

TOWN OF VULCAN

Board Order No. 15913

File No. 191(A)2

Before: The Local Authorities Board for the Province of Alberta

In the matter of the Municipal Government Act:

And in the matter of an application by the council of the Town of Vulcan to annex certain territory lying immediately adjacent thereto, and thereby its separation from the County of Vulcan No. 2.

Pursuant to section 20 of the Municipal Government Act, the council of the Town of Vulcan in the Province of Alberta, petitioned the Local Authorities Board for the

Province of Alberta, for the annexation to the Town of Vulcan of all that territory described as follows:

Legal subdivisions 13, 14 and 16 of section 32 township 16, range 24, west of the fourth meridian, excepting thereout the north south government road allowance lying easterly and westerly thereof.

The above described lands contain 120 acres, more or less.

(hereinafter called "the said territory")

which lies immediately adjacent to the town, and thereby its separation from the County of Vulcan No. 2, and in respect to which the board held a public hearing into the matter on September 8, 1982.

Representing the Town of Vulcan were Mayor J.D. Mitchell, Councillors Hunting and Elmer and W.K. Wallace, municipal administrator.

D. J. Stanford, administrator, appeared on behalf of the County of Vulcan No. 2.

No one was present to give the position of the Oldman Regional Planning Commission.

Owners, Ruth and Clifford J. Fath, and Jean E. Brown, supported by D. Shirt, solicitor, were present and made submissions against the annexation of their respective properties to the town. Owner, John G. Perley appeared and supported the annexation of his property to the Town of Vulcan. Written consent to the annexation of its property to the town was given by the Vulcan General Hospital and Nursing Home District.

The Town of Vulcan is located in the dryland farming area of southwestern Alberta, 60 miles northwest of the City of Lethbridge and 65 miles southeast of Calgary on Highway No. 23. A branch line of the Canadian Pacific Railway between the two cities serves the town. The town is a farm service centre for basically the area contained in the County of Vulcan No. 2 and provides a full range of commercial, institutional and educational services to the area. A new hospital is projected to be located on lands that are a portion of the said territory.

While there has been some oil and gas development in the region this had not had a major impact upon the community. Reference was made to exploration work done on coal deposits in the area and the potential of their development. There had been some mobile trailer development at the Vulcan Airport but this has been phased out. The town remained a favourite community for retiring farmers, but the population of the town has remained fairly stable (1975 - 1,384, 1978 - 1,514, 1981 - 1,520) with an annual average population growth from 1975 of 1.64 percent. It was projected that if the town was to grow at an average annual rate of 1 percent, its population would reach 1,635 by the year 1991, and at 2.5 percent, a population of 1,855.

Evidence was received that the Town of Vulcan has designed and built its sanitary sewer and water plant facilities to accommodate a long-term population growth of 3,000. The town has approximately 130 vacant residential lots still available in its Allen Subdivision. These lots are capable of accommodating approximately 340 persons and were projected to be sufficient to meet the town's residential requirements, at its present growth rate, for the next 20 years.

Of the present 685 acres within the Town of Vulcan, there are approximately 120 acres that have not been developed. The town's "General Plan", as adopted in 1967, makes reference on page 63 to vacant lands located to the north of the golf course on the west side of the town. This area slopes to the north and west and is underlain

with a sandstone base in close proximity to the surface. In order to avoid a lift station for sanitary sewer, the service lines would have to be placed in the sandstone base, which would greatly increase the cost of servicing. It suggests the area be developed for small holdings and served by the use of septic tanks. The general plan recommended on page 64 that the future residential development take place to the south. In keeping with this recommendation, the town annexed legal subdivision 15 of section 32 by Board Order 8838. This is now being developed for residential purposes and is known as the Allen Subdivision.

