

**BEFORE: THE LOCAL AUTHORITIES BOARD**

**IN THE MATTER OF THE "MUNICIPAL GOVERNMENT ACT"**

AND IN THE MATTER OF an application by the Council of the Town of High River, in the Province of Alberta, for the annexation of certain territory lying immediately adjacent thereto and thereby its separation from the Municipal District of Foothills No. 31.

Pursuant to Section 20 of the Municipal Government Act, the Council of the Town of High River, in the Province of Alberta, petitioned the Local Authorities Board for the Province of Alberta, for the annexation to the Town of High River of all that territory described as follows:

ALL THAT PORTION OF THE EAST HALF OF SECTION ONE (1), TOWNSHIP NINETEEN (19), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN, NOT WITHIN THE TOWN OF HIGH RIVER

ALL THAT PORTION OF THE WEST HALF OF SECTION ONE (1), TOWNSHIP NINETEEN (19), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN, NOT WITHIN THE TOWN OF HIGH RIVER

ALL GOVERNMENT ROAD ALLOWANCES ADJOINING THE ABOVE DESCRIBED LANDS

THE ABOVE DESCRIBED LANDS CONTAIN ONE HUNDRED THIRTY-NINE AND TWENTY-ONE HUNDREDTHS (139.21) HECTARES, (344.0 ACRES), MORE OR LESS

(hereinafter called the said territory)

which lies immediately adjacent to the Town of High River, and thereby its separation from the Municipal District of Foothills No. 31, and in respect to which the Board held a public hearing into the matter on June 28, 1988.

Representing the Town of High River were Mayor Douglas McDougall; J. Albert Barrie, Town Manager; Leif Pederson, Secretary Treasurer; Ron Weston, Development Officer; John Plastiras and Chris Van Bussel, both Consultants with IMC Consulting Group Inc.; Les Rempel of Rempel Construction, who also appeared on behalf of Andrew James Beach, the major landowner.

The Municipal District of Foothills No. 31 was represented by Bill Robinson, Administrator.

Ms. Linda Yakimishyn, Planner, and Paul Mercer, Supervisor of Regional Planning Services presented the views of the Calgary Regional Planning Commission.

Mr. Laurie Gordon, Solicitor, represented landowners Dennis and Linda Mercer.

Ridgewood Energy Developments Ltd. and Mr. G. Miles, joint landowners, were represented by Mr. Miles.

Alberta Agriculture, Alberta Environment and Alberta Transportation and Utilities submitted written briefs to the Board.

The said territory is an irregular shaped parcel located to the west of the Town of High River and south of the Highwood River. The said territory is also bounded on the south by a paved municipal road and on the west by an undeveloped road allowance. The topography varies and is bisected by several highwater drainage channels. Baker Creek also bisects the south east corner of the said territory. Severe soil limitations caused by rock and gravel deposits limit agricultural productivity. The soils range from Class 5 to 6 under the Canada Land Inventory (CLI) agricultural rating system. Small portions of the said territory are used for improved pasture, but most of the land is unimproved in native grass, large poplar trees and other lower growing species such as willow and dogwood.

Nearly three quarters of the patented land is owned by Mr. Beach, the balance by the Mercers, Mr. Miles and Ridgewood Energy Developments Ltd. The unpatented lands comprise the bed and shore of the Highwood River and road allowances. Three residences are located within the said territory. No sour gas facilities are in the vicinity.

The Town of High River acknowledged that there is currently 840 acres of undeveloped residential land within the Town and that none of the lands annexed in 1984 under Board Order No. 16298 have been developed. The Town contended, however, that based on various population projections prepared by the Calgary Regional Planning commission which related the Town's growth to that of Calgary and the entire region, the current population of approximately 5,100 could increase by approximately 14,550 to 19,785 within 30 years to a population in the range of 22,250. The projected population increase would require, in addition to the undeveloped 840 acres of residential land, 25 to 504 acres based on a density of nearly 11 persons per gross residential acre. The current density of the Town has been computed by the Calgary Regional Planning Commission to be 9.37. The estate lots proposed for the said territory, because of their size and the flood prone lands to be set aside as environmental reserve, would yield a density of approximately 4.2 persons per gross residential acre, accomodating approximately 1,120 people. In total approximately 400 lots, with homes ranging from 1,500-3,000 sq. ft., are being contemplated. The development potential of the said territory is reflected in the proven demand which presently consists of firm purchase offers for 32 lots representing 30% of Phase 1 and tentative offers comprising an additional 30%.

In support of the potential increase in population growth the Town of High River stated that approximately 870 staff would be employed by the Alberta Natural Gas-MPLC Holdings \$375 million magnesium plant and the Cargill Ltd. \$44 million meat processing plant, both now being constructed near the Town. The housing required by the employees, in addition to the surrounding communities' natural needs, as well as an expected influx from Calgary, is expected to create a demand for standard residential lots as well as choice estate lots presently unavailable within the Town.

