

BOARD ORDER NO. MGB 013/17

FILE: AN16/BRUD/T-01

IN THE MATTER OF THE *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (*Act*).

AND IN THE MATTER OF an application by the Town of Bruderheim, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Lamont County.

BEFORE:

Members:

H. Williams, Presiding Officer

L. Downey, Member

W. Jackson, Member

Case Manager:

R. Duncan

Assistant Case Manager:

A. Drost

SUMMARY

After careful examination of the submissions from the Town of Bruderheim, Lamont County, affected landowners, and other interested parties, the Municipal Government Board (MGB) makes the following recommendation for the reasons set out in the MGB report, shown as Schedule 3 of this Board Order.

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

1 In this Order,

- (a) “annexed land” means the land described in Schedule 1 and shown on the sketch in Schedule 2;
- (b) “farmstead” means that portion of a quarter section that contains a dwelling or other improvements used in connection with farming operations.

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2 Effective July 1, 2017, the land described in Schedule 1 and shown on the sketch in Schedule 2 is separated from Lamont County and annexed to the Town of Bruderheim.

3 Any taxes owing to Lamont County at the end of June 30, 2017 in respect of the annexed land and any assessable improvements to it are transferred to and become payable to the Town of Bruderheim together with any lawful penalties and costs levied in respect of those taxes, and the Town of Bruderheim upon collecting those taxes, penalties and costs must pay them to Lamont County.

4(1) For the purpose of taxation in 2017, Lamont County must assess the annexed land and the assessable improvements to it.

(2) Taxes payable for the 2017 taxation year in respect of the annexed land and any assessable improvements to it are to be paid to Lamont County and upon collecting those taxes Lamont County must remit them to the Town of Bruderheim.

5(1) For the purpose of taxation in 2018 and subsequent years, the assessor for the Town of Bruderheim must assess the annexed land and the assessable improvements to it.

(2) For the purpose of taxation in 2018 and in each subsequent year up to and including 2038, the annexed land and assessable improvements to it

- (a) must be assessed by the Town of Bruderheim on the same basis as if they had remained in Lamont County, and
- (b) must be taxed by the Town of Bruderheim in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the municipal tax rate established by Lamont County for property of the same assessment class.

6(1) Where in any taxation year up to and including 2038 a portion of the annexed land

- (a) becomes a new parcel of land created by any method at the request of or on behalf of the landowner, including but not limited to
 - (i) subdivision,
 - (ii) separation of title by registered plan of subdivision, or
 - (iii) instrument,
- (b) is redesignated, at the request of or on behalf of the landowner, under the Town of Bruderheim Land Use Bylaw to another designation, or

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(c) is connected, at the request of or on behalf of the landowner, to water or sanitary sewer services provided by the Town of Bruderheim,


section 5(2) ceases to apply at the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.

(2) After section 5(2) ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other property of the same assessment class in the Town of Bruderheim is assessed and taxed.

(3) Notwithstanding subsection (1)(a), section 5(2) does not cease to apply if the subdivision is the separation of an existing farmstead from a previously undivided quarter section.

DATED at the City of Edmonton, in the Province of Alberta, this 24th day of March 2017.

MUNICIPAL GOVERNMENT BOARD



H. Williams, Presiding Officer

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Schedule 1

**DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM
LAMONT COUNTY AND ANNEXED TO THE TOWN OF BRUDERHEIM**

ALL THAT PORTION OF THE WEST HALF OF SECTION THIRTY-THREE (33), TOWNSHIP FIFTY-FIVE (55), RANGE TWENTY (20), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF BRUDERHEIM.

ALL THAT PORTION OF THE SOUTH HALF OF SECTION THIRTY-TWO (32), TOWNSHIP FIFTY-FIVE (55), RANGE TWENTY (20), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF BRUDERHEIM.

THE NORTHEAST QUARTER OF SECTION TWENTY-NINE (29), TOWNSHIP FIFTY-FIVE (55), RANGE TWENTY (20), WEST OF THE FOURTH (4) MERIDIAN.

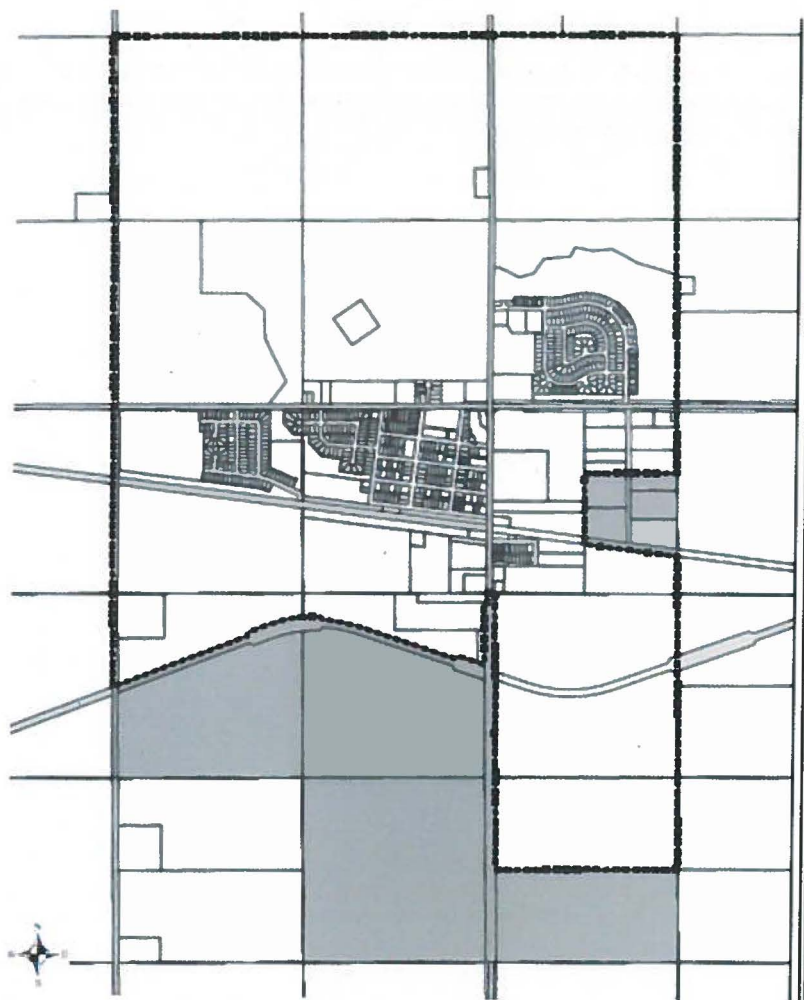
ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY-EIGHT (28), TOWNSHIP FIFTY-FIVE (55), RANGE TWENTY (20), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF BRUDERHEIM.

