

LOCAL AUTHORITIES BOARD

ORDER NO. 2227

FILE: L.A. 85-A

WEDNESDAY—THE TENTH DAY OF NOVEMBER, 1965

BEFORE:

The Local Authorities Board for
the Province of Alberta

In the Matter of The Town and
Village Act:

And in the matter of The Local
Authorities Board Act:

And in the matter of an applica-
tion by the Town of Vegreville
for annexation of certain proper-
ties which are surrounded by the
said Town.

Pursuant to an application made by the Town of Vegreville, Province of Alberta, under date of July 20, 1965, petitioning for the annexation of certain lands which form a part of the County of Minburn No. 27, but which part is surrounded by lands already forming a part of the said Town, the Board conducted a public hearing of the matter in the Town of Vegreville on Monday, October 18, 1965, for the purpose of receiving representations from parties interested in the application.

The Town of Vegreville, applicant, was represented by Mr. M. W. Kawulich, B.A., LL.B., of Koshuta & Kawulich, Barristers and Solicitors, Vegreville. Secretary-Treasurer, A. A. Cantrill of the Town also presented evidence to the board at the hearing.

The County of Minburn No. 27 was represented by Councillor Michael Barlott and Secretary-Treasurer Fred Trofanenko.

Mr. Virgil Moshansky of the firm of Hurlburt & Moshansky, Barristers and Solicitors, Vegreville, appeared as counsel for Doctors Richard B. Miller and Albert Bildfell, veterinarians and owners of Lot A, Plan 2324 M.C., being lands among those which are the subject of the application.

Mr. Moshansky also appeared as counsel for Roy Elmer Bonham, an owner of lands which are also the subject of the petition.

Mr. Moshansky acted as interpreter for Jacob Dowhey who owns some twelve and three-quarters (12¾) acres of lands which the town also proposes should be separated from the county and be annexed to the town.

Mr. Sol Estrin of the firm of Prowse, Estrin & Grossman, Barristers and Solicitors, appeared as counsel for the Milner Estate which owns lands already situate within the Town of Vegreville, and which lands adjoin those which are the subject of the town's application.

Mr. John Leitch of Vegreville appeared before the Board as an interested owner of lands within the town, as did Mr. Alfred Kowalski.

It was generally represented by the town that the "island" of lands which are the subject of the town's application, should be annexed to the town and separated from the county to ensure that—

- (a) future demands for expansion within the town should not be hampered by the presence of the "island";
- (b) zoning regulations should be applied to the "island" so that the general plan of the Town may be effectively developed.

- (c) sanitation, fire protection and other municipal services could be more effectively and advantageously administered in the "island".

Kawulich also filed with the Board at the hearing a letter addressed by the Provincial Planning Director to the secretary-treasurer of the Town of Vegreville under date of October 21, 1964, in which it is suggested that annexation of the "island" should be undertaken by the town to solve the problem of divided municipal control respecting approval of an outline plan for the area and for the purpose of implementing zoning control.

Mr. Michael Barlott, councillor, County of Minburn No. 27 represented that fire protection to part of the "island" properties was provided by the county fire pumper unit located in the town, by reason of the protected owners having purchased fifty dollar (\$50.00) shares in the rural fire protection service, and also having paid an annual fee of five dollars (\$5.00). He further represented that road maintenance, including snow plowing was made available to the subject property and was convenient for the county to undertake, even though the main north-south road serving the property was within the boundaries of the town. The county took the position that it should support its ratepayers who opposed separation of their lands from the rural municipality.

Mr. Trofanenko observed that present use of the subject lands was primarily rural and that such use did not contemplate the further subdivision of the lands for urban purposes.

Mr. Moshanski, counsel for Mr. R. E. Bonham and for Doctors Miller and Bildfell, veterinarians, submitted that the town had no real need to annex the subject lands until the town was in need of the said lands for further development. He stated that Mr. Bonham's property (of 20.9) acres was operated as a farm (piggery) and that the veterinarian's clinic, likewise was primarily a rural service, neither of which properties required town services, since they had their own sewer and water facilities and had the county's fire protection service. Mr. Moshanski observed that neither of his clients had been approached by purchasers wishing to buy all, or portions of their lands for subdivision and consequent development.

Mr. Moshanski stated that his clients were particularly concerned that annexation of their lands could result in the closing of the two businesses which were dependent upon keeping animals. He observed that the town had a by-law which prohibited the keeping of livestock, (except at holding stations). He further stated that the Bonham residence would become assessable and taxable within the town limits and that both his clients feared substantial increases in taxation if their properties were annexed to the town.

Mr. Moshanski concluded by requesting the Board to give adequate protection for his clients respecting the right to carry on of their present businesses, and also to provide that taxation of the properties should remain at a rural level.

Mr. Jacob Dowhey, who owns some twelve and sixty-eight hundredths (12.68) acres lying south of Highway No. 16, but forming a part of the "island" submitted through Mr. Moshanski that annexation could adversely affect his living by reason of his having a cow and by the possibility of increased taxation.

Mr. John Leitch, an owner of lands presently situate within the town objected to the annexation of the "island" so long as lands suitable

for residential development remained unserviced and unsubdivided. He estimated that he had some fifty-nine (59) lots available and that other considerable areas in the town were also suitable for residential use.

Mr. Sol Estrin, Counsel for the Milner Estate, which owns some twenty-seven (27) acres of undeveloped land in Block X, Plan 5516 A.K. presently within the town, and which lands lie adjacent to the east boundary of the "island" and are split by Highway No. 16, submitted that the town had no need to annex the "island" because—

(1) there was ample land within the present town for further development and

(2) the "island" did not impede development of the remaining undeveloped lands in the town. He also observed that the owner-residents did not wish to be annexed to the town and that they had provided their own services.