Recent hydrological studies have determined that most of the said territory lies above the 1:100 year flood zone contours of the Highwood River. Sensitive planning will incorporate the highwater channels into the grading design ensuring the unobstructed passage throughout the area of flood water. Baker Creek would also be retained. Mature vegetation will be intergrated into the devclopment plans. Lands along the river will be dedicated for public park use. Roadways will be constructed at or above the 1:100

year flood contour. The first floor of all residences will be placed one metre above the flood contour. The Town of High River is of the view that a 1 in 100 year flood event should not have an adverse affect on the subdivision and the development would not have any significant impact on the flood regime upstream or downstream. The Town also advised that a dyke along Baker Creek is under consideration.

The Town of High River contended that it has sufficient capacity to extend all municipal services to the said territory without requiring additional plant facilities. Since the developer is responsible for the front end costs and user charges cover service costs, there would be no negative financial impact upon the Town. Landowners within the said territory would not be impacted until urbanization takes place and in the interval, the Town does not anticipate that services beyond those already being provided; fire, police and ambulance services plus access to the library, recreational and cultural facilities will be required.

The Town of High River concluded that the annexation would allow the Town to meet the demand for estate housing, utilize its municipal services capacity more efficiently and "square off" the municipal boundaries.

The Municipal District of Foothills No. 31 advised that it neither opposed or supported the annexation application.

The Calgary Regional Planning Commission acknowledged that the Town had not proven a demonstrated need for the lands in the short to medium term but recognized that the site is for estate housing. The Commission is of the view, however, that the Town is capable of servicing the land and that the development would not be inconsistent with the Town's General Municipal Plan, the Calgary Regional Plan or the Town's urban fringe position paper. Since the Town's historical growth rate is 3.23% and up to 75% of the annual increase is through migration, the Planning Commission did not consider the projected growth rate of 7-8% to be unrealistic in light of the two industrial developments now under construction. The Commission concluded that this is a comprehensive annexation proposal, without detrimental impact, that would provide a housing market/lifestyle choice for future residents. The Commission supported the Annexation of the said territory.

Mr. L. Gordon advised that his clients, Mr. and Mrs. Mercer, objected to the annexation in the belief that a change in jurisdiction would adversely impact on the agricultural use of their land. Mr. Gordon sought assurances that the agricultural assessment would remain in effect while the land is used for agricultural purposes. His clients are of the view that the Town did not need the lands and expressed concern that their land value may become diminished if the existing sewage system became inadequate to service their land when they chose to develop it.

Mr. Miles expressed opposition to the annexation because the changed land use and jurisdiction would impact on the present use and enjoyment of his property. Mr. Miles also expressed his concern regarding possible development of the flood plain and especially the provision, on his property, of a dyke along Baker Creek as contemplated by the Town. In the event annexation is approved, Mr. Miles sought assurances that taxes would not be increased.

Alberta Agriculture, in its written brief, stated that in light of the lands' low agricultural capability the Department did not object to the annexation.

Alberta Environment advised the Board that the Department concurred with the March 1986 hydrological study conclusion that the majority of the area lies above the 1:100 year flood contour. Alberta Environment also accepted that developer's concept plan requiring that the major shallow highwater channels should be left unfilled and

unobstructed allowing for the free passage of flood water. The Department stated its preference that these channels be protected as public reserve lands rather than intergrating the channels in certificates of titles and caveating the title. The Department endorsed the proposal to place the first floor of the residences at least one meter above the 1:100 year flood elevation. Alberta Environment also advised that prior to any development beyond Phases 1 and 2 (70 lots) more detailed hydrological studies are necessary to determine the extent of erosion protection measures along the Highwood River and the hydraulic capacities of the shallow highwater channels and bridges crossing them. In summary, Alberta Environment conditionally accepted the annexation application.

Alberta Transportation and Utilities had no objection or comments regarding the application.