The said territory is made up of legal subdivisions 13, 14 and 16 in the same section 32 immediately south of the town's boundaries and abutting Secondary Highway No. 534 to its north. The Allen Subdivision divides the territory into two parcels with 80 acres to its west and 40 acres to the east. Out of the east parcel (legal subdivision 16), an 11 acre site has been subdivided which is to be used for a new hospital. The remaining portion of the parcel (29 acres) is in one title and is used as a small agricultural holding by Ruth and Clifford Fath.

The west parcel has one small 2 acre parcel subdivided out for John and Susan Perley which is used for residential purposes and abuts the Town of Vulcan's boundary to the north, and the Allen Subdivision to the east.

Evidence was given that the Town of Vulcan had sufficient capacity within the water and sanitary sewer main line in the south portion of the town which could readily and economically be extended to service the said territory. The town does not have a system to handle storm waters, but due to the slope of the town and the natural drainage, this was not expected to create a problem.

The Town of Vulcan explained that as the hospital site was to be serviced by the town, it was felt appropriate it be within the town's jurisdiction. The owner of the 2 acre lot, Mr. Perley, had requested his lands be annexed so he may receive the town's services. Council concluded the town should carry out the recommendations of the town's general plan to expand south, and to bring in a more comprehensive area. *While in excess of the town's immediate requirements, it would permit better planning of the town's land uses and utilities and would provide the town with some flexibility to respond to accelerated growth created by regional coal developments, if it should occur.*

While initially opposed to the annexation of the said territory to the Town of Vulcan, on August 20, 1982, the council of the County of Vulcan No. 2 passed a resolution to not make a presentation. Some councillors had expressed a concern about the potential loss of tax revenues.

No position on the annexation of the said territory to the Town of Vulcan was made by the Oldman River Regional Planning Commission.

Jean E. Brown was the original owner of all of section 32 which had been in the family for two generations. Legal subdivision 13 and the portion of 14 were not in separate titles but included in the title for the remaining lands in section 32. If legal subdivision 13 and 14 were annexed to the Town of Vulcan, it would mean she would pay taxes to two jurisdictions on unsubdivided lands contained in the one title. The lands were good agricultural soils and she planned to continue farming the lands. She argued the town has sufficient lands now in its jurisdiction to meet its long term requirements. Taxes on the land could increase if annexed and if the land was in two jurisdictions, she may find it difficult to sell all her lands if she wished to. Accordingly, she strongly opposed the annexation of her lands to the town.

Ruth and Clifford Fath, the owners of the remaining portion of legal subdivision 16, had sold an 11 acre parcel out of their lands for the new hospital site, which creates

two narrow strips of land to the west and east. They used their lands as a small agricultural holding, renting out a portion for grain growing, but, in connection with their residential site, keeping some livestock. They were concerned about the effect the Town of Vulcan's by-laws may have on their livestock operation. There was also a concern that they would have to pay greater property taxes if annexed to the town. The further subdivision of their lands for urban purposes was hampered as they would have to contribute out of this remaining portion the equivalent of 10 percent of the total legal subdivision for community reserve. They questioned if they would receive enough monies from the sale of their land to enable them to relocate. The board was informed they opposed the annexation of their lands to the Town of Vulcan.

Alberta Transportation, by letter to the board dated August 12, 1982, advised as follows:

"The subject site is situated at a considerable distance from Highway 23 but is adjacent to the south boundary of Secondary Road 534. If the proposed annexation proceeds, the department would recommend that the town consider the need for additional right-of-way for future widening of the secondary road and that a degree of access control be maintained."

The following comments were made by Alberta Agriculture in a letter to the board dated August 20, 1982:

"1) Canada Land Inventory (CLI) soil capability ratings for the three parcels under consideration, LSD's 13, 14, & 16, 32-16-24-W4., is class 2C. CLI class 2 soils have moderately high to high productivity for a wide range of crops. Based on Alberta Hail and Crop Insurance information, the proposed lands have a productivity rating of 70-75%.

