

BOARD ORDER NO. MGB 058/11

FILE: AN07/DRAY/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 Drayton Valley, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Brazeau County.

BEFORE:

Members:

L. Patrick, Presiding Officer
T. Golden, Member
R. Strauss, Member

MGB Staff:

R. Duncan, Case Manager

SUMMARY

After examining the submissions from the Town of Drayton Valley (Town), Brazeau 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, 2012, the land described in Appendix A and shown on the sketch in Appendix B is separated from Brazeau County and annexed to The Town of Drayton Valley,
- (b) any taxes owing to Brazeau County at the end of December 31, 2011 in respect of the annexed land are transferred to and become payable to The Town of Drayton Valley together with any lawful penalties and costs levied in respect of those taxes, and The Town of Drayton Valley upon collecting those taxes, penalties and costs must pay them to Brazeau County, and
- (c) the assessor for The Town of Drayton Valley must, for the purposes of taxation in 2012 and subsequent years, assess the annexed land and the assessable improvements to it,

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and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, this 14th day of September 2011.

MUNICIPAL GOVERNMENT BOARD

(SGD.) L. Patrick, Presiding Officer

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS SEPARATED
FROM BRAZEAU COUNTY AND ANNEXED TO
THE TOWN OF DRAYTON VALLEY**

THE SOUTHEAST QUARTER OF SECTION NINETEEN (19), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN.

THE NORTHEAST QUARTER OF SECTION EIGHTEEN (18), TOWNSHIP FORTY- NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN.

ALL THAT PORTION OF THE EAST HALF OF SECTION SEVEN (7), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF DRAYTON VALLEY.

ALL THAT PORTION OF THE EAST HALF OF SECTION SIX (6), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF DRAYTON VALLEY.

ALL THAT PORTION OF THE EAST HALF OF SECTION THIRTY-ONE (31), TOWNSHIP FORTY-EIGHT (48), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN LYING NORTH OF THE NORTH BOUNDARY OF PLAN 902-2270 AND EXCLUDING ALL THAT PORTION OF SAID HALF-SECTION LYING SOUTH OF THE PROJECTION EAST OF THE NORTH BOUNDARY OF PLAN 902-2270.

ALL THAT PORTION OF SECTION FIVE (5), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF DRAYTON VALLEY.

ALL THAT PORTION OF SECTION THIRTY-TWO (32), TOWNSHIP FORTY-EIGHT (48), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN NORTH OF THE NORTH BOUNDARY OF PLAN 4179JY AND EXCLUDING ALL THAT LAND LYING SOUTH OF THE PROJECTION EAST OF PLAN 902-2270 TO THE EASTERN BOUNDARY OF PLAN 912-2158.

ALL THAT PORTION OF THE WEST HALF OF SECTION THIRTY-THREE (33), TOWNSHIP FORTY-EIGHT (48), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF DRAYTON VALLEY EXCLUDING PLAN 042-3246 BLOCK 2, LOT 1 AND EXCLUDING PLAN 4065TR, BLOCK 2.

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ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION NINE (9), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF DRAYTON VALLEY.

ALL THAT PORTION OF SECTION TWENTY-ONE (21), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN LYING SOUTHWESTERLY OF A LINE DRAWN FROM THE INTERSECTION OF THE EAST BOUNDARY OF PLAN 2502JY WITH THE SOUTH BOUNDARY OF PLAN 832 2156 TO THE INTERSECTION OF THE WEST BOUNDARY OF PLAN 102-2022 WITH THE SOUTH BOUNDARY OF SAID SECTION AND EXCLUDING ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY-ONE (21), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN LYING WEST OF THE EAST BOUNDARY OF PLAN 2502JY.

