



BEFORE THE: LOCAL AUTHORITIES BOARD

IN THE MATTER OF THE "Municipal Government Act":

AND IN THE MATTER OF THE "County Act":

AND IN THE MATTER OF an application by the Council of the Town of Sylvan Lake, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the County of Red Deer No. 23.

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

NORTHWEST QUARTER OF SECTION TWENTY-NINE (29), TOWNSHIP THIRTY-EIGHT (38), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

SOUTHWEST QUARTER OF SECTION THIRTY-TWO (32), TOWNSHIP THIRTY-EIGHT (38), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION THIRTY-TWO (32), TOWNSHIP THIRTY-EIGHT (38), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN WHICH LIES SOUTH WESTERLY OF THE NORTHEASTERLY LIMIT OF THE MAIN HIGHWAY AS SHOWN ON ROAD PLAN 4376 J.Y.

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION FIVE (5), TOWNSHIP THIRTY-NINE (39), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN CONTAINED IN ROAD PLAN 4376 J.Y.

ALL GOVERNMENT ROAD ALLOWANCES INTERVENING AND ADJOINING THE ABOVE DESCRIBED LANDS

THE ABOVE DESCRIBED LANDS CONTAIN ONE HUNDRED EIGHTY-TWO AND FIFTY HUNDREDTHS (182.50) HECTARES (450.97 ACRES) MORE OR LESS

(hereinafter called "the said territory")

which lies immediately adjacent to the Town of Sylvan Lake, and thereby its separation from the County of Red Deer No. 23, and in respect to which the Board held a public hearing into the matter on April 10, 1991.

Representing the Town of Sylvan Lake were Mayor Ross Shuman, Engineer Brian Lee of Lee Maher Engineering Associates Ltd., and Town Manager P.M. (Rick) Grimson.

The County of Red Deer No. 23 was represented by Reeve Elmer Stoyberg and County Commissioner R.J. Stonehouse.

Director W.G.A. Shaw and Associate Planner Dennis Shewfelt represented the Red Deer Regional Planning Commission.

C. Fergus and T. O'Connor appeared on behalf of the Sylvan Lake Golf & Tennis Club and Performance Industries Ltd. J. McBeth appeared on behalf of Points West Resorts Inc. H. Boomer, D. Turner and L. McNee, owners, were also present and made presentations.

Alberta Transportation and Utilities, Alberta Agriculture, the Energy Resources Conservation Board and Canadian Pacific Limited all made written submissions.

The lands proposed for annexation include all or part of three quarter sections located immediately south of the Summer Village of Norglenwold and adjoining the west boundary of the Town of Sylvan Lake. The present use of the lands vary greatly from north to south and may best be described by blocks reflecting current and proposed use.

Block 1, being the most northerly portion of the said territory encompasses that portion of the N.W. 1/4 32-38-1-W5 not within the Town of Sylvan Lake or the Summer Village of Norglenwold. The Block contains 132.57 acres and abuts

the south boundary of the Summer Village of Norglenwold on the north and the west boundary of the Town of Sylvan Lake on the east. A portion of Highway No. 11A is included in the proposal and forms the north boundary. The quarter section is fragmented into seven parcels which are either vacant, in agricultural production with associated improvements, for residential use or summer resort use.

Block 2 lies immediately south of Block 1 and also abuts the Town's west boundary, the south limit of the Block defined by a road and rail line. This Block is developed as a golf course, part of which is also located in the Town of Sylvan Lake immediately to the east. The 18 hole golf course contains a tournament house in the southwest corner of the said property.

Block 3 lies immediately south of Block 2 with the rail line forming the north boundary and also adjoins the Town's west boundary. The Block is bisected in a northeast southwesterly direction by an abandoned rail line and contains two parcels. Both parcels are currently in agricultural production and the soil is rated as Class 2 and 3 under the Canada Land Inventory.

