

ORDER NO. 7791

File: L.A. 42-A

Before:

The Local Authorities Board  
for the Province of Alberta

In the matter of The Municipal  
Government Act:

And in the matter of The Local  
Authorities Board Act:

And in the matter of an appli-  
cation by the Town of Athabasca,  
Alberta for annexation of certain  
territory lying immediately ad-  
jacent thereto.

A public hearing by the Local Authorities Board into the proposed annexation petitioned by the Town of Athabasca was called by the Board, to be held in the council chambers of the Town of Athabasca, Alberta on Monday, February Seventeenth (17th), 1975 at 11:00 a.m.

The town had petitioned for annexation of the lands described as the south half of section 29, part of the south-west quarter of section 28 lying immediately east and being provincial highway and cut-off in the south-west corner, and the north/south road allowance on the west side of the south half of section 29, all in township 66, range 22, west of the fourth meridian.

The hearing was attended by persons representing the two municipalities, the regional planning authority and the owners of land in the territories proposed for annexation. At the commencement of the hearing there was Mr. Jack Sturges and Mr. Paul Sissons, respectively mayor and secretary-treasurer of the Town of Athabasca, Mr. Bob Wilkinson, secretary-treasurer of the County of Athabasca, Mr. Wayne Jackson of the Provincial Planning Branch and Mrs. Rudolph Wiselka and Mr. Fred Meyer representing private land owners. During the hearing Mr. Albert Filion and Mr. Lothar Kindt appeared and presented representation as owners on their own behalf although they were not present at the opening of the public hearing.

The town, being the petitioner, presented its case for annexation through Mayor Jack Sturges. Mr. Sturges established that the town owned some seventy and six-tenths (70.6) acres in the south-east quarter of section 29, south and west of the provincial highway, which it intended to develop, in co-operation with a local service club as a rodeo grounds and race track. As the land was outside the town limits and in the County of Athabasca but adjacent to the town, the council proposed that it should be annexed into the town. Thus both ownership and jurisdiction would be with the town and its development and administration would be simplified. Having reached that position the council then reasoned that the adjoining lands in the south-west and south-east quarter of the section should be brought into the town as well. Further definition of the territory led to inclusion of the road allowances, highway and cut-off areas also. The additional developable lands were seen to be suitable for future light industrial uses. Following this initial statement of the town's position the hearing then covered a number of concerns of the two municipalities and the other landowners.

Mayor Sturges noted that it would not be feasible to extend town water and sewer service across the river to serve the land on the north side although gas service and electric power would be available when needed. He observed further that the available water from shallow wells was very limited and that deep wells had not been proven to be able

to provide for water supplies. The type of light industry, therefore, which would locate in the region, should it develop, would be only those types such as storage yards which require no water supply.

The town had plans to exploit the gravel beds already within the town on the north side of the river and to permit this they were planning to remove the town-owned airstrip from the north-west quarter of section 20 to a new site some five miles north of the town. The remainder of the land within the present boundaries of the town and north of the river, with the exception of perhaps seven small parcels, was all owned by the Town of Athabasca. There were no plans for intensive development of any of these lands, but plans for producing the gravel and developing park lands in the area were expected in the near future.

Alberta Highways and Transport by letter of April 29, 1974 offered "no objection" to the proposed annexation, provided that access control of the highway would limit interference on the highway, and subject to approval of Alberta Highways and Transport of such access.

Mr. Bob Wilkinson, secretary-treasurer for the County of Athabasca represented the county in the hearing. The county had initially reacted negatively to the proposed annexation in October 1973 but with the passage of time had resolved its concerns and by the date of the hearing was prepared to offer "no objection" to the town's proposal. Mr. Wilkinson observed that the county was in the process of developing a zoning by-law. He recognized the problem the town would have in growing onto new lands as there were not very suitable land areas available adjoining the present town boundaries for expansion in the west, south or east or in the north as proposed by the petition before the hearing. Topographical and drainage factors present in lands surrounding the town made the land only marginal in terms of its uses and development potential. As to the agricultural quality of the lands in question, they were not rated better than fair for agricultural uses and would not be valued more highly in terms of farming potential than other lands to the west of Muskeg Creek, east of Tawatinaw River or south of the town between the two drainage systems. In the county's plans the lands in question and considering their location, might have a highest potential value in recreational or country residential uses.