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Schedule 2

**A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS
SEPARATED FROM LAMONT COUNTY AND ANNEXED TO THE
TOWN OF BRUDERHEIM**



Legend

-  Existing Town of Bruderheim Boundary
-  Annexation Areas

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Schedule 3

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE
MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF BRUDERHEIM PROPOSED ANNEXATION
OF TERRITORY FROM LAMONT COUNTY**

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Acronyms/Abbreviations

Annexation recommendations often include many acronyms and abbreviations. For ease of reference, the following table lists the acronyms and abbreviations used multiple times in this recommendation.

Acronym/Abbreviation	Full Description
<i>Act</i>	<i>Municipal Government Act</i>
ASP	Alberta's Industrial Heartland Area Structure Plan
County	Lamont County
Industrial Heartland	Alberta's Industrial Heartland
LCREDI	Lamont County Regional Economic Development Initiative
LGC	Lieutenant Governor in Council
LUB	Town of Bruderheim Land Use Bylaw
MDP	Town of Bruderheim Municipal Development Plan
MGB	Municipal Government Board
Minister	Minister of Municipal Affairs
Notice	Notice of Intent to Annex
Town	Town of Bruderheim

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EXECUTIVE SUMMARY

[1] On October 18, 2016, the Municipal Government Board (MGB) received an application from the Town of Bruderheim (Town) to annex approximately 197 hectares (487 acres) of land from Lamont County (County). The application states that the proposed annexation is intended to facilitate long-term industrial and commercial development within the Town. Although the two municipalities worked collaboratively and were able to reach an agreement, affected landowners objected to the proposed annexation. In accordance with the *Municipal Government Act (Act)*, the MGB conducted a public hearing on December 14, 2016.

RECOMMENDATIONS

[2] After considering the oral and written submissions received from all parties during the proceedings, the MGB recommends the annexation area requested by the Town with an effective date of July 1, 2017. To address concerns from affected landowners, the MGB also recommends an increase to the assessment and taxation transition period to the 15-year period agreed to by the two municipalities.

REASONS

[3] The MGB's reasons for its recommendation have been identified below.

Annexation Process

[4] The MGB finds that the annexation agreement between the Town and the County was developed in collaborative manner and respects the local autonomy of both municipalities. The consultation process undertaken by the municipalities facilitated open communications with affected landowners, provided public information opportunities, and encouraged public participation.

Annexation Area

The MGB concludes it is reasonable for this annexation to include the lands to the east and south as requested by the Town.

East Annexation Area

[5] The MGB finds it logical to include the east annexation area. This area is already surrounded by the Town on three sides and is, therefore, significantly influenced by planning and

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governance decisions made by the Town. Furthermore, access to this area is via a road that is shared by the two municipalities. The annexation of this area will bring the road into the Town, clarify municipal jurisdiction as to snow removal and other road maintenance duties. Moreover, the annexation of this area will facilitate future water, sewer, and other utility services to this area as well as the south annexation area.

South Annexation Area

[6] It is also logical to include the south annexation area. The Alberta Industrial Heartland (Industrial Heartland) is a group of municipalities that perform joint land use planning with a focus on chemical, petrochemical, oil, and gas development initiatives. In relation to this, the Lamont County Regional Economic Development Initiative Readiness Study predicts significant growth in the Industrial Heartland and identifies the need for the Town to increase non-residential land supply. The proposed southern annexation area reflects the Town's desire for proactive commercial and industrial growth and will give the Town the land it will need to adapt to the changing future needs of the growing Industrial Heartland. This area is strategically located with easy access to major highways and a rail line. Although the growth within the annexation area may not be imminent, the MGB finds the amount of land being requested south of the Town is reasonable given the long-term perspective of this annexation and the location of the Town within the Industrial Heartland. The MGB accepts the County's statement that there are no environmental concerns within the proposed annexation area. The MGB also accepts the Town can provide water, sewer, and transportation services to this area.

Landowner Concerns

[7] Affected landowners raised concerns about the Town arbitrarily making changes that would result in the loss of the assessment and taxation transition provisions and questioned the need for the Town to annex the additional land.