The Town of Sylvan Lake estimates the present population to be between 4,500 and 5,000. The Town has not undertaken a recent census and is relying on the 1986 Federal Census which gave a population of 3,937 and utility and service connections data to arrive at the present estimates. Without an accurate census, the Town is unable to provide a population projection with any degree of certainty but it is expecting annual growth rates to be between 1.0 and 1.75% based on projections of the Red Deer Regional Planning Commission.

The Town of Sylvan Lake stated the Sylvan Lake Market Study (June, 1990) considered Sylvan Lake a major recreation and tourism destination, estimated to attract up to 275,000 tourist visits per summer. Sylvan Lake Provincial Park, located within the Town, is expected to have over 10,000 user visits per day on weekends. The Town maintains that a large proportion of the tourists visiting the Sylvan Lake area are attracted to the Town because of its many recreational amenities and facilities catering to tourists' needs. The area offers an opportunity for potential future recreational, commercial and lakeshore development along the Town's northwest boundary. The Town believes that Block 1 and 2 are key and central to the development of their goals of becoming a "four season resort destination".

The Sylvan Lake General Municipal Plan's future Land Use and Transportation map, (May, 1990) identified Block 3 for future "Short Term Residential" usage, where short term means 1 to 4 years. Block 2, being the Sylvan Lake Golf Course property located within the annexation area, is identified as future "Recreational Facilities" usage which recognizes and agrees to the continued long term use of the site in its present golf course capacity. Block 1 is proposed for future "Commercial and Recreational" usage. The Plan also identifies several future collector roads to serve the area.

The Town indicated there is only a small amount of readily serviceable short and medium term residential and commercial land available for development in the Town's south and west areas. A limited area within the Town, on the east side of Town west of Highway 20 and the industrial park, remains undeveloped and is potentially suited for future residential use. There are, however, site limitations and constraints to development due to the presence of a high ground water table and wet site conditions. Servicing the area would be costly. Furthermore, the Town advised that the landowner is unwilling to change the existing agricultural use of the land in the foreseeable future. The Town is not seeking land for industrial purposes as there is an adequate supply within the present Town boundaries.

The Town's engineer indicated the said territory could be serviced by a westward expansion of the Town's existing water supply and sewage collection systems. The Town presently obtains water through six wells located within the Town. Through the addition of several new wells a population of 8,000 can be served. Similarly, 8,000 persons can be accommodated on the sewage collection system through the addition of a new lagoon lift station and wet cell. The present sewage lagoon has a carrying capacity of approximately 5,000.

The Town of Sylvan Lake and the local Chamber of Commerce, in conjunction with private developers, are currently exploring the feasibility of developing a major resort facility in Block 1. The Town intends to retain Block 2 as the golf course as it is considered an integral part of the community's recreation attraction. The Town stated that potential for residential development of a portion of the golf course lands exists. While the owners of the golf course have stated that they have no plans to develop residential housing lining the fairways, the Town submitted that given the proper circumstances and incentives such a development is possible. The Town contends the continued operation and development of the golf course will be more effectively and efficiently controlled if managed under a single municipal jurisdiction. Block 3 is proposed for short term residential usage by the Town's General Municipal Plan. A preliminary development proposal has been completed, indicating a potential for over 500 residential lots.

The Town emphasized the relationship between the Town and the County is strained, due in part to the County removing itself from the Red Deer Regional Planning Commission subdivision authority, thus placing the Town and other communities in the County in an uneasy position regarding peripheral developments. The County's proposed fringe area plan, a gentleman's agreement, was to protect an area surrounding the Town from objectionable developments as well as outline the County's plan for the Town's future expansion. The Town rejected the County's expansion plans as a major pipeline corridor immediately south of the Town prohibits major growth in that direction. The Town stated the County would not enter into discussions regarding a Joint General Municipal Plan. As the scope of the fringe plan was limited and did not protect the Town's interests, the Town rejected the plan and sought annexation to protect their future growth options.

The Town's submission included a request to the Board to "consider exercising its discretionary powers in order that the assessment on undeveloped lands in the subject area be maintained at the present levels until such time as they are developed."