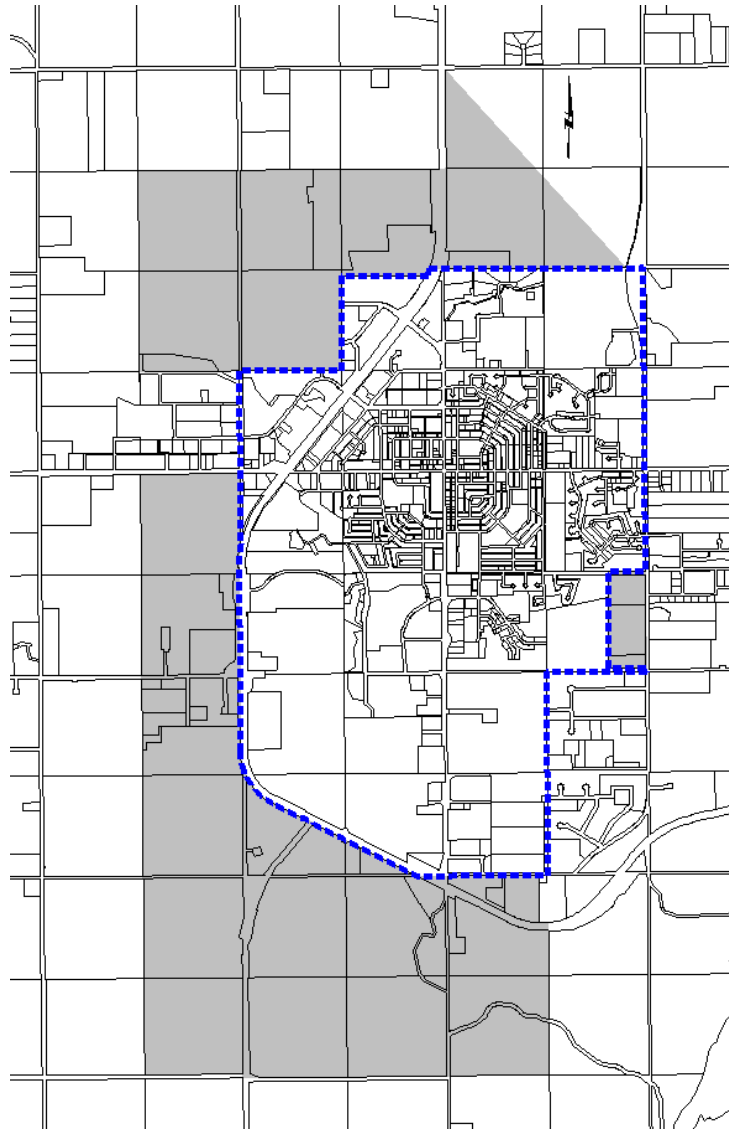
THE SOUTH HALF OF SECTION TWENTY (20), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN.

ALL THAT PORTION OF SECTION SEVENTEEN (17), TOWNSHIP FORTY-NINE (49), RANGE SEVEN (7) WEST OF THE FIFTH MERIDIAN NOT WITHIN THE TOWN OF DRAYTON VALLEY.

ALL INTERVENING ROAD ALLOWANCES, ROADS AND HIGHWAY PLANS AND INTERSECTIONS.

APPENDIX B

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS ANNEXED TO THE TOWN OF DRAYTON VALLEY



Legend



Existing Town of Drayton Valley Boundary



Annexation Areas

APPENDIX C

ORDER

1 In this Order,

- (a) “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B;
- (b) “Brazeau County’s Land Use Bylaw” means Brazeau County’s Land Use Bylaw as it stood on November 15, 2010, and does not include any subsequent amendment to the bylaw.

2 For the purposes of taxation in 2012 and in each subsequent year up to and including 2062, the annexed land and the assessable improvements to it

- (a) must be assessed by The Town of Drayton Valley on the same basis as if they had remained in Brazeau County, and
- (b) must be taxed by The Town of Drayton Valley in respect of each assessment class that applies to the annexed land and the assessable improvements to it using
 - (i) the municipal tax rate established by Brazeau County, or
 - (ii) the municipal tax rate established by The Town of Drayton Valley,whichever is lower.

