

BOARD ORDER NO. MGB 049/10

FILE: AN06/CROS/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 Crossfield, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Rocky View County.

BEFORE:

Members:

H. Kim, Presiding Officer

W. Kipp, Member

R. Strauss, Member

MGB Staff:

R. Duncan, Case Manager

SUMMARY

After careful examination of the submissions from the Town of Crossfield (Town), Rocky View County (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 Appendix D of this Board Order.

The Lieutenant Governor in Council orders that

- (a) effective January 1, 2010, the land described in Appendix A and shown on the sketch in Appendix B is separated from Rocky View County and annexed to the Town of Crossfield,
- (b) any taxes owing to Rocky View County at the end of December 31, 2009 in respect of the annexed land are transferred to and become payable to the Town of Crossfield together with any lawful penalties and costs levied in respect of those taxes, and the Town of Crossfield upon collecting those taxes, penalties and costs must pay them to Rocky View County,
- (c) the assessor for Rocky View County must assess the annexed land and the assessable improvements to it for the purposes of taxation in 2010, and

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- (d) the assessor for the Town of Crossfield must assess the annexed land and the assessable improvements to it for the purposes of taxation in 2011 and subsequent years,

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, 16th day of April 2010.

MUNICIPAL GOVERNMENT BOARD

(SGD.) H. Kim, Presiding Officer

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS SEPARATED
FROM ROCKY VIEW COUNTY AND ANNEXED TO
THE TOWN OF CROSSFIELD**

ALL THAT PORTION OF SECTION THIRTY-FIVE (35), TOWNSHIP TWENTY-EIGHT (28), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF CROSSFIELD EXCLUDING PLAN 831-1034 AND EXCLUDING ALL THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID SECTION LYING NORTH OF THE PROJECTION WEST OF THE SOUTH BOUNDARY OF PLAN 831-1034.

ALL THAT PORTION OF THE WEST HALF OF SECTION THIRTY-SIX (36), TOWNSHIP TWENTY-EIGHT (28), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF CROSSFIELD.

ALL THAT PORTION OF THE EAST HALF OF SECTION TWENTY-SIX (26), TOWNSHIP TWENTY-EIGHT (28), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF CROSSFIELD.

ALL THAT PORTION OF THE WEST HALF OF SECTION TWENTY-FIVE (25), TOWNSHIP TWENTY-EIGHT (28), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF CROSSFIELD.