Mr. Kowalski, a town resident inquired of the board as to the effect of annexation of the "island" on his property and frontage taxes.

After considering all the evidence presented at the hearing as well as the various documents filed with the board respecting the town's application, and after making a physical inspection of the areas in the town and in the "island" the board has concluded that the town's application to annex the "island" must be granted.

Firstly: To ensure that a proper design plan for the "island" and surrounding adjacent lands may be formulated. This objective seems to the board to be out of reach of the town, without annexation of the "island".

Secondly: To ensure that the town has direct control over the type of future development which shall be allowed on the "island" properties. This objective appears to the board to be a sound one. The anomaly of the town not having direct control of developments within its outer limits should be corrected by annexation of the "island".

The board does not consider that annexation of the "island" will impede the development and servicing of the lands which lie easterly and south-easterly of 60th street and within the present town limits, since servicing of such in-town undeveloped lands must come from presently established systems lying east of the "island".

While the board appreciates that the "island" properties have their own water and sewage disposal system and even a fire protection service provided through the country's town-based tank fire truck, the board considers that the town facilities, which may become available upon annexation, are superior in the long-range viewpoint.

Land and buildings and improvements assessments on Lot A, Plan 2324 M.C. (Drs. Miller and Bildfell) in the "island", will likely increase overall by about thirty-five per cent (35%) when annexed to the town by reason of the different bases of assessment used in the county and the town; however, upon applying the current effective real property mill rate in the town to the equated assessments, it is found that the resultant town tax levy would be almost equal in amount to that in the county.

A similar result is estimated when considering the assessment and taxation of the south half of Block C, plan 5181 A.X. (Jacob Dowhey).

Respecting the north half of Block C, Plan 5181 A.X. (Roy Bonham) presently being assessed as farm land in the county, the board has considered that annexation of this twenty and nine tenths (20.9) acre parcel to the town would result in the assessment and taxation of the farm residence—a direct increase in property tax, since such a residence is not assessable and taxable in a rural municipality. Provision will be made in this order to exempt the said farm residence from assessment for a limited period of time.

Provision will also be made in the order to allow the owners of the "island" properties to carry on their pursuits relating to agriculture so long as a nuisance is not created.

I. The board does therefore order that the following described lands be annexed to the Town of Vegreville and be thereupon separated from the County of Minburn No. 27—

All that portion of the south-east quarter of section 24, township 52, range 15, west of the fourth meridian, in the said Province, shown as Block C on Subdivision Plan 5181 A.X. which includes that portion of the said Block subdivided under Plan 2324 M.C. and that portion taken for road under Plan 2416 E.U.

Reserving thereout all mines and minerals.

II. It is further ordered that any taxes owing to the County of Minburn No. 27 as at the 31st day of December, 1965, in respect of the properties described in Clause I, shall transfer to and become payable to the Town of Vegreville, together with the amount of any lawful penalties and costs levied thereon in respect of such taxes; however, upon the Town of Vegreville collecting any or all of the said taxes and lawful penalties and costs levied thereon, in respect of the said property, such collections shall forthwith be paid by the Town of Vegreville to the County of Minburn No. 27.

III. It is further ordered that for taxation purposes commencing in the year 1966, the assessor for the Town of Vegreville shall re-assess the lands and assessable improvements thereon which were by this order annexed to it, so that the assessment thereof shall be fair and equitable with other related lands and assessable improvements in the town.

IV. It is also ordered 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 1966, 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 Pipeline Assessment Act and The Municipal and Provincial Properties Valuation Act, within the areas by this order annexed to the Town of Vegreville, so that the assessment or valuation shall be fair and equitable with properties of a similar nature.

V. It is ordered that—

- (a) All by-laws of the Town of Vegreville shall be applicable in the areas by this order annexed to the town, on the effective date of 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 the annexed lands being used for agricultural or veterinarian clinic purposes, so long as the said lands continue to be so used, or until the board orders otherwise, pursuant to representations from the town.

(b) Any parcel of land containing twenty (20) acres or more, and operated as a unit by a person who derives from the production of crops or livestock or both, an income sufficient to produce a livelihood and the farm buildings thereon used in connection with the productive activities hereinbefore described, are to be assessed and taxed on the same basis of assessment and taxation as would be applicable to them had such land and farm buildings remained in the rural municipality of the County of Minburn No. 27, provided however, that if—

- (1) the said land or a part thereof is subdivided by a plan of subdivision, or if
- (2) the town establishes that for other good and sufficient reason, the assessment and taxation or either of them should be varied, the town, by resolution of council may apply to the board from time to time for an order to vary the said basis of assessment and taxation, or either of them.

VI. It is further ordered, that the business tax payable in respect of the premises situate on Lot A, Plan 2324 M.C. shall not in the years 1966 and 1967 exceed the amount of the business tax which was levied in respect of the said premises by the County of Minburn No. 27 in the year 1965, unless the area of the taxable premises increases over that assessed and taxed in the year 1965, in which event a proportionate increase in business tax may be levied thereon.

This order shall take effect on and from the 1st day of January, 1966.

Certified a true copy,

W. C. ELLIOTT (Secretary).

LOCAL AUTHORITIES BOARD,
C. G. MACGREGOR (Chairman).
A. B. WETTER (Member).

VEGREVILLE

SCHEDULE "A"

TO LOCAL AUTHORITIES BOARD ORDER 2227
A SKETCH SHOWING THE GENERAL LOCATION
OF THE AREAS ANNEXED BY ORDER No. 2227
EFFECTIVE DATE: JANUARY 1, 1966