Regional planning for the area in which Town of Athabasca is located is provided by the Provincial Planning Branch of the Department of Municipal Affairs. Mr. Wayne Jackson of that office made representations for regional planning and provided planning information to the hearing. The regional planners offered neither support nor opposition for the annexation proposal on regional grounds, recognizing the factors which the town and the county had already noted. Mr. Jackson did, however, observe that in light of the serious obstacles the town would have in extending water and sewer and street services into the northern parts of the proposed new boundaries, the town should perhaps exhaust all possible alternatives on the south side of the Athabasca River before attempting to expand north. The town is tending now to develop along a lineal expansion, which is also expensive and which carries with it serious planning handicaps.

The private owners of parcels in the area proposed for annexation presented their particular concerns. Mrs. Rudolph Wiselka, representing Rudolph Wiselka, the registered owner of some seventy-seven and sixteen hundredths (77 16) acres in the south-east quarter of section 29, township 66 range 22, west of the fourth meridian lying north and east of the provincial highway, related their plans for a country resi-

dence development on their parcel. As to the proposed annexation the Wiselkas were concerned about two matters primarily. Would annexation be followed by a substantial increase in their tax burden, and would it result in interference with their private water and sewage disposal systems? The Wiselkas intended to obtain their private water supply from a surface water basin collecting from land depressions in the immediate vicinity and filtering and holding the supply in a dugout. Neither the taxation question nor the water and sewage matters had been discussed with the town prior to the hearing.

A second owner, Mr. Fred Meyer, who had approximately nine and eighty-two hundredths (9 82) acres and a small home in the proposed annexation territory, felt that his property would be virtually unaffected by a change from county to town jurisdiction. Mr. Meyer's land was on the north side of the described territory, on the provincial highway and a surveyed road diversion. He had satisfactory access and believed that it would not be improved if he were brought inside the town limits. Nor did he feel that water, sewer or gas would be provided, at least, in the near future. Mr. Meyer's principal concern was that if light industrial uses were permitted in the area his residential holding would be devalued with the loss of country residential amenities.

Another small parcel of land cut-off by the provincial highway and fronting on both the highway and a surveyed road in the extreme north east corners of the S W 29-66-22-4 registered in the name of Roy Rogers had also been developed as a residential acreage. Mr. Rogers had, as of March 14, 1974, by letter, advised that he had no objection to the town's proposed annexation although he was concerned that the taxes might increase and wanted further information about that matter. By the date of the hearing a new purchaser and occupant of the Rogers' parcel had arrived and attended in his own right to represent his interests. Mr. Albert Filion, the purchaser, indicated that he was not in favour of the annexation. He felt that his taxes would probably be higher in the town and that as water, sewer and gas services would not be provided, he saw no advantage to coming under town jurisdiction. The Rogers/Filion parcel also had satisfactory road access as did the Meyer parcel under the current circumstances.

The fourth private owner was Dr. Lothar Kindt, a veterinarian, who occupied his one hundred and forty-two (142) acres parcel in the south-west quarter of section 29 as a country resident which involved among other things, the freedom to keep several dogs on the premises and other advantages of a rural setting. Kindt was particularly concerned for the preservation of vegetative growth and natural ground cover as protection for the delicate water table which was the only water source available in that area. He was concerned that any development of light industry would disturb this natural benefit either by disrupting the collection and storage of surface waters or by pollution of the water with industrial wastes. Either or both consequences would constitute a serious loss to the present owners and ultimately they would adversely affect the market value of all holdings in the area. The anticipation of increased tax burdens should the land be placed under jurisdiction of the town was also a concern of this owner.

Following the representations from the private landowners, Mayor Sturges offered for consideration, an alternative proposal to consider annexation of the town owned parcel of seventy and six tenths (70 6) acres only. This would permit the town to develop the rodeo grounds and park, and if suitable precautions are taken it should not seriously disrupt surface waters and the area water supplies. On questioning of Mr. Jackson of the Provincial Planning Branch it was determined that

these environmental attributes of the area could be protected to the extent that no further subdivision, especially if it anticipated any sort of industrial uses would be approved by the subdivision authority until suitable and adequate provision of water was assured and provisions were made for disposal of wastes. He thought it highly unlikely that the land would be zoned for industrial or even residential development until a proper water and sewer and street system was warranted.