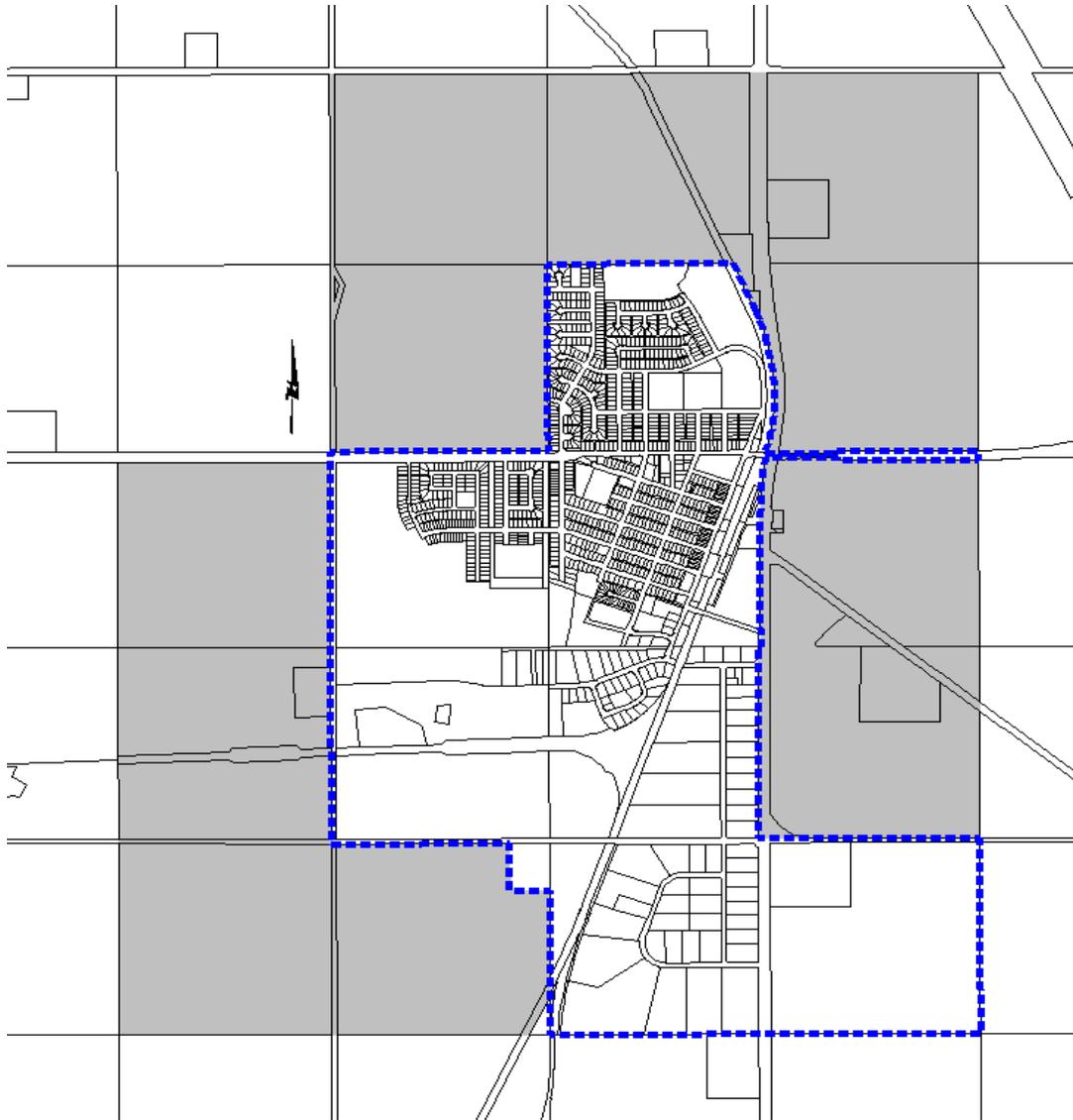
ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY-THREE (23), TOWNSHIP TWENTY-EIGHT (28), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF CROSSFIELD AND EXCLUDING THAT PORTION OF SAID QUARTER SECTION LYING EAST OF THE EAST BOUNDARY OF RAILWAY PLAN RY9.

THE NORTHEAST QUARTER OF SECTION TWENTY-TWO (22), TOWNSHIP TWENTY-EIGHT (28), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN.

ALL THAT PORTION OF THE EAST HALF OF SECTION TWENTY-SEVEN (27), TOWNSHIP TWENTY-EIGHT (28), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN LYING SOUTH OF THE SOUTH BOUNDARY OF PLAN 741 0458.

APPENDIX B

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS
ANNEXED TO THE TOWN OF CROSSFIELD



Legend



Existing Town Boundary



Annexation Area

APPENDIX C

ORDER

1(1) The Town of Crossfield shall pay to Rocky View County:

- (a) \$36,000 on or before April 30, 2010,
- (b) \$36,000 on or before January 1, 2011, and
- (c) \$36,000 annually on or before January 1 of each subsequent year up to and including 2019.

(2) All or any portion of the amounts required to be paid under subsection (1) may be paid early without penalty.

APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE
MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF CROSSFIELD PROPOSED ANNEXATION
OF TERRITORY FROM ROCKY VIEW COUNTY**