2) The three 40 acre parcels, located along the southern boundary of the town, are relatively level, well drained and currently under cultivation.

3) There are no lower quality agricultural lands immediately adjacent the Town of Vulcan.

4) The annexation of these lands would represent the alienation of good agricultural land. The annexation of LSD 16 would have less impact than the annexation of LSD 13 & 14, given the location of the future hospital and the development in LSD 15.

5) If needed for urban purpose, Alberta Agriculture has no objection to this annexation."

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

1. That the Town of Vulcan, because of its agricultural base and established institutional, commercial and other urban amenities, will continue to be the major farm service community for the County of Vulcan No. 2, and will grow in population and development at current rates. The potential for resource coal developments do exist, but unless there is a return to world energy shortages and an escalation of prices, the viability of such developments are questioned and should not be a factor considered at this time.

2. That the Town of Vulcan has sufficient territory within its jurisdiction to meet its current and long term land use requirements. However, such lands are subject to a number of constraints and are more costly to develop than lands within the said

territory. Two parcels within the said territory namely, the hospital site and the Perley lands are, or will be, urban in character and are best served by being in the town's jurisdiction.

3. That the major portion of legal subdivisions 13 and 14, the Brown lands, are not subdivided from the unsubdivided portion of section 32 and thus, if annexed, could create jurisdictional difficulties as between local governments; are prime agricultural lands in farm use and are in excess of the Town of Vulcan's immediate residential requirements. Therefore this portion of the said territory should not, at this time, be annexed to the town.

4. That, that portion of the said territory contained in legal subdivision 16, being the Fath property, abuts urban developments to its west and north and has a portion subdivided out for a hospital site, which leaves two narrow strips of land on the east and west side of the site. While the owners are reluctant to be within the town's jurisdiction, it is apparent that this parcel because it is readily serviceable, has been already partially converted to urban purposes, and is not a viable agricultural operation, should logically be annexed to the Town of Vulcan. Conflicts of present uses of the land and the town's by-laws can readily be solved by a relaxation of such by-laws as they apply to the lands in question and is so recommended.

5. That the application by the Town of Vulcan to annex to its jurisdiction the said territory should be granted in part.

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 Vulcan, in the Province of Alberta, and thereupon be separated from the County of Vulcan No. 2, the following described territory:

✓ The northerly 528 feet of the easterly 165 feet of the north-west quarter of section 32 township 16, range 24, west of the fourth meridian. —

✓ Legal subdivision 16 of section 32 township 16, range 24, west of the fourth meridian, excepting thereout that north south government road allowance lying easterly thereof.

The above described lands contain 42 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 Vulcan No. 2 as at December 31, 1982, in respect of the aforementioned properties shall transfer to and become payable to the Town of Vulcan together with any lawful penalties and costs levied thereon in respect to any such taxes; however, upon the Town of Vulcan collecting any or all of such taxes, penalties or costs, such collection shall forthwith be paid by the town to the County of Vulcan No. 2.

III. That the assessor for the Town of Vulcan shall, for taxation purposes in the year 1983, re-assess the annexed lands and assessable improvements thereon, which are by this order annexed to the Town of Vulcan so that the assessment thereof shall be fair and equitable with other lands and assessable improvements in the Town of Vulcan, and the provisions of the Municipal Taxation Act regarding the assessment roll shall *mutatis mutandis* apply to such assessment.

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 1983, 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 annexed to the Town of Vulcan, 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 January 1, 1983.

Dated and signed at the City of Edmonton, in the Province of Alberta, September 17, 1982.

Certified a True Copy:
B. Clark, Secretary.

Local Authorities Board,
C.I. Shelley, Chairman.
J.A. Hammond, Member.

SCHEDULE "A"

A SKETCH SHOWING THE GENERAL LOCATION OF THE
AREAS AFFECTED BY BOARD ORDER No. 15913

EFFECTIVE DATE: JANUARY 1, 1983



AFFECTED AREA(S)