The Board finds that a solution to the apparent conflicts of the town's requirements, regarding its own parcel in the south-east quarter of section 29, and the concerns of the owners of near-by lands, should be possible given a measure of restraint by the town as to its own development and ownership policies. Should the town retain ownership of its present holdings in title 115-E-264 (Part of the south-east quarter of section 29 south and west of the provincial highway) and permit no subdivision of that parcel nor improvement except to provide for rodeo and parks grounds, and avoiding any interference with the water tables, it should have no serious adverse effects on the interests of neighbouring lands. There must also be restraint on the part of the county and the private landowners if the precarious natural environment which constitutes the surface water regime and the water table are to be preserved. This is a matter which depends on much more than the question of an annexation. Whichever municipality has jurisdiction of the lands, where there is jeopardy of the environment involved, then close and continuing restriction of activities and works on the lands must be provided. In the past this restraint has been imposed through subdivision control involving the regional authority and the County of Athabasca. If the lands were annexed it would still be accomplished, at least initially, by control of subdivision and involving the regional authority but with the town involved along with the county, where formerly it had been, and without annexation would continue to be, a responsibility primarily of the county as the municipality having jurisdiction. It is not within the power of the Board to specifically order environmental protections, and whether the Board orders an annexation or not, it is the contention of the private owners that protections are needed. Restrictive development or zoning control, therefore, should be implemented by the municipal planning authorities involved, and in conjunction with restrictions on subdivision of lands as maintained by the regional authority and supported by both municipalities, they offer the only protection that it is reasonable to expect.

There may be, in the future, a growing pressure from development interests, for relaxation of the controls and restrictions. At some future date it is conceivable that a large scale development for urban uses will be proposed and that at such time it would be feasible to construct fully operational water, sewer and street systems in the area. If and when that were to occur, it would perhaps be in the public interest to permit destruction of the natural environment of vegetative cover and surface water basins. But until such time, the interests of local owners and occupants should be protected, pressures for development should be opposed and subdivision of land parcels should be severely restricted. In the interests of good urban planning the town should not at this time permit subdivision or private development of any of the lands north of the Athabasca River within its former boundaries or on lands owned by the town beyond its boundaries in this vicinity. This would apply to lands which were heretofore within the town as well as to lands which the town now proposes to annex. The question before the Local Authorities Board, therefore resolves into a question of what additional territory, if any, does the town require to add to its present area, to accomplish its legitimate purposes, given that no water supply, sewer

or street improvements are available or likely to be constructed in the area of the proposed annexation or anywhere else north of the Athabasca River in sections 20, 21, 28 or 29 in township 66, range 22, west of the fourth meridian.

The Board is satisfied that the addition of one more parcel (of approximately seventy and six-tenths (70.6) acres) of town-owned land to the several hundred acres of town owned lands within the jurisdiction of the town on the north side of the Athabasca River would not increase the hazard of environmental destruction in the area. The plans to establish a rodeo grounds on its land and to remove the airstrip now located on another part of the area should actually have the net effect of decreasing pressures for development of these lands at least in the immediate future. As there can be no plans for urban development of the other lands in the proposed annexation territory, which would not constitute a threat to the interests of affected owners and nearby lands, the Board finds no justification for changing the jurisdiction of the remainder of the proposed territory. Only the Town of Athabasca parcel and the road and highway surveys surrounding it will be separated from the county and annexed to the town.

It is ordered, therefore, as follows:

I. That there be annexed to the Town of Athabasca and thereupon be separated from the County of Athabasca No. 12, the following described territory:

All those portions of the south-east quarter of section 29 and the south-west quarter of section 28, township 66, range 22, west of the fourth meridian, in the Province of Alberta, which lies to the south-west of the north-east limit of the road as shown on road plan 3397 M.C.

All that portion of the road within the south-west quarter of section 29, township 66, range 22, west of the fourth meridian as shown on road plan 1260 E.O. lying south of the production north west across the said road of the north-east limit of the road as shown on road plan 3397 M.C.

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

II. That any taxes owing to the County of Athabasca No. 12 as at December 31, 1975 in respect of the aforementioned annexed properties shall, together with the amount of any lawful penalties and costs levied thereon in respect of such taxes, remain payable to the County of Athabasca until paid.

III. The assessor for the Town of Athabasca shall for taxation purposes commencing in the year 1976, re-assess or re-value the annexed lands and improvements thereon, which are by this Order annexed to the town, so that the assessment or valuation thereof shall be fair and equitable with other lands and assessable improvements in the Town of Athabasca.

IV. 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 1976, re-assess or re-value, 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 an-

nexed to the Town of Athabasca, so that the assessment or valuation shall be fair and equitable with properties of a similar nature.

V. The effective date of this Order shall be the 1st day of January, 1976.

Dated and signed at the City of Edmonton, in the Province of Alberta, this 28th day of April, 1975.

LOCAL AUTHORITIES BOARD  
D. A. BANCROFT, Chairman.

Certified a true copy,  
B. CLARK, Secretary.

### SCHEDULE "A"

A SKETCH SHOWING THE GENERAL LOCATION  
OF THE AREAS AFFECTED BY ORDER No 7791  
EFFECTIVE DATE JANUARY 1, 1976

 AFFECTED AREA(S)