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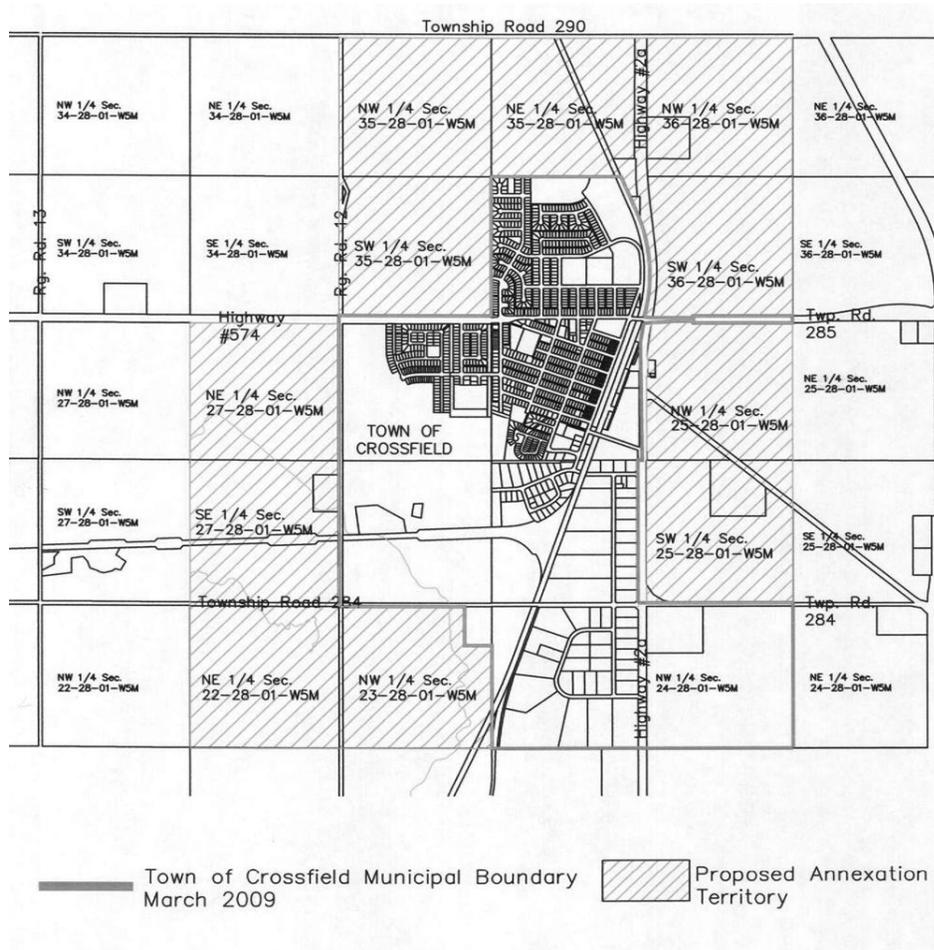
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Executive Summary

The Town of Crossfield (Town) is located on in southern Alberta west of Highway 2, approximately 45 kilometres north of the City of Calgary. On February 22, 2006, the Municipal Government Board (MGB) received a notice of intent to annex from the Town of Crossfield (Town) for approximately 433 hectares (1,070 acres) of territory from Rocky View County (County). The Town filed an amended notice of intent to annex on November 8, 2006. The amended annexation proposal includes approximately 1,060 hectares (2,620 acres). The adjusted notice of intent was based upon landowner requests and to allow the inclusion of town-owned lands. Map 1 shows the proposed annexation area.

Map 1: Town of Crossfield Proposed Annexation Area



Source: Town of Crossfield Annexation Application

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The annexation will provide the Town with an estimated 35 year land supply for residential, recreational, public utility, industrial, commercial and institutional use. This will enable the Town to properly regulate and control its future growth and development on a comprehensive and long term basis.

Included in the annexation application is an Annexation Agreement in which the two municipalities commit to developing an Intermunicipal Development Plan (IDP) as well as a joint Area Structure Plan (ASP) planning process for certain areas.

Objections Received

The Town was not able to obtain consent forms from all the landowners and asked the MGB to proceed with the annexation. In accordance with Section 120 of the *Municipal Government Act* (Act), the MGB began to prepare the annexation notification process. Discussions with the Town's Chief Administrative Officer determined that the Town had received an objection to the proposed annexation early on in the process. The MGB investigated the objection and determined that although the people filing the objection were no longer within the proposed annexation area they still objected to the annexation. It was determined that the MGB should proceed directly to hearing rather delaying the process by advertising for objections first.

In accordance with section 120(3) of the Act, the MGB held a public hearing on November 25, 2009 to receive information, evidence and argument on the annexation proposal. The MGB received a joint presentation from the Town and the County. There were several written submissions prior to the hearing, but no other parties were represented at the hearing.

Recommendation

After reviewing the documentation provided, as well as hearing the joint presentation by the parties to the proposed annexation, the MGB recommends that the annexation be approved as requested except that the Copley lands not be included in the annexation.