Assessment and Taxation

[8] The MGB is satisfied the Town cannot arbitrarily remove the assessment and taxation protection. The conditions requested by the Town identify that assessment and taxation transition provisions will only be removed if the landowner or his/her representative initiate a subdivision, request a land use redesignation, or ask to have their property connected to Town sewer or water network. The Town can redistrict the land. However, this would require a public hearing which would provide the affected landowners with an opportunity to provide input and express their concerns. Regardless, as this type of change would have been initiated by the Town, the landowners would not lose their assessment and taxation transition protection.

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Need for Additional Lands

[9] The MGB acknowledges the Town has undeveloped land within its boundary. However, the majority of this land is designated for residential purposes. As stated earlier, the annexation area will allow the Town to respond to the changing future needs of the growing Industrial Heartland by having land available for industrial and commercial development.

Assessment and Taxation

[10] The municipalities agreed to a 15-year municipal assessment and taxation transition period within which the Town will maintain the County's municipal tax rate for affected lands in the annexation area. The MGB acknowledges that previously annexed lands have not yet been fully developed by the Town, and no imminent development for the annexation area is planned. There are also no timelines for expanding water and sanitary sewer services proposed at this time. Upon consideration of landowner concerns regarding uncertainty of future development on the subject lands, and the uncertainty of timelines for development, the MGB recommends a 20-year municipal assessment and taxation transition period, which provides a 5-year extension from the 15-year transition period suggested by the municipalities.

[11] The MGB finds the additional 5-year transition period will allow the Town additional time to develop plans and will address some of the landowners' concerns regarding development uncertainties of their property and surrounding lands. Moreover, this may provide additional opportunities for collaboration between the affected landowners and the Town. This 20-year municipal assessment and taxation arrangement is conditional and will be terminated after the 20 years have lapsed, or if a portion of the annexed lands:

- i. Becomes a new parcel of land created as a result of subdivision or separation of the title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner;
- ii. Is redesignated at the request of, or on behalf of the landowner under the Town of Bruderheim Land Use Bylaw to designation other than the current designation; or
- iii. Is connected to the water or sanitary sewer services provided by the Town of Bruderheim.

[12] The assessment and taxation transition provisions will not terminate if the subdivision is the separation of an existing farmstead from a previously unsubdivided quarter section.

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Financial Impact

[13] The MGB finds the Town is well within the debt limit established by the *Act*. The Town is focused on growth planning, which will be beneficial for both municipalities once development of the Industrial Heartland area occurs. The annexation of land intended for light industrial and commercial use will potentially decrease the Town's current dependence on residential tax revenue; 91% of the Town's current property tax revenue is from residential property tax. The proposed annexation will have minor financial implications on the municipalities as the annexation land is mainly agricultural. Both municipalities agreed to no financial compensation paid to the County by the Town. Thus, the annexation is not considered a tax initiative, and revenue sharing was not identified as necessary by the municipalities.

Effective Date

[14] The MGB acknowledges and accepts that both municipalities agree with changing the annexation effective date from January 1, 2017 to July 1, 2017. The start year for the municipal assessment and taxation transition provisions will be 2018. To ensure a smooth transition for the landowners, in 2017 the County will assess, tax, and hear any assessment appeals filed in relation to the property in the annexation area.

CONCLUSION

[15] The MGB finds that the proposed annexation complies with the *Act* and complies with the MGB's 15 annexation principles. The conditions of annexation as recommended by the MGB are certain, unambiguous, enforceable and time specific. Furthermore, the proactive intent of the annexation and the amount of land agreed to by the municipalities is reasonable. The MGB notes that the affected landowners' concerns have been given proper consideration throughout the annexation process. Therefore, the MGB recommends the annexation.

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PART I INTRODUCTION

[16] The Town of Bruderheim (Town) is situated approximately 50 kilometers northeast of the City of Edmonton, immediately north of the Highway 15 and Highway 45 junction. The Town is located in the western portion of Lamont County, adjacent to the Strathcona County boundary and within the Alberta's Industrial Heartland (Industrial Heartland). The most recent municipal census (2016) identified the Town has a population of 1,375.

[17] On October 18, 2016, the Municipal Government Board (MGB) received an application from the Town to annex approximately 197 hectares (487 acres) of land from Lamont County (County). The application identified that the land is to facilitate long-term industrial and commercial development. Although the Town and County were able to negotiate an agreement, the application contained objections to the proposed annexation. In accordance with Section 120(3) of the *Act*, the MGB held a public hearing on December 14, 2016, to receive information, evidence and argument regarding the annexation proposal.

[18] The following report outlines the role of the MGB, provides an overview of the Town's annexation application, summarizes the public hearing held on December 14, 2016, and provides the MGB's recommendation to the Minister of Municipal Affairs (Minister) regarding this matter.

PART II ROLE OF THE MGB, THE MINISTER, AND THE LIEUTENANT GOVERNOR IN COUNCIL

[19] The MGB is an independent and impartial quasi-judicial board established under the *Act* to make decisions about land-use planning and assessment matters. The *Act* gives the MGB the authority to "deal with annexation". The *Act* also allows the MGB to "establish rules regulating its procedures". The MGB Annexation Procedure Rules have been adopted to provide information about annexation proceedings, facilitate a fair and open process, and increase the efficiency and timeliness of the hearing process.