The County of Red Deer No. 23, at its meeting of December 4, 1990, passed a resolution opposing the application for annexation. In a brief submitted to the hearing the County indicated it did not support the reason given by the Town that Block 1 and 2 are required for the growth of the Town over the next 15 to 20 years. The County believes that any development of the lands could be developed under County jurisdiction and not necessarily within the Town.

With regard to the golf course, the County maintains that as the use would remain the same there is no reason for it to be within the Town. The County, quoting figures prepared by the Town's assessor, indicated the golf course property assessment would increase by some \$62,540 and taxes by \$2,843 per year if annexed into the Town. The County contends that if the operation and development of the golf course would be more effectively controlled if managed under a single municipal jurisdiction as the Town has stated, then, as the major portion of the course is in the County the portion in the Town should be under the jurisdiction of the County. The County believes there is no benefit for the golf course to be within the Town boundaries.

The annexation of Block 1 by the Town for commercial and recreational use is seen by the County as a land and tax grab. The County feels there may be other areas within the Town which could accommodate the proposed future development, and the resort theme lacks substantiating documentation and investment interests.

With respect to Block 3, the County has no objection to the annexation to the Town. The County contends that the annexation of these lands would provide residential development for 1,920 persons, which together with existing future residential development areas within the Town providing for 2,530 persons, a total population of 8,775 can be accommodated. In the County's opinion this would provide the Town's residential land requirements for at least 25 years.

The County disagrees with the Town's statement that their future development is not protected. The County's attempts at a fringe area plan were thwarted by the Town's annexation application. The County feels that the Town would have a very strong voice in any future proposals through the fringe plan.

The County has calculated that it would lose approximately \$31,600 in taxes and an assessment base of \$1,627,000 if the Town's annexation application is granted. This represents an immediate loss to the County and does not reflect the loss of potential increased assessments and taxation through growth over the years to come.

The Red Deer Regional Planning Commission supports the annexation application. The Commission views the proposed annexation as facilitating and promoting the growth of the Town for approximately the next 15 to 20 year period. In addition to residential land usage, recreational facility areas are a priority for the Town. The Planning Commission, based on information contained in the application, an analysis of the population forecasts and land requirements and a review of the relevant planning documents with respect to the principles contained in the Regional Plan, reached the following conclusions:

- The application is consistent with the Town of Sylvan Lake's General Municipal Plan.
- The County of Red Deer's General Municipal Plan does not present a case for or against this annexation application.
- No Joint General Municipal Plan or mutual planning agreement for the Sylvan Lake urban fringe is in place.
- The proposed annexation area can be reasonably served by an extension of the present municipal water treatment and sewage disposal systems.
- There is justification for the annexation of the N.W. 29-38-1-5 (Boomer property) and the southeasterly portion of S.W. 32-38-1-5 (Turner property) based on forecast residential land requirements.
- There is justification for the inclusion of the Golf Course Lands, currently within the County, being part of the Town of Sylvan Lake at this time.
- The Town of Sylvan Lake's desire to have a major tourist resort development in the N.W. 32-38-1-5, supported by the Sylvan Lake Market Study - 1990, is in keeping with the Town's General Municipal Plan and the long term economic development goals expressed in the application. However, a lack of information in the annexation application does not permit a technical analysis on land requirements for commercial and recreational facility development.
- The Regional Plan indicates that commercial, recreation and tourist development may be appropriately located in rural areas. The Regional Plan also focuses on the need for such developments to be guided by a joint general municipal plan or planning agreement where they are to be located in urban fringe areas. The mutually agreed upon course of action thus considers the interests of both municipalities.
- The Regional Plan also indicates that urban centres should be the focus for growth and development in the region. The Town of Sylvan Lake's economic base and vitality is largely dependent upon recreation and tourism thus providing the Town with a legitimate interest in the N.W. 32-38-1-5."

H. Boomer, owner of a majority of the lands in Block 3, had petitioned the Local Authorities Board in 1980 for the annexation of his lands to the Town of Sylvan Lake. The Town of Sylvan Lake, at that time, opposed the annexation citing servicing of the territory was not economically feasible. Mr. Boomer is in agreement to the annexation of his lands at this time for residential development. D. Turner, owner of the balance of the land in Block 3, also stated she did not oppose annexation.