3 Where, in any taxation year, a portion of the annexed land

- (a) becomes a new parcel of land created as a result of subdivision or separation of 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, except for the subdivision of an existing farmstead from a previously unsubdivided quarter section,
- (b) ceases to be used as farmland or for any other use that Brazeau County’s Land Use Bylaw authorizes for the Agriculture District established by the Bylaw, or
- (c) ceases to be used an industrial use that is authorized by Brazeau County’s Land Use Bylaw and that
 - (i) is a non-conforming use, or
 - (ii) is authorized by a development permit issued before January 1, 2012,

section 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.

APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE
MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF DRAYTON VALLEY PROPOSED ANNEXATION
OF TERRITORY FROM BRAZEAU COUNTY**

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EXECUTIVE SUMMARY

[1] The Town of Drayton Valley (Town) is located in central Alberta, about 133 kilometers (83 mi) southwest of Edmonton. On February 11, 2010, the Municipal Government Board (MGB) received the required Negotiation Report from the Town requesting the annexation of approximately 4,468 hectares (11,040 acres) of land from Brazeau County (County). Documentation from both the Town and the County identified that the two municipalities were not able to negotiate an annexation agreement, so the MGB determined there was no general agreement with the proposed annexation. In accordance with Section 121 of the *Municipal Government Act* (Act) the MGB had to conduct one or more hearings in respect of the annexation.

[2] A series of preliminary hearings were held to address document exchange issues. At the start of the November 15, 2010 merit hearing the two municipalities informed the MGB that they had been able to negotiate an Annexation Settlement Agreement (ASA) and Memorandum of Understanding (MOU), which proposed the annexation of a lesser amount of land than originally requested by the Town. In response to concerns from affected landowners and the public about not having had an opportunity to review the agreement, the MGB adjourned the hearing until December 16, 2010. The MGB found this adjournment would give affected landowners and the public an opportunity to review the ASA, MOU and other annexation documentation, consult with the Town and prepare their submissions to the MGB. To facilitate notifying the affected landowners and the public of the agreement between the two municipalities, the Town agreed to place radio and newspaper advertisements in the local media, send information packages to the affected landowners in the original annexation area, and provide information on the Town's website.

[3] During the December 16, 2010 hearing, the Town stated the annexation agreement between the two municipalities represented a new chapter in the relationship between the two municipalities and predicted it would lead to an increased level of intermunicipal cooperation. The ASA, MOU and subsequent Growth Management Plan (GMP) confirm the two municipalities wish to resolve their differences by exploring and developing opportunities for regional initiatives that enhance municipal cooperation and fiscal sustainability.

[4] A notable feature of the ASA is the concept of two annexations. The Town's planning consultant indicated that the modified application before the MGB will address the shortage of industrial / commercial land within the Town. The second annexation application, to be submitted by the Town at a later date, identified by the ASA will address the Town's need for residential land. It was explained that the Town originally asked for more land to reduce possible conflicts caused by different land uses within the two jurisdictions. The GMP required by the ASA and MOU will address this issue. Moreover, the ASA will eliminate the annexation of the approximately 2,500 hectares of the land originally requested by the Town that is already in use.

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[5] The financial impact on the County is expected to be 1.31% (\$255,312). As the Town will be taking over a \$2.5 million road construction debenture from the County, the County will be reducing or eliminating the \$500,000 to \$600,000 annuity payments. The Town's financial consultant advised that the modified annexation area is largely underdeveloped, which will decrease the number of capital projects required by the Town. This will reduce the financial impact of the annexation on the Town.

[6] Although the Town originally suggested a ten year assessment and taxation transition period, the ASA negotiated by the two municipalities advocated a 50 year transition period. The assessment and taxation protection would be removed if the land were subdivided or rezoned at the request of the landowner. The protection would also be removed if the lands were to be used for anything other than those uses allowed by the Agricultural District of the existing County bylaw.