[20] Pursuant to Section 116 of the *Act*, a municipality seeking annexation must initiate the process by giving written notice to the municipal authority from which the land is to be annexed, the MGB, and any other local authority the initiating municipality considers may be affected. The notice must describe the land proposed for annexation, set out the reasons for the proposed annexation, and include proposals for consulting with the public and meeting with the affected landowners. Once the notice has been filed, the municipalities involved with the proposed annexation must meet and negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve any outstanding matters.

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[21] At the conclusion of the intermunicipal negotiations and the consultation process, the initiating municipality must prepare a negotiation report. This report must include a list of issues that have been agreed to by the municipalities and identify any matters the municipalities have not been able to agree upon. If the municipalities were unable to negotiate an annexation agreement, the report must state what mediation attempts were undertaken or, if there was no mediation, give reasons why. The report must also include a description of the public and landowner consultation process as well as provide a summary of the views expressed during this process. The report is then signed by both municipalities. Should one of the municipalities not wish to sign the report, it has the option of including its rationale for not signing the report.

[22] The report is then submitted to the MGB. If the initiating municipality requests the MGB to proceed, pursuant to Section 119 of the *Act*, the report becomes the annexation application. If the MGB is satisfied that the affected municipalities and public are generally in agreement, the MGB notifies the parties of its findings and unless objections are filed by a specific date, the MGB makes its recommendation to the Minister without holding a public hearing. If an objection is filed, the MGB must conduct one or more public hearings. If the MGB is required to conduct a hearing, Section 122(1) specifies the MGB must publish a notice of hearing at least once a week for two consecutive weeks in a newspaper or other publication circulating in the affected area, the second notice being not less than six days before the hearing.

[23] The MGB has the authority to investigate, analyze and make findings of fact about the annexation, including the probable effect on local authorities and on the residents of an area. If a public hearing is held, the MGB must allow any affected person to appear and make a submission. After reviewing the evidence and submissions from the parties, the MGB must prepare a written report of its findings and recommendations and send it to the Minister. The Minister has the authority to accept in whole or in part or completely reject the findings and recommendations made by the MGB. The Minister may bring a recommendation forward for consideration to the Lieutenant Governor in Council (LGC). After considering the recommendation, the LGC may order the annexation.

PART III ANNEXATION APPLICATION

[24] Part III provides an overview of the Town's annexation application.

[25] As stated earlier, the Town is applying to annex approximately 197 hectares of land from the County. The lands would facilitate long-term industrial and commercial development that aligns with the growth objectives established by Town Council. In compliance with Section 116 of the *Act*, the Town provided a completed Notice of Intent to Annex (Notice) to the MGB and, the County. Copies of the Notice were also sent to the required local authorities, which included the Elk Island Public School Board, Strathcona County, the Capital Region Board, and Alberta

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Transportation. No responses were received from other affected local authorities. The Notice was also sent to the surface landowners.

[26] The Town's public consultation process consisted of a Preliminary Public Information Meeting on March 4, 2016, the distribution of a brochure providing general information about the annexation with frequently asked questions regarding the annexation process and its potential impact on landowners, and newspaper advertisements. After concluding negotiations with the County, the Town conducted a final Public Information Meeting on September 29, 2016. Attendees were informed about key elements of the annexation agreement reached between the municipalities and were provided the opportunity to submit additional input and comments.

[27] The Town's proposed annexation includes land along its southern and eastern boundary. The area to the south is mostly undeveloped agricultural land. The annexation area along the eastern edge of the Town consists of a variety of large-lot, residential properties. Incorporation of the residential lots on the eastern edge ensures compatibility with similar development immediately to the north. These areas already share the same internal road. Adjusting the Town's boundary to include these lots clarifies the role and responsibilities of municipal service delivery.

[28] None of the lands within either of the two annexation areas were identified as having significant environmental or natural features. However, the Town understands that planning for sustainable development patterns can reduce the overall land consumption, which can support the protection of regional ecological resources and agricultural land.

[29] The annexation area lies within Alberta's Industrial Heartland Area Structure Plan (ASP) and has been defined as Agricultural Policy Area in the Future Land Use concept. While the southern annexation area is intended for agricultural purposes, it is also designed to accommodate future Light Industrial development. Once these lands are annexed, they will be subject to the Town's statutory planning documents; however, the ASP land uses are consistent with the Town's future vision.

[30] The Town of Bruderheim Municipal Development Plan (MDP) specifies that industrial development is to be located in the southern part of the Town. Although there may appear to be a suitable supply of vacant developable industrial land for future development, the Town identified development constraints as landowners may not wish to sell the land for industrial purposes. The proposed southern annexation area is focused on the regional economic development opportunities expected from growth in the Industrial Heartland. Having land available for development can positively contribute to the region and the long-term fiscal health of the Town. The annexation proposal aligns with the Town's MDP, that strives to ensure "adequate land is available to meet future development need".

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[31] The application states that the Town can provide municipal services more efficiently than the County. Extending existing Town services can reduce the amount of water, waste water, and transportation infrastructure needed to support new growth. This eliminates the use of on-site servicing networks that often accompany rural industrial development. The extension of infrastructure presents a continuation of the planned expansion within the southern industrial lands. The Town's Master Servicing Study outlines the expansion of major infrastructure networks necessary to service the planned industrial areas within the current boundary and the extension of the networks to accommodate expansions of the long-term growth areas.

[32] The Lamont County Regional Economic Development Initiative (LCREDI) is an economic development partnership that helps its member municipalities develop long-term strategies to address potential impacts from growth in the Industrial Heartland. The LCREDI undertook a Readiness Strategy to identify individual strategies for each of the participating municipalities. The strategy recognizes the Town's constraints for industrial opportunities and recommends expanding the Town's boundary to increase non-residential land supply.

