

THE LOCAL AUTHORITIES BOARD

ORDER No. 11402

FILE NO: 43(A)10

Before:

The Local Authorities Board for
the Province of Alberta

In the Matter of The Municipal Govern-
ment Act:

And in the matter of an application by
the Town of Brooks for the annexation of
certain territory adjacent thereto in the
County of Newell No. 4.

Pursuant to an application by the Council of the Town of Brooks, in the Province of Alberta, petitioning the Local Authorities Board to annex to it certain territory as described in Clause I of this Order, (hereinafter called "the said territory"), and thereby to separate the said territory from the County of Newell No. 4, the Board conducted a public hearing into the matter, in the Town of Brooks on Thursday, October 19th, 1978.

In attendance at the hearing and representing the Town of Brooks was Solicitor K. W. Lutes, E. L. Lindquist, Administrator, G. Gordon, Planner and E. M. Emms, Engineer.

Representing the County of Newell No. 4 was Reeve T. Musgrove,

The South East Alberta Regional Planning Commission had present staff member J. Muller.

Owners of land within the said territory who were present were Walter J. Ward, Gilbert Deremiens, William Benton, William R. Oruski, and John Pimvicska.

The said territory, containing some 910 acres, lies to the south east of the Town of Brooks and north west of the Alberta Horticultural Research Station. It is bounded on the north east by Highway No. 1 (Trans-Canada Highway) and on the south west by the Canadian Pacific Railway. Within the said territory the Town of Brooks owns, or has an option to purchase, some 370 acres, including a former sewage lagoon site. There are some 18 individual parcels varying in size from 6.63 to 127.49 acres divided among eight owners. The recent removal by the Town of its sewage lagoons and the proposed reclamation of those lands, now freed much of the said territory which previously had been subject to development restrictions.

It was submitted that the population of the Town of Brooks, from 1970 to 1977 had been increasing at the rate of 8.5 per cent per year, and while this rate was not anticipated to continue, the population was projected to grow from 7,402 persons in 1978 to 25,000 persons by the year 2000. While the Town did have some 1700 acres remaining undeveloped within the Town boundaries, only 1000 acres of this were considered suitable for urban development. Further, it was estimated that by the year 2001 the Town of Brooks would require an additional 3000 acres of land to meet all its needs, such as for residential, commercial, industrial, institutional and open space uses. For specific uses, namely commercial and industrial, the Town had, at the present rate of growth, only a 5 to 8 year supply of these lands.

Mr. Lutes reviewed the past policy of the Town of Brooks in developing land, which it had done between 1970 and 1976 with an excellent record. For the last two years the Town had not been developing lots and because of rising prices for residential and commercial lots, there was a growing pressure to have the Town again in the developing activity. For this purpose it had obtained an option to purchase about 327 acres and purchased 29 acres within the said territory, sufficient to support a population of 2650 people.

Various studies had been conducted by the Town on the said territory to investigate the feasibility of development. The lands in the south-east portion of the said territory were presently irrigated, and a high water table had been encountered in portions of the said territory requiring the need for remedial procedures. In this area, industrial uses were anticipated. By 1979, the Town of Brooks will have completed construction of a new sewage treatment facility which will accommodate ultimately a population of 25,000 persons. A new outfall sewer and pumping station constructed in 1978 will serve the said territory directly. A portion of the lands within the said territory may be serviced by gravity into the main trunk and the remainder will require pumping.

Storm drainage from the Town of Brooks is discharged into One Tree Creek. A drainage system designed for the Town has integrated the said territory within the system. Due to the low lying nature of the said territory, surface runoff collection would be achieved for the most part, by surface ditches.

The Town of Brooks has recently constructed a new water treatment and high lift water supply system with a capacity to serve 12,000 people, with expansion capacity to serve 18,000 people. The said territory would receive water through the existing transmission and distribution system of the Town.

A new transportation study had considered the said territory, and its integration into the Town. Schools are now at capacity, so whenever development takes place, new schools will be required to accommodate additional student populations. The Town's infrastructure, with some expansion, was capable of accommodating any population growth within the said territory.

Reeve T. Musgrove advised that the County of Newell No. 4 approved of the application by the Town of Brooks to annex the said territory. He pointed to a triangle of land cut off from the County by the Trans-Canada Highway No. 1 and suggested that this and two road allowances abutting the said territory should be annexed to the Town.

Mr. J. Muller stated the South East Alberta Regional Planning Commission approved the annexation of the said territory to the Town of Brooks.

Owner, Walter J. Ward, reported that he had not consented to the annexation of his lands to the Town of Brooks, as he could see no advantage. He advised that he farmed the lands and had his residence and farm buildings on a portion. He requested that if his lands be annexed, that his lands receive property tax considerations.

Owner, J. Pimvicska opposed the annexation of his lands, containing 10.62 acres, to the Town of Brooks. He advised that he carried on a honey bee operation from there and if annexed, it would mean a substantial increase in property taxes should he lose his classification as a farm unit. If annexed, he requested that his lands receive property tax consideration and that his irrigation water rights be protected.

Owner, G. Deremiens did not oppose the annexation of his lands to the Town of Brooks if his taxes did not rise and accordingly requested, if his lands were annexed to the Town, that his land receive property tax considerations.

The Town of Brooks informed the Board that it was in agreement that the Town's assessor, for taxation purposes, should assess any buildings, located on a parcel of land within the said territory, if annexed to the Town, in the same manner as if located in the County of Newell No. 4.