[7] The Town advised that it does not have a franchise agreement for natural gas. In accordance with the ASA, the Town would allow the customers of the Evergreen Gas Co-op to continue to be served by that utility provider for 50 years. With regard to electrical services, the Town explained that it has a franchise agreement with another electrical provider. However, the Town will seek clarification to determine if the customers of the Drayton Valley Rural Electrification Association (DVREA) can remain with that electrical provider for a 50 year period. The Town stated that if it is not legal for the DVREA to retain its customers, the Town would take reasonable steps to work with the owners of the annexed land to address the financial impact of their loss of equity in the DVREA, if the landowners have share equity.

[8] The Town's engineering consultant stated that the Town can provide water, wastewater, stormwater and transportation services to the annexation area identified by the ASA. The existing systems are either adequate or can be readily expanded into the annexation area. He observed that connecting to Town water and wastewater systems would be a more efficient than having these lands serviced by stand alone systems.

[9] At both the November 15, 2010 and December 16, 2010 hearings, the County confirmed it was in agreement with the annexation agreement as set out in the ASA, MOU and other documentation. The County explained a paradigm shift after the recent municipal election resulted in a desire to use an interest based approach to negotiations. The County does not consider the annexation identified by the ASA to be a "tax grab" as the loss of revenue is expected to be offset by a reduction in expenses.

[10] Prior to the December 16, 2010 hearing recommencement, the MGB received a form letter from a number of people objecting to the annexation as outlined in the ASA. The letter expressed concerns related to: the lack of consultation by the County with its ratepayers, the inclusion of agricultural lands, the inclusion of lands adjacent to Highway 22, weed control, recreation agreements, and utility agreements.

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[11] Other objections received by the MGB identified concerns regarding the size of the annexation contemplated by the ASA, the need for the land, the loss of taxes by the County, road maintenance levels, the provision of municipal services in the south annexation area, assessment and taxation considerations, and amalgamation of the two municipalities.

Recommendation

[12] After reviewing the submitted documentation and hearing from the Town, the County and the affected landowners, the MGB finds the annexation area as modified by the Town to be reasonable. Therefore, the MGB recommends the annexation of the land as described in Appendix A with an effective date of January 1, 2012.

Reasons

[13] The MGB finds that the Town and the County have clearly demonstrated intermunicipal cooperation and will be considering opportunities that will be beneficial to both municipalities.

[14] The MGB accepts the Town has a limited amount of vacant industrial / commercial land within its boundary and that the annexation before the MGB at this time will provide the Town with a 30 year inventory of land for this type of use. The fact that the Town and the County did not just split the difference between their positions on the amount of land to be annexed clearly shows the two municipalities undertook due diligence in determining the annexation area. Therefore, the MGB finds the amount of land being requested and the reason for the annexation of land for industrial / commercial use is reasonable. Moreover, the MGB finds the direction of growth is logical.

[15] The MGB is convinced by the evidence provided by the Town's engineering consultant that the lands within the proposed annexation area can be serviced. The MGB also accepts the Town's statement that road maintenance and snow removal in the annexation area will remain at the same levels as in the County or improve over time.

[16] The MGB is satisfied the Town consulted with the local authorities that may be affected by the annexation. Although AT identified some concerns, it stated that these would be addressed at the subdivision and development state. The Town does not have a franchise agreement for natural gas. Since the Act permits municipalities to enter into franchise agreements, the MGB considers allowing the Evergreen Gas Coop to continue to provide services to its existing customers a local matter that is best dealt with at the local level. The Town stated that it has a franchise agreement with an electrical provider. Although the Town identified that it would seek clarification regarding the DVREA continuing to provide services to its existing electrical customers after the annexation, no evidence was provided to establish the legality or feasibility of this request. Therefore, the MGB does not recommend this request be reflected in the Order in Council. The MGB expects the Town will fulfill the obligation

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identified in the ASA and will take reasonable steps to work with the owners of the annexed land to address any DVREA share equity issues.

[17] The MGB is satisfied the 50 year assessment and taxation transition condition period will protect the landowners in the annexed area and will not unduly alter the financial stability of the Town. The MGB finds the “subject to removal” clauses are reasonable. Concerns regarding the application of the transition conditions resulting from the land no longer being used as farmland or no longer being employed for a use that the County’s bylaw, as of November 15, 2010, authorizes for Agricultural District can be appealed to the Town’s Assessment Review Board or the Composite Assessment Review Board, whichever is applicable.