[33] Currently, the Town derives 91% of its municipal tax revenue from residential properties. The addition of land for non-residential uses can support the expansion of local businesses as well as promote business retention and relocation options. The Town recognizes the long-term growth potential of the Industrial Heartland, which is expected to bring considerable employment growth to the region. The Town also understands the importance of maintaining local autonomy to provide effective and efficient services to its citizens, which the Town seeks to achieve by supporting civic participation included in its long-term planning processes.

[34] The Town initially intended to annex additional land south of the proposed area and north of Highway 15. However, as a result of the negotiations with the County, these lands were removed from the annexation request. The Town and County recognize the value of municipal collaboration, which was important during the annexation negotiations. Although there is no Intermunicipal Development Plan in place, the positive relationship between the two municipalities has allowed them to discuss mutually beneficial long-term planning issues. The municipalities agree that the modest request of the Town to annex 197 hectares of land from the County will have minimal impact on the County's growth potential.

[35] The annexation is not expected to have a significant impact on either municipality. The annexation area is relatively small in relation to the total size of the County, so the amount of land lost by the County is negligible. The majority of the proposed annexation lands are assessed as Agricultural and represents a small percentage of the County's total municipal tax revenue. The financial impact of the annexation to the Town will also be negligible. The annexation area represents only a small increase in the Town's total assessment and municipal tax revenue. Accordingly, the 15 year assessment and taxation transition period offered to all landowners in

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the annexation area should not unduly impact the financial position of the Town. However, the Town contends this annexation will have the potential to significantly enhance its long term fiscal health.

[36] Recognizing the associated costs of development, the Town will concurrently be creating an off-site levy bylaw to support the necessary costs of development associated with the construction and expansion of infrastructure networks necessary to accommodate growth. The expansion of infrastructure will likely involve direct financial investment by the Town. However, the annexation of the southern lands would allow the costs to be distributed over a larger area, allowing an increased ability to achieve economies of scales and recover any upfront costs.

[37] During the public consultation process, the major concern identified by the affected landowners was tax increases. In response, the Town's proposed annexation transition conditions would allow the landowners to maintain Lamont County municipal tax rates for up to 15 years, unless.

- a. subdivision occurs (at the request or on behalf of the landowner),
- b. the land is redesignated (at the request or on behalf of the landowner),
- c. the annexed land is connected to Town water or sewer service, or
- d. the 15-year timeframe expires.

[38] The assessment and taxation transition provisions will not terminate if the subdivision is the separation of an existing farmstead from a previously unsubdivided quarter section.

[39] The Town and County also agreed that there would be no direct revenue sharing or compensation.

PART IV PUBLIC HEARING – December 14, 2016

Part IV provides an overview of the hearing process as well as a summary of the submissions received by the MGB at the public hearing.

Hearing Process Overview

[40] As a result of objections from affected landowners, and in accordance with Section 120(3) of the *Act*, the MGB held a public hearing on December 14, 2016. The MGB published a notice of the hearing in the local newspaper, the **Lamont Leader**, during the weeks of November 21, 2016, November 28, 2016, and December 5, 2016. The MGB also mailed hearing notification letters to all affected parties identified by the Town and the MGB. In response to the

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public hearing notifications, the MGB received written responses from Mr. Seutter and Mr. and Ms. Thiel.

Public Hearing Summary

[41] During the public hearing, process the MGB received oral and written submissions from the Town, the County, and the affected landowners. A summary of these submissions is provided below.

Summary of Town of Bruderheim's Position

[42] At the public hearing, the Town provided an overview of its annexation application with more detailed information regarding the proposed annexation, addressed landowner concerns, and answered questions from the Panel.

[43] The Town highlighted that discussions between the municipalities regarding the annexation proposal have led to a number of intermunicipal agreements. Both municipalities value and understand the importance of good governance through healthy and sustainable cooperation. This cooperation has led to the agreement on the annexation as proposed by the Town's annexation application.

[44] The proposed annexation area is located within the Industrial Heartland. As such, the Town is willing to adapt to changes that come with oil and gas industry development. In response to the MGB's question regarding the impact of the Industrial Heartland on the Town over the next 20-30 years, the Town stated that it expects to experience a different type of development pressure than normally experienced by a bedroom community. The Town does not anticipate a great deal of pressure for residential development, but demand for industrial land will probably increase. The Town acknowledges that large industrial development will require large land masses and the Town wants to be prepared for the overall growth of the Industrial Heartland area. The Town stated there is no imminent development currently planned.

[45] To address cost concerns, the Town stated that servicing of the additional annexed parcels will be paid for by off-site levies. The road currently servicing the proposed annexation area to the east will remain the same, but the Town will take over the maintenance. This will result in the clarification of the responsibility for maintaining the road which is currently shared by the Town and the County.

[46] The annexation will support the long-term viability of the Town, expanding its tax base by increasing the amount of industrial and commercial assessment. Currently, a minimal percentage of the Town's municipal revenue is derived from non-residential assessment.

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[47] The Town provided maps from their Master Servicing Study to illustrate the proposed expansion of services, including the proposed water network expansion. The expansion of the Town's services to these annexation areas was also identified in the 2013 MDP.

