincial Properties Valuation Act, and which are within the areas by this order annexed to the Town of Brooks, so that the assessment or valuation shall be fair and equitable with properties of a similar nature.

IV. That the farmlands and the farm buildings situate thereon which are by this order annexed to the town are to be assessed on the same basis of assessment as would be applicable to them had such lands and farm buildings remained in the County of Newell No. 4 until . . .

(a) the said farmlands or any part thereof is subdivided by a plan of subdivision, or

- (b) the town, pursuant to a resolution of council, or the owner, pursuant to a written notice directed to the Board, establishes before the Board that the aforesaid basis of assessment or the actual assessment in respect of the whole or any part of the aforesaid property, should be varied.

V. That all by-laws of the Town of Brooks shall be applicable in the areas of the county annexed to the town by this order, on the effective date of the annexation, but only those by-laws that are appropriate and reasonable having regard to their nature, intent, object and purpose, shall be enforced, in respect to lands being used for crop or livestock production

- (a) so long as the said lands continue to be so used, or
(b) until the town, pursuant to a resolution of council, or the owner, pursuant to a written notice directed to the Board, establishes before the Board that an appropriate and reasonable by-law should be enforced in respect of lands which are being used for crop or livestock production.

VI. It is further ordered that the effective date of this order shall be the 1st day of January, 1967.

LOCAL AUTHORITIES BOARD:
A. B. WETTER (Member).
I. MORRIS (Member).

Certified a true copy.,

W. C. ELLIOTT (Secretary).