On March 29, 1991, Canadian Pacific Limited, owners of the abandoned rail line in Block 3, advised "that CP Rail neither agrees nor disagrees with the proposed annexation as long as the property taxes remain the same as if the

land had not been annexed from the County of Red Deer #23. As the taxes will increase approximately 8 times we find the proposed annexation by the Town of Sylvan (Lake) completely unacceptable and therefore petition against approval being granted to the Town of Sylvan (Lake). However, if assurances can be given that until some change occurs in the useage of the CP right of way that the taxes will be on the same basis as the County of Red Deer and that no local improvement levies will be charged against the property we will not oppose the annexation."

C. Fergus, representing the Sylvan Lake Golf & Tennis Club Ltd. and Performance Industries Ltd., owners of the golf course, expressed concern regarding the increase in taxes upon annexation. Mr. Fergus disagreed with the Town's position that the golf course would be more effectively and efficiently controlled if managed under a single municipal jurisdiction. Mr. Fergus also advised that the owners see no advantage for the golf course being within the Town's jurisdiction.

J. McBeth, representing Points West Resorts Inc., developer of a recreational vehicle bare land condominium in Block 1, expounded on the good relations experienced with the County; however on behalf of the owners felt that annexation would be more desirable and convenient, citing improved services. Mr. McBeth stated that the resort residents are using Town amenities and recreational facilities, and felt they should be paying taxes to the Town.

L. McNee, owner of a small parcel within Block 1, stated she is satisfied being in the County's jurisdiction, that water and sewer improvements are not required, that her property is not large enough for development and that she is not in favor of the annexation.

Alberta Transportation & Utilities, in their letter of November 28, 1990, offered no objection to the proposed annexation.

In their memorandum of December 17, 1990, Alberta Agriculture advised the lands under consideration are CLI Class 2 and 3 soils and consider this to be better agricultural land. There being no available lower quality lands adjacent to Sylvan Lake, Agriculture advised the proposed annexation be kept as small as possible to avoid premature conversion of the productive soil. Notwithstanding this concern, Alberta Agriculture advised that the Department "has no objections if the L.A.B. feels the annexation is essential to the development of the Town of Sylvan Lake".

The Energy Resources Conservation Board, on November 30, 1990, and February 28, 1991, advised there are no sour gas facilities, high vapor pressure or large diameter/high pressure hydrocarbon pipelines in the vicinity of the proposed annexation. There are however two abandoned wells on the subject lands and the ERCB's requirements in this regard were identified.

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

1. That the Town of Sylvan Lake, developing as a combination dormitory community to the City of Red Deer and a major recreational destination for central Alberta, is experiencing pressure to meet a growing residential demand. The lack of an up-to-date census makes it difficult to assess the demand on the current supply of developable residential lands and even more so to predict the future land needs of the community. It is apparent that there is need for additional land.
2. That the pressure for recreational development will increase and it is important for the well being of not only the Town of Sylvan Lake but the entire lake region that long range planning be undertaken to ensure that future development is compatible to existing uses. The fringe plan proposed by the County, while being a step in the right direction, falls short of the comprehensive planning required to ensure the future of not only the Town of Sylvan Lake but also the potential recreational development of the lake as a whole. A joint general municipal plan of the

type proposed by the Town of Sylvan Lake appears proper to meet the potential problems associated with intensive recreational uses. Given the lack of agreement regarding a proper course of action to protect the fringe area of the Town of Sylvan Lake it is not unreasonable for jurisdiction to reside with the municipality that will be most affected by future development.