Reasons

The MGB finds that the purpose of the annexation and amount of land being requested by the Town is reasonable and that the concerns of affected landowners have been given proper consideration. The Copley lands are located between two railway rights of way and not accessible from the Town. Neither the Town nor the landowner will derive benefit from the inclusion of this parcel, and some potential for detriment exists; therefore, the MGB is recommending the exclusion of this parcel.

The detailed analysis and reasons of the MGB are contained in Part VII of this report.

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Part I Introduction

The Town is located on in southern Alberta on Highway 2A, 1.6 kilometres west of Highway 2 and approximately 45 kilometres north of the City of Calgary. The Town has experienced steady growth of 1.4% to 4.9% per year between 1993 and 2006 following high growth years in 1975 to 1982.

The purpose of this annexation is to provide the Town with a 35 year supply of land for residential and non-residential uses, and to provide a framework for effective future inter-municipal planning.

The Town filed its formal notice of annexation pursuant to section 116 of the Act on February 22, 2006 proposing annexation of 433 hectares (1,070 acres) of land, based upon requests for annexation from all but one affected landowner. It was amended on November 8, 2006 to include 1,060 hectares (2,620 acres) of land.

The following report outlines the role of the MGB, provides a brief overview of the Town's annexation application, identifies landowner issues, identifies the MGB annexation processing methodology, summarizes the public hearing held on November 25, 2009, and provides a recommendation to the Minister regarding this matter.

Part II Role of the MGB, the Minister and the Lieutenant Governor in Council

A municipality seeking annexation must first initiate, pursuant to section 116 of the *Municipal Government Act* (Act), the process by giving written notice of the proposal to the municipal authority from which the land is to be annexed, and to the MGB and any local authority considered to be affected by the proposal. The notice must describe the land proposed for annexation, set out the reasons for annexation and include proposals for consulting with the public and meeting with the landowners. Once notice has been given to the other municipality, the municipalities must negotiate in good faith and if agreement cannot be reached the municipalities must attempt mediation to resolve the outstanding matters.

At the conclusion of the negotiations, the initiating municipality must prepare a report describing the results of the negotiations. The report must include a list of agreed matters, as well as a list of matters in which there is no agreement. If no agreement, the report must state what mediation attempts were undertaken or if no mediation, give reasons why there were none. The report must also include a description of the public consultation process and the views expressed during this process. The report is then signed by both municipalities and if not, the municipality that did not sign must provide their reasons for not signing.

The report is then submitted to the MGB and it becomes the application for annexation pursuant to section 119. If the MGB is satisfied that the affected municipalities and public are generally in

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agreement, the MGB notifies the parties of their findings and unless there are objections to the annexation filed with the MGB by a specific date, the MGB will make their recommendation to the Minister without holding a public hearing.

If the MGB finds that there is no general agreement, the MGB must notify the parties of their finding and conduct one or more public hearings. The MGB only has authority to hear from parties to an annexation, make findings and recommendations to the Minister and the Lieutenant Governor in Council (LGC). The Minister and the LGC have the authority to accept in whole or in part or completely reject the findings and recommendations of this report.

Part III Annexation Application

The Town filed its formal notice of annexation pursuant to section 116 of the Act on February 22, 2006 proposing annexation of 433 hectares (1,070 acres) of land, based upon requests for annexation from all but one affected landowner. The notice was amended on November 8, 2006 to include 1,060 hectares (2,620 acres) of land to accommodate a request from a landowner who had not previously requested to be part of the proposed annexation. The landowner requested the annexation include an additional four quarter sections of land. The November 8, 2006 amendment also included two quarter sections of Town owned lands which had not been previously included in the Annexation proposal. The Town submitted its annexation application to the MGB on August 20, 2009 and requested the MGB to proceed with the proposed annexation.

Intermunicipal Cooperation

The Town and the County established a Facilitation Committee with political and administrative representation from both municipalities. This committee was supported by planning consultants, and held a total of 12 meetings in 2007. The Town and the County executed an Annexation Agreement, which included a provision for the two municipalities to collaborate in developing joint planning documents. The agreement provides for preparation and adoption of terms of reference for an IDP within two years of the annexation. The agreement similarly provides for a Joint Area Structure Plan (ASP) to address future land uses within both municipalities between Highways 2 and 2A, an area of strategic importance to both the Town and the County. Proper intermunicipal planning of that area will provide for better coordination of land use, development, and servicing for the benefit of the two municipalities, the affected landowners and the broader community at large. The Annexation Agreement between the two municipalities also addressed dispute resolution, mutual cooperation, roadways and agriculture.