The Board, having considered the evidence received at the hearing, has reached the following conclusions:

1. That the Town of High River, as the Board noted in Order No. 16298, being well endowed with excellent transportation facilities, an established infrastructure with growing institutional, commercial and other urban amenities, and being a regional farming and ranching service centre, can be expected to maintain its historical population growth. In addition, the Town's close proximity to Calgary with high immigration and the current industrial development may result in an accelerated growth rate above the historical projection.
2. That while the Town already has an ample supply of vacant residential land within its jurisdiction, there is a demonstrated market for estate lots that will probably accelerate with the completion of the two major industrial plants and the generation of its own demand as the subdivision takes on form and character. An urban residential lifestyle, within a small rural community at the foot of rolling ranching country, set along a mountain stream amongst towering cottonwoods within a half hour drive of a thriving metropolitan centre can be a very compelling attraction. There is little doubt that, notwithstanding that other lands are available, the said territory will attract additional people to the town. The lands should be annexed to provide the Town with this choice of residential development.
3. That the conditions and concerns identified by Alberta Environment and Mr. Miles with respect to the 1:100 year flood frequency elevations and the need to provide flood and erosion control measures are valid. Both the hydraulic consultants and the Department have identified items of further study because this property tends to be borderline between flood prone and not floodprone. The Board questions the wisdom of leaving these serious life and property concerns unanswered until after annexation, or as recommended to the Calgary Regional Planning Commission when the subdivision plans are being reviewed, or after Phase 2 is completed. The Board believes such consideration should be addressed prior to any development proceeding, ensuring that the required studies and sufficient protection are provided in the approval of any subdivision. The history of flooding from the Highwood River at the Town of High River is well documented and warrants immediate consideration.
4. That appreciating that it may be a considerable period before all the farm rural acreage lands may be required for urban uses, the property taxes assessed by reason of being in the Town's jurisdiction, especially since the Town does not contemplate providing additional services in the interim, should not exceed those taxes that would have been payable if the lands had remained within the Municipal District of Foothills No. 31.
5. That the said application to annex the said territory by the Town of High River 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:

I. That there be annexed to the Town of High River, in the Province of Alberta, and thereupon be separated from the Municipal District of Foothills No. 31, the following described territory:

ALL THAT PORTION OF THE EAST HALF OF SECTION ONE (1), TOWNSHIP NINETEEN (19), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN, NOT WITHIN THE TOWN OF HIGH RIVER

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

II. That any taxes owing to the Municipal District of Foothills No. 31 as at December 31, 1988, in respect of the aforementioned properties shall transfer to and become payable to the Town of High River together with any lawful penalties and costs levied thereon in respect of any such taxes, however, upon the Town of High River collecting any or all of such taxes, penalties or costs, such collection shall forthwith be paid by the Town of High River to the Municipal District of Foothills No. 31.

III. (A) That the assessor for the Town of High River shall, for taxation purposes in the year 1989, reassess the annexed lands and assessable improvements thereon, which are by this Order annexed to the Town of High River, so that the assessment thereof shall be fair and equitable with other lands and assessable improvements in the Town of High River, and the provisions of the Municipal Taxation Act regarding the assessment roll shall mutatis mutandis apply to such assessment.

(B) That, notwithstanding Clause III (A), the assessor for the Town of High River shall, for taxation purposes, classify and assess any farm land, farm residences and farm buildings located on a parcel of land annexed by this Order to the Town of High River, as if the land, residences and buildings were farm land, residences or buildings located in a rural municipality, and which if located in the Municipal District of Foothills No. 31 would be classified as farm land, residences and buildings pursuant to the Municipal Taxation Act.

(C) That such "farm land, residences and buildings" classification shall be given to such land, residences and buildings only for the years 1989 to 1993 inclusive after which time such classification shall immediately terminate; provided however:

(i) that if the land or residences and buildings located on the said parcel are, pursuant to Clause III (B) above, determined by the assessor for the Town of High River as being no longer "farm land, residences and buildings", even if they had been located in the Municipal District of Foothills No. 31 referred to

in Clause III (B), then such classification of "farm land, residences and buildings" shall immediately terminate in respect of the said parcel: or

(ii) that if the Council of the Town of High River, by Resolution, makes an application to the Local Authorities Board and establishes before the Local Authorities Board that, for good and sufficient reason, the provisions of Clause III (B) should be varied prior to the date established in Clause III (C), the Local Authorities Board may reduce the time such classification as "farm land, residences and buildings" shall remain in effect.

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

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 1989, reassess 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 High River, so that the assessment or valuation shall be fair and equitable with properties of a similar nature.

V. That the effective date of this Order is the Thirty-first (31st) day of December, 1988.

Dated and signed at the City of Edmonton, in the Province of Alberta, this 28th day of July, 1988.

LOCAL AUTHORITIES BOARD

CERTIFIED A TRUE COPY:

(SGD.) BRYAN CLARK, ACTING CHAIRMAN

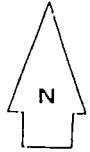
RAY MYRONIUK,  
ACTING SECRETARY

(SGD.) HENRY THIESSEN, MEMBER

### SCHEDULE "A"

A SKETCH SHOWING THE GENERAL LOCATION OF THE  
AREAS AFFECTED BY BOARD ORDER No. 18688

EFFECTIVE DATE: DECEMBER 31, 1988



 AFFECTED AREA(S)