3. That while the possibility for development of the type suggested for either the golf course or the "resort area" does not appear great at this time, it is recognized that without the protection provided by a joint general municipal plan the Town of Sylvan Lake is not being unfair in attempting to ensure the land use patterns will enable the possibility to become a reality.
4. That the application to annex the said territory to the Town of Sylvan Lake is 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 Sylvan Lake in the Province of Alberta, and thereupon be separated from the County of Red Deer No. 23 the following described territory:

NORTHWEST QUARTER OF SECTION TWENTY-NINE (29), TOWNSHIP THIRTY-EIGHT (38), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

SOUTHWEST QUARTER OF SECTION THIRTY-TWO (32), TOWNSHIP THIRTY-EIGHT (38), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION THIRTY-TWO (32), TOWNSHIP THIRTY-EIGHT (38), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN WHICH LIES SOUTH WESTERLY OF THE NORTHEASTERLY LIMIT OF THE MAIN HIGHWAY AS SHOWN ON ROAD PLAN 4376 J.Y.

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ALL GOVERNMENT ROAD ALLOWANCES INTERVENING AND ADJOINING THE ABOVE DESCRIBED LANDS

THE ABOVE DESCRIBED LANDS CONTAIN ONE HUNDRED EIGHTY-TWO AND FIFTY HUNDREDTHS (182.50) HECTARES (450.97 ACRES) MORE OR LESS.

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

- II. That any taxes owing to the County of Red Deer No. 23 as at December 31, 1991, in respect of the aforementioned properties shall transfer to and become payable to the Town of Sylvan Lake together with any lawful penalties and costs levied thereon in respect of any such taxes; however, upon the Town of Sylvan Lake collecting any or all of such taxes, penalties or costs, such collection shall forthwith be paid by the Town to the County of Red Deer No. 23.
- III. That the assessor for the Town of Sylvan Lake shall, for taxation purposes in the year 1992, reassess the annexed lands and assessable improvements thereon, which are by this Order annexed to the Town of Sylvan Lake so that the assessment thereof shall be fair and equitable with other lands and assessable improvements in the Town of Sylvan Lake, and the provisions of the Municipal Taxation Act regarding the assessment roll shall mutatis mutandis apply to such assessment.

IV. (A) That the assessor for the Town of Sylvan Lake shall, for taxation purposes, classify and assess any farm land, farm residences and farm buildings, annexed by this Order to the Town of Sylvan Lake, as if the land, residences and buildings were farm land, residences or buildings located in a rural municipality, and which if located in the County of Red Deer No. 23 would be classified as farm land, residences and buildings pursuant to the Municipal Taxation Act.

(B) That such "farm land, residences and buildings" classification shall be given to such land, residences and buildings only for the years 1992 to 1996 inclusive after which time such classification shall immediately terminate; provided however:

(i) that if the land or residences and buildings located on the said parcels are, pursuant to Clause IV (A) above, determined by the assessor for the Town of Sylvan Lake as being no longer "farm land, residences and buildings", even if they had been located in the County of Red Deer No. 23 referred to in Clause IV (A), then such classification of "farm land, residences and buildings" shall immediately terminate in respect of the said parcels; or

(ii) that if the Council of the Town of Sylvan Lake, by Resolution, makes an application to the Local Authorities Board and establishes before the Local Authorities Board that the provisions of Clause IV (A) should be varied prior to the date established in Clause IV (B), the Local Authorities Board may vary the time such classification as "farm land, residences and buildings" shall remain in effect.

(C) The owner of a parcel described in Clause IV (A) may apply to the Local Authorities Board for an extension of the time limit for the classification of "farm land, residences and buildings" as it applies to that specific parcel and the Local Authorities Board may order that the provisions of Clause IV (B) be varied 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 1992, 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 Sylvan Lake, 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 Thirty-first (31st) day of December, 1991.

DATED and signed at the City of Edmonton, in the Province of Alberta, this 16th day of May, 1991.

LOCAL AUTHORITIES BOARD


B. CLARK
VICE CHAIRMAN

EVA FRIES
MEMBER

R.O. MYRONIUK
MEMBER


CERTIFIED A TRUE COPY:


BOARD SECRETARY



AREAS AFFECTED BY BOARD ORDER No. 19839

EFFECTIVE DATE: DECEMBER 31, 1991

 AFFECTED AREA(S)