[18] The MGB finds the public consultation process was reasonable. Although the affected landowners and the public were not notified of the ASA and MOU until the start of the November 15, 2010 merit hearing, the adjournment provided an opportunity for all interested parties to review the documentation and develop their submissions. The efforts of the Town to inform the affected landowners and the public of the agreement reached by the two municipalities and make available the annexation documentation during the adjournment period as directed by the MGB were also reasonable.

[19] The MGB accepts the County Council had a right to change its position regarding the annexation. Although in some annexations the municipality from which the land is to be annexed is involved in the public consultation process, the MGB notes this is not a requirement of the Act.

[20] The MGB notes that agricultural lands can remain within an urban municipality as the Act does not restrict agricultural land use to rural municipalities. Although rural municipalities typically have expertise in areas such as weed control, the two municipalities have contemplated this in the ASA by allowing the Town to contract services from the County.

[21] The MGB finds the annexation will not unduly impact the financial stability of either municipality. Although the County’s tax revenue will decrease as a result of the annexation, the County will also benefit from a reduction in expenses. Moreover, the Town will be taking over any liabilities that relate to the annexation area.

Conclusion

[22] In conclusion, the MGB finds that, although somewhat late, the joint submission by the Town and the County demonstrates a high level of collaboration and cooperation. The MGB is satisfied that the annexation request that not only responds in a reasonable fashion to the concerns brought forward during the landowner and public consultation process but also promotes the future growth objectives of the Town. Therefore, the MGB recommends approval of the proposed annexation.

Part I Introduction

[23] The Town of Drayton Valley (Town) is located in central Alberta, about 133 kilometers (83 mi) southwest of Edmonton. The Town's unique location makes it the focal point for the oil and gas, forestry, and agriculture industries of the region. The Town currently has 1,307 hectares (3,229 acres) of land within its boundary and a population of approximately 7,000.

[24] On February 11, 2010, the Municipal Government Board (MGB) received the required Negotiation Report and application fee from the Town along with a request to proceed with the proposed annexation of approximately 4,468 hectares (11,040 acres) of land from Brazeau County (County). Prior to this, correspondence from the County informed the MGB that the County had reviewed the Town's Report on Negotiations and that the County did not agree with the proposed annexation. Objections to the proposed annexation were also filed with the MGB by affected landowners and the public. Therefore, the MGB determined that there was no general agreement with the proposed annexation. In accordance with Section 121 of the *Municipal Government Act* (Act) the MGB was required to conduct one or more hearings in respect of the annexation. After a series of preliminary hearings, the merit hearing was scheduled to commence on November 15, 2010.

[25] At the start of the November 15, 2011 merit hearing, the two municipalities informed the MGB that they had negotiated an annexation agreement. In order to ensure the affected landowners and public who had filed objections could respond to the newly signed agreement, the MGB adjourned the hearing on November 16, 2011 and reconvened it on December 16, 2010.

[26] The following report outlines the role of the MGB, describes the three preliminary hearings, provides an overview of the Town's annexation application, summarizes the written submissions from the affected landowners and public, discusses the merit hearing that commenced on November 15, 2010, and provides a 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

[27] 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 landowners. Once the notice of intent to annex has been filed, the municipalities involved with the proposed annexation must 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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[28] At the conclusion of the negotiation and the consultation process, the initiating municipality must prepare a report. This report must include a list of issues that have been agreed to by the two municipalities and identify any issues 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 the reasons it did not sign.

[29] The report is then submitted to the MGB and, pursuant to Section 119, 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 with the MGB 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.

[30] 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 hearing 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 of land from the one municipality to the other.

Part III Annexation Application Overview

[31] The Town filed its formal notice of intent to annex pursuant to section 116 of the Act on October 31, 2007. As stated previously, the required negotiation report, application fee, and request to proceed were submitted to the MGB on February 11, 2010. At that point, the negotiation report became the Town's annexation application. The following