[48] The Town acknowledges that it has land within its boundary from a previous annexation which has not yet been fully developed. However, the proposed annexation is intended to provide land for commercial and industrial expansion as opposed to the existing land which is primarily to accommodate residential development. The existing vacant residential lands within the Town are located immediately north of the proposed eastern annexation area. By annexing the southern area, the Town is taking a proactive versus a reactive approach in guaranteeing it has sufficient land supply for expanding commercial and industrial development.

[49] For clarification, the Town proposed the parcels located within the proposed annexation area will continue to be assessed as if they were located within the County for a period of 15 years. The land use districts as they currently exist will also remain the same. Any conversion or changes in land use would have to be initiated by the landowner in order to trigger the termination of the 15-year municipal assessment and taxation arrangement.

[50] In response to the questions regarding the fiscal impact of the annexed lands on the municipalities, the Town stated that the County's municipal revenue impact will be minimal. The annexation area is primarily agricultural land, and the estimated tax revenue from the proposed annexation area for 2015 was \$11,518.79. Similarly, the impact of the annexation to the Town's municipal revenue will also be minimal.

[51] Respecting affected landowners' concerns regarding service provisions and road maintenance, the Town stated that it will be offering an opt-out for garbage pick-up, and water and sewer connections. The Town currently has no timelines in place to connect the proposed annexation area to its water and sewer network. Similarly, the Town will be responsible for the maintenance of any roads within the annexation area, but no timelines for road upgrades have been determined. However, any upgrades and network expansions may be triggered by development within the annexation area.

[52] Due to the timeliness of the annexation application and the public hearing process, the Town is willing to change the effective date of the annexation from the initially requested January 1, 2017 date to July 1, 2017. In consideration of this agreement, the Town is willing to change the start date of the 15-year timeframe within which the County's municipal tax rate and assessment is maintained for the affected parcels to 2018. This municipal assessment and taxation arrangement will still be terminated upon the creation of a new parcel or a separation of title through the subdivision process (except for the separation of an existing farmstead), upon

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re-designation of the land under the Town's Land Use Bylaw (LUB), upon connection of the parcels to the Town's water or sewer networks, or after the 15 years have passed.

Summary of Lamont County's Position

[53] The County stated that the two municipalities have a long history of collaborating and worked well together during this annexation process. It stated that the southern annexation area along the rail lines is strategically located as the rail lines will become busier as more development occurs. The County is very supportive of the affected landowners and wants its ratepayer to be treated fairly and their concerns to be addressed adequately. The County also confirmed it agrees with changing the effective date to July 1, 2017.

Summary of Landowners' Submissions

[54] The following is a summary of the oral and written submissions received by the MGB from the four landowners.

Mr. Stielow

[55] Mr. Stielow, one of the landowners located in the proposed eastern annexation area, is the new owner of Thiel's Greenhouse. Mr. Stielow and his wife are not opposed to the annexation proposal and support progress and change. However, he identified two major concerns. The first concern is related to the sustainability of their business. Mr. Stielow stated that he has not received adequate feedback about the long-term benefits to his operation as one of the larger small business operations in the area. He submitted that receiving water and sewer services from the Town would be an advantage to his business operation. However, there is no timeline for the connection of his property to the Town's water and sewer network. Furthermore, there is no timeframe for the development needed to expedite the extension of water and sewer services past his property. He expressed concern that if development does not occur within the 15-year assessment and taxation protection period his taxes will increase without having received the benefits of Town water and sewer services.

[56] Mr. Stielow's second concern is the districting of the property. As part of the County, his property is currently within the Agriculture land use district and is treated like a rural property. His concern is focused on the shift of small businesses, like his greenhouse, from being treated as rural, to being treated as urban properties. This will affect the municipal assessment and taxation of the properties and the viability of the businesses in the long-term.

[57] Subsequent to the public hearing, the MGB received a letter in the mail, dated November 25, 2016. The letter reiterates Mr. Stielow's oral presentation that there is no assurance from the

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Town that the annexation will be of benefit to him. As such, he questions why he should agree to an annexation that will eventually result in higher taxes and provide no significant benefits to his business.

Mr. Thiel

[58] In addition to providing a written submission prior to the public hearing, Mr. Thiel provided an oral presentation to expand upon his and his wife's position. The Thiel property is located within the eastern proposed annexation area. Mr. Thiel contends that the Town should not annex this area. He stated that the land directly north of the eastern annexation area was annexed to the Town in approximately 1977 and has not yet been developed. These parcels still have their own wells and septic systems. He anticipates that his taxes will increase drastically if his land is annexed. The Thiel's owned land in the 1977 annexation area, in which taxes were raised over the years although no change in use of the property occurred. The Town merely changed the districting of the parcels and increased the taxes.

[59] Mr. Thiel's opinion is that the Town does not have the necessary control over its administration and as a result incurs higher cost, which result in higher taxes. The Town should not annex the proposed annexation area, instead, the County should annex the Town.

Mr. Maschmeyer

[60] Mr. Maschmeyer and his family own one of the quarter sections in the proposed southern annexation area. His family also owns quarter sections within the area that was removed from the annexation after the initial negotiations between the Town and the County. In his presentation, Mr. Maschmeyer provided an overview of the Town's history from a development perspective. He stated that there is currently very little commercial development within the Town and that the land designated for commercial development is not yet fully developed. Mr. Maschmeyer is asking for his property to be excluded from the annexation area. He is concerned about the uncertainty of what will happen after the 15 years have lapsed as the land may be taxed and districted differently. He will be unable to predict whether his children in 15 to 20 years are able to develop a residence on their property with reasonable conditions and reasonable municipal assessment and taxation provisions in place.

Mr. Suetter

[61] Mr. Suetter owns land within the proposed southern annexation area, which is currently farmed by Mr. Maschmeyer. He stated that with the last annexation, the Town annexed approximately 200 hectares which have not yet been developed. Mr. Suetter questions why the Town wants to annex more land now if it will take them 65 years to develop. He stated that the

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Town can hardly handle the land it currently has within its boundary. Mr. Seutter does not find it beneficial to join the Town as the taxes will eventually increase without significant benefits to the affected landowners.

PART V MGB RECOMMENDATION

[62] After reviewing the written and oral submissions from the Town, the County, and the affected landowners, the MGB finds the annexation request to be reasonable. Therefore, the MGB recommends the annexation of the land identified by the Town's annexation application with an effective date of July 1, 2017. The MGB also recommends the approval of a 20-year timeframe within which municipal assessment and taxation of the annexed lands will be maintained as if the lands were within the County. The municipal assessment and taxation transition period of the 20 year timeframe is to be terminated if:

- at the request of or on behalf of the landowner, a new parcel or a new title is created through the subdivision process; or
- at the request of or on behalf of the landowner, the land is re-designated under the Town's LUB; or
- connection of an affected property to the Town's water or sanitary sewer networks; or
- the lapsing of the 20-year period, which starts in 2018.

[63] The MGB also recommends that the assessment and taxation transition provisions not terminate if the subdivision is the separation of an existing farmstead from a previously unsubdivided quarter section.

PART VI REASONS

[64] In making its recommendation, the MGB considered the consultation process undertaken by the Town, planning related issues, financial matters, and the effective date. Each of these issues are discussed below.

Consultation Process

[65] The *Act* requires the initiating municipality to meet and negotiate in good faith with the municipality from which the land is being annexed. The ability of the Town and the County to successfully reduce the size of the annexation area demonstrates a willingness of the municipalities to listen and collaborate. This combined with the willingness of the two municipalities to negotiate an annexation agreement clearly shows a mutual respect in terms of each municipalities' duties, roles, and responsibilities. Therefore, the MGB was convinced there was a high degree of intermunicipal cooperation in the development of this annexation

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application. As the terms have been accepted by the Councils of both municipalities, the MGB also concludes the annexation agreement does not infringe upon the local autonomy of either municipality.

[66] Both municipalities acted reasonably and openly communicated with affected landowners. Information sessions and newspaper advertisements encouraged public participation and landowner engagement. The annexation brochure developed by the Town provided people with additional information about the process and kept the parties updated. Therefore, the MGB concludes the Town satisfied the public and landowner consultation requirements of the *Act*.

Planning Related Issues

[67] Planning related issues contemplated by the MGB during its deliberations included the annexation area and land use changes.

Annexation Area

[68] The MGB finds that the amount of land being requested by the Town is reasonable. The MGB's reasons for including the east and south annexation areas are provided below.

East Annexation Area

[69] The MGB agrees with the Town's request to annex the area east of its current boundary. In terms of governance, this area is already surrounded on three sides by the Town, so it is significantly influenced by Town land use planning and other municipal bylaws. The MGB heard that the landowners and residents in this area consider themselves part of the community. Adding these lands to the Town will give these people the ability to fully participate in municipal decision making like any other Town resident. In terms of municipal services, access to this area is via a road that is shared by the two municipalities. The annexation of the eastern annexation area will bring the road entirely within the boundary of the Town. This will make the administration of services more efficient by clarifying municipal jurisdiction in regard to the provision of snow removal and other road maintenance duties. The annexation of this area will also allow the Town to eventually extend water, sewer, and transportation services to this area as well as facilitate the provision of future municipal services to the lands to the south of the eastern annexation area.

South Annexation Area

[70] The MGB concludes the annexation area to the south is reasonable. The Industrial Heartland is a group of municipalities with joint land use planning that focus on chemical,

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petrochemical, and oil and gas development initiatives. The LCREDI Readiness Study predicts there will be significant growth in the Industrial Heartland and identifies a need for the Town to obtain additional vacant commercial and industrial land to attract and accommodate this anticipated growth. The proposed southern annexation area reflects the Town's desire to proactively position itself so it can attract this development. The southern annexation area is strategically located with easy access to major highways and a rail line. Although the growth within the annexation area may not be imminent, the amount of land being requested south to the Town is not unreasonable given the long-term perspective of this annexation and the location of the Town within the Industrial Heartland. The reduction of the southern annexation area demonstrates the two municipalities examined the amount of land needed by the Town as well as contemplated future growth areas for the County.

[71] The MGB acknowledges the Town does have vacant land in the north; however, the Town's existing planning documents clearly show these lands are designated for residential development. Locating the industrial and commercial land in the southern part of the Town creates a natural buffer that can reduce land use conflicts and may assist with the uninterrupted future growth of both residential and non-residential development within the Town. The Town already has a Master Servicing Study in place for the expansion of municipal services across the proposed annexation area. Moreover, the annexation area is consistent with the existing Town and County statutory plans. The MGB accepts the County's statement that there are no environmentally significant areas within the proposed annexation area.

[72] During the negotiation process, the two municipalities reduced the proposed southern annexation area. This demonstrates a desire for intermunicipal cooperation and the accommodation of growth by both municipalities.

Land Use Changes

[73] The MGB heard concerns that the Town could arbitrarily change the land use districting of their properties once they are included within Town boundary, and that this redistricting would result in the loss of their assessment and taxation protection and/or impact landowners' lifestyle or businesses. In response the Town stated the properties in the annexed area would retain its current land use districting. The MGB notes that Section 135(1)(d) of the *Act* states that the land use districts in an annexation area will "remain the same until repealed or others are made in their place by the new municipal authority". The *Act* also specifies the public consultation process required for any substantial changes to the districting. The MGB concludes the public consultation process will give the affected landowners the opportunity to provide input to any proposed districting changes that may impact the land use options available for their land or their lifestyle.

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[74] With regard to the termination of the assessment and taxation transition provisions, the Town explained that the assessment and taxation transition protection would be removed only if the districting of these parcels was the result of a request made by or on behalf of a landowner. Similarly, a subdivision of the property or the connection of the parcel to the Town's water or wastewater system would only trigger the loss of the assessment and taxation protection if it was at the request or on behalf of the landowner. The MGB finds these triggering events are reasonable as the landowner would have to initiate some type of action to lose the assessment and taxation protection.

Financial Matters

[75] Financial matters include assessment and taxation as well as monetary impact.

Assessment and Taxation

[76] The municipalities agreed to a 15-year municipal assessment and taxation transition period within which the Town will maintain the County's municipal tax rate for affected lands in the annexation area. The MGB acknowledges that previous land annexed by the Town has not yet been fully developed or fully serviced by the Town. Furthermore, the Town stated that no imminent development in the annexation area will take place. Additionally, there are no timelines for expanding the water and sanitary sewer services to the proposed annexation area.

[77] In respect to the affected landowners' concerns regarding the uncertainty of future development on their property, and in consideration of specific development or network expansion timeframes, the MGB finds it reasonable to increase the 15 years municipal assessment and taxation transition period suggested by the two municipalities to 20 years. This 5-year extension should alleviate some of the landowners' concerns about increasing taxes as well as provide some additional protection to agricultural operations from development pressure. This mitigates concerns that the tax protection will expire before development occurs as it will give the Town more time to plan and attract new businesses. Moreover, it strikes a balance between the Town's need for economic diversification and the continued use of the land for agricultural production. The MGB concludes this creates greater certainty for affected landowners, and further opportunity for landowners to collaborate with the Town.

[78] The MGB finds that municipal assessment and taxation will remain the same for the affected landowners being incorporated with the Town for a 20-year period. This 20-year municipal assessment and taxation arrangement is conditional and will be terminated after the 20 years have lapsed, or if a portion of the annexed lands:

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- Becomes a new parcel of land created as a result of subdivision or separation of the title by registered plan of subdivision or by instrument or any other method that occurs at the request of, or on behalf of, the landowner;
- Is redesignated at the request of, or on behalf of the landowner under the Town of Bruderheim Land Use Bylaw to another designation; or
- Is connected to the water or sanitary sewer services provided by the Town of Bruderheim.

[79] The assessment and taxation transition provisions will not terminate if the subdivision is the separation of an existing farmstead from a previously unsubdivided quarter section.

Monetary Impact

[80] The MGB has reviewed the Town's financial information provided in its annexation application, and finds the Town to be in good financial standing with an adequate debt limit. The Town is focused on growth planning which will be beneficial for both municipalities once development of the greater Industrial Heartland area occurs.

[81] Furthermore, the MGB finds that the proposed annexation will be beneficial to the Town's tax base in the long-term. Currently, 91% of its tax revenue comes from residential properties. The Annexation provides additional land intended for commercial and industrial purposes. This will allow a greater distribution of tax revenue for the Town. The MGB recognizes that the proposed annexation affects mainly agricultural land, and concludes that this will have a minor financial impact on both municipalities. The tax revenue of the proposed annexation area was \$11,518.79 in 2015, which both municipalities agreed to will result in minimal revenue impact on either municipality moving forward. Both municipalities agreed to have no financial compensation paid to the County by the Town; thus, the annexation is not considered a tax initiative.

[82] The MGB accepts the Town will change its bylaws to allow landowners in the annexation area to opt-out of garbage pick-up, and water and sewer connections. This should assist landowners with the transition from the County to the Town. It would be inappropriate for the MGB to make any comments regarding the specific business advantage concerns expressed by the owners of Theil's Greenhouse.

Effective Date

[83] During the public hearing, both municipalities stated they were in agreement with changing the annexation effective date from January 1, 2017 to July 1, 2017. Given the public hearing was conducted on December 14, 2016, the MGB accepts this proposal and recommends

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the effective date for the annexation to be July 1, 2017. However, to ensure a smooth transition, the MGB recommends the County collect the taxes for 2017 and remit these taxes to the Town. The MGB also recommends that for 2017, the County hear any assessment appeals regarding the lands in the annexation area. Since the 2017 assessment and taxation will be undertaken by the County, the MGB also recommends the 20 year assessment and taxation transition period extend to the end of 2038. Given the small amount of tax revenue generated by the annexation area, the County is to remit the taxes collected to the Town.

CONCLUSION

[84] The MGB finds that the proposed annexation complies with the *Act* and addresses the MGB's 15 annexation principles. The MGB finds the conditions of annexations as recommended to be certain, unambiguous, enforceable and time specific. Furthermore, the proactive intent of the annexation and the amount of land agreed to by the municipalities is reasonable. The MGB notes that the affected landowners' concerns have been given proper consideration throughout the annexation process. Therefore, the MGB recommends the annexation.