The Board, having considered the evidence presented to it at the hearing, has reached the following conclusions:

1. That the Town of Brooks is and will continue, because of its agricultural setting, irrigation, natural resource and industrial development, as a growth centre.

2. That additional land is required for the future residential, commercial, industrial, institutional and recreational needs of the Town of Brooks, and while in excess of its immediate requirements, will permit the Town to again engage in the development of lands for its needs, creating competition and help arrest the escalation of lot prices. Further, the inclusion of such lands now within the Town will permit it to efficiently plan for its utility and land use requirements.

3. That the said territory is a logical expansion to the Town of Brooks, and may be economically serviced with roads, and utilities within the Town's plant capacity and infrastructure.

4. That those land owners within the said territory, whose buildings are classified for assessment purposes by the County of Newell No. 4 as "farm buildings" pursuant to The Municipal Taxation Act, should continue to receive the same classification and exemption for a term of three years, when brought within the Town of Brooks' jurisdiction.

5. That the said application by the Town of Brooks to annex to it the said territory, should be granted in full.

THEREFORE, subject to the Lieutenant Governor in Council approving this Order, or prescribing conditions that the Order is subject to and approving the Order subject to those conditions, or varying the Order and approving the Order as varied, IT IS ORDERED AS FOLLOWS:

1. That there be annexed to the Town of Brooks, in the Province of Alberta, and thereupon be separated from the County of Newell No. 4 the following described territory:

All that portion of the north-west quarter of section 27, township 18, range 14, west of the fourth meridian which lies generally west of the canal right-of-way as shown on Plan Irr 436,

All that portion of the north half of section 28, township 18, range 14, west of the fourth meridian which lies generally north of the north limit of Road Plan 593 E. Z.

All that portion of the south-west quarter of section 33, township 18, range 14, west of the fourth meridian not within the Town of Brooks; excepting thereout Road Plan 593 E. Z.

The south-east quarter of section 33, township 18, range 14, west of the fourth meridian.

All that portion of the north-east quarter of section 33, township 18, range 14, west of the fourth meridian which lies south-west of the south-west limit of Road Plan 5710 G. X.

All that portion of the south-west quarter of section 34, township 18, range 14, west of the fourth meridian which lies south-west of the one-tree spellway as shown on Plan Irr 437.

All government road allowances intervening and adjoining the above described lands.

(A sketch showing the general location of the annexed lands is attached as Schedule "A").

II. That any taxes owing to the County of Newell No. 4 as at December 31, 1978, in respect of the aforementioned properties shall transfer to and become payable to the Town of Brooks together with any lawful penalties and costs levied thereon in respect of any such taxes; however, upon the Town of Brooks collecting any or all of such taxes, penalties or costs, such collection shall forthwith be paid by the Town to the County of Newell No. 4.

III. That the assessor for the Town of Brooks shall for taxation purposes in the year 1979, re-assess the annexed lands and assessable improvements thereon, which are by this Order annexed to the Town so that the assessment thereof shall be fair and equitable with other lands and assessable improvements in the Town of Brooks.

IV. (A) That the assessor, for taxation purposes, shall assess any buildings located on a parcel of land annexed by this Order to the Town of Brooks, which, if located in the County of Newell No. 4 would be classified as "farm buildings" pursuant to The Municipal Taxation Act, and he shall classify such buildings as "farm buildings".

(B) That such "farm building" classification shall be given to such buildings only for the calendar years 1979, 1980, and 1981, after which time such classification shall immediately terminate; provided however:

- (i) that if the said parcel on which is located buildings, classified as "farm buildings" is, subsequent to this Order, subdivided, Clause IV (A) shall, upon the registration of the plan of subdivision, cease to have effect in respect to that parcel and the classification of "farm buildings" shall immediately terminate;
- (ii) that if the buildings located on the said parcel are, pursuant to Clause IV(A) above, classified by the assessor for the Town of Brooks as being no longer "farm buildings", even if they had been located in the County of Newell No. 4, then such classification of "farm buildings" shall immediately terminate in respect to the said parcel; or
- (iii) that if the Council of the Town of Brooks, by Resolution, makes an application to the Board and establishes before the Board, that, for good and sufficient reason, the provisions of Clause IV (A) should be varied prior to the date established in Clause IV(B), the Board may, by Order, reduce the time such classification as "farm buildings" shall remain.

(C) The owner of a parcel annexed by this Order, or other interested person, may apply to the Board for an extension of the time limit for the classification of "farm buildings" as established in Clause IV(B) and the Board may, for good and sufficient reasons, Order the provisions of Clause IV(B) be varied, extended or rescinded.

V. That the Chief Provincial Assessor, appointed pursuant to the provisions of The Municipalities Assessment and Equalization Act shall, for taxation or grant purposes, commencing in the year 1979, re-assess or revalue, as the case may be, all properties that are assessable or subject to valuation under the terms of The Electric Power and Pipe Line Assessment Act and The Municipal and Provincial Properties Valuation Act, and which lie within the areas that are 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.

VI. That the effective date of this Order is the 1st day of January, 1979.

Dated and signed at the City of Edmonton, in the Province of Alberta, this 3rd day of January, 1979.

Certified a true copy,

B. CLARK, Secretary.

LOCAL AUTHORITIES BOARD,
D. A. BANCROFT, Chairman,
TOM LAUDER, Member,
JOHN A. HAMMOND, Member.

SCHEDULE "A"

A SKETCH SHOWING THE GENERAL LOCATION OF THE
AREAS AFFECTED BY BOARD ORDER No. 11402

EFFECTIVE DATE: JANUARY 1, 1979



AFFECTED AREA(S)