Fiscal Accountability

A Fiscal Impact Analysis was conducted which details the financial impacts of the proposed annexation on the Town and the County. The study concludes that after factoring in the costs of

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the compensation package (\$36,000 per year over 10 years) as well as road upgrades and maintenance, the estimated benefit to the Town will be in the range of \$2,000 to \$14,000 per year. The financial impact of the proposed annexation on the County will be negligible.

Growth Projections

The Town commissioned a Growth Study in 2007, which projects an overall population growth within the Town in the range of 8,857 - 47,648 over the next 30 years. Available residential land would accommodate 450 dwelling units and would accommodate up to 1,170 additional residents. The current inventory of commercial and light industrial land is insufficient to meet projected commercial and industrial growth. All parcels of lands within the annexed lands are to be redesignated Urban Reserve or Direct Control, which will protect them for future urban uses such as residential, commercial or industrial, in accordance with the development needs of the Town.

Overview of Servicing

The Town also commissioned technical studies and master plans to address the infrastructure that will be necessary to service the future land uses proposed by the Town. The Town also submitted a Transportation Master Plan, a Master Drainage Plan, a Water Servicing Master Plan, and a Master Sanitary Servicing Study which recommended systems for developing necessary infrastructure servicing, future planning and growth management. The annexation agreement provides several areas where the Town and the County may enter into joint agreements for the provision of other services, including agricultural services such as weed control for current land uses on the annexed lands and joint capital projects such as waste water treatment plants.

Environmental Stewardship

The most significant environmental and natural features within the annexed lands include Nose Creek, Crossfield Creek, and the associated wetlands. The Town is located between the watersheds of the Bow and Red Deer Rivers. The majority of the Town lies within the watershed of Nose Creek, a tributary of the Bow River, while the balance discharges into Crossfield Creek, which flows into the Red Deer River. The Master Drainage Plan contains recommendations to ensure optimal stormwater flows and protection of water quality within the natural water bodies and creeks.

Statutory Plans

The Town does not have a Municipal Development Plan (MDP), as its population is less than the 3,500 threshold for which a MDP is required under the Act. The proposed annexation is consistent with the County's MDP, and is supported by non-statutory plans and studies.

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Affected Agencies

Alberta Transportation (AT) has no objections to the proposed annexation, but identified potential issues with respect to highway operations, highway access, and stormwater drainage. These issues were considered in the Transportation Master Plan and the Master Drainage Plan, and can be addressed in detail in future planning at time of development.

Canadian Pacific Railway identified opposition to residential uses adjacent to their right of way and requested consideration of mitigating recommendations. It also identified compatible land uses relative to the railway lines. The Town intends to address these issues in the preparation of statutory plans subsequent to annexation.

The Town also intends to collaborate with Rocky View School Division to ensure adequate planning and dedication of Municipal and School Reserve lands, both in preparation of statutory plans and conditions on development applications.

Assessment and Taxation

There will be no provision for transition of annexed lands, as landowners within this annexation application requested their lands be annexed. The Town will assess and tax parcels of land in accordance with Town values and rates upon annexation.

Public Consultation

Public input was considered in developing the annexation application and the annexation lands were amended after receiving input from affected landowners. Opportunities for public input included open houses, newsletters, and Public Hearings of both Councils. The Town and the County held public open houses on April 26, 2007 and September 26, 2007. Notice was also published in the **Rocky View Weekly**, the local publication with the widest circulation, and three public newsletters were issued. The Annexation Agreement was approved by the Town Council on September 18, 2007, and confirmed at a Public Hearing on November 20, 2007. The County Council considered the Annexation Agreement at a Public Hearing on November 26, 2007, and approved the final Annexation Agreement on July 29, 2008.

Part IV Public Hearing

After reviewing the annexation application, the MGB noted that the Town was unable to obtain consent forms from all the landowners. Moreover, discussions with the Town's Chief Administrative Officer determined that the Town had received objections to the proposed annexation early on in the process. After receiving copies of the objections, the MGB, in accordance with Section 121(3)(a) of the Act, contacted these people by telephone. This investigation determined that although the people filing the objection were no longer within the

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proposed annexation area they still objected to the proposed annexation. After discussing this with the town, it was determined that the MGB should proceed directly to hearing rather than delaying the process by advertising for objections first.

On October 7, 2009, the MGB sent hearing notification letters to the landowners that were identified by the Town that were within the proposed annexation area. Also, in accordance with section 122 of the Act, the MGB published hearing notices in the **Rocky View Weekly** newspaper, a newspaper circulating in the annexation area, the weeks of October 26, November 2 and November 9, 2009. A total of 17 people signed the registration form at the hearing. There were no submissions other than the joint submission of the Town and the County at the November 25, 2009 public hearing. The written submissions received in advance of the hearing by the MGB were included as part of the record. A number of these were supportive of the annexation application. The following is a summary of the ones that were opposed:

Robert Copley

Robert Copley identified that the annexation would include a small portion of his quarter section which lies between two railroad rights of way. In response to the MGB's hearing notification, Mr. Copley sent a letter to the MGB advising that he would make an oral presentation to have his 0.59 acre portion removed from annexation because it is land locked. He did not appear at the hearing, but the MGB considered his position based on his letter.

Wendy and Tom Brownlee

Wendy and Tom Brownlee's property, a residential acreage, is not within the annexation lands. Their objections primarily question the need for the greatly increased size of the town and lack of long range planning, as well as environmental concerns related to protection of wetlands.

Gayle and Larry Mortimer

Gayle and Larry Mortimer are not within the annexation lands. Their concerns focus on protection of the wetlands.

Other landowners and public present at the hearing included: S. Sinclair, A. Barrett, D. Snell, L. Kanschill, B. Rachisky, K. Wharton, R. Hurt, B. Ortman, P. Northrup, D. Sackett, W. Ludwig, L. and L May, M. Selent, L. Rau, Muriel Rau, E. Eggeren and R. Hurt.

Part V MGB Recommendation

The MGB recommends that the annexation of the Area be approved as requested with the exception of the Copley lands. The MGB also recommends the approval of the conditions requested in the annexation application. The MGB does not recommend the inclusion of the

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conditions in the Order in Council with regards to joint planning, dispute resolution, mutual cooperation, roadways and agriculture.

Part VI Reasons

After reviewing the documentation provided, as well as hearing the presentation by the people affected by the proposed annexation, the MGB finds the annexation application to be supported by the documentation submitted by the Town and County. Their joint submission and agreement exemplifies the goal of intermunicipal cooperation enunciated in the Provincial Land Use Policies. The MGB is pleased the two municipalities have agreed to prepare and adopt a terms of reference for an IDP. The public meetings held by both municipalities as well as changes to the annexation size as a result of landowner input demonstrate an effective public consultation process. Moreover, the Town has acknowledged that it will address the concerns of AT at the development stage.

The MGB finds that the Annexation Agreement does not infringe on local autonomy. The MGB notes that it received no submissions requesting changes to the assessment and taxation transition conditions from the landowners within the annexation area.

The MGB is satisfied that the growth projections provided by the Town are reasonable and that the technical studies and master plans submitted by the Town will allow for the logical extension of transportation and infrastructure servicing. The submission of the Town demonstrates a commitment for protection of the environment, in particular the wetlands mentioned by the submissions opposing the proposal. The MGB is also satisfied that the fiscal analysis conducted by the Town supports the sustainability of the annexation proposal in the context of the Town's fiscal capacity and notes that the annexation will have little impact on the County. The MGB does not consider the annexation to simply be a tax initiative.

With respect to the landlocked parcel, the MGB agrees that there is no compelling reason, other than to have a straight line delineating the Town's boundaries, to include this parcel. Its location between two railroad rights of way makes it only accessible from the County. The provisions of the Act require a parcel of under an acre to be assessed at market value, notwithstanding its actual use as farmland. Neither the Town nor the landowner will derive benefit from the inclusion of this parcel, and some potential for detriment exists; therefore, the MGB is recommending its exclusion.

The MGB has not included joint planning, dispute resolution, mutual cooperation, roadways and agriculture issues as part of its recommended Order in Council. The specifics of these matters are already addressed in detail in the Annexation Agreement. Therefore, the MGB finds it is more appropriate for these matters to be dealt with at the local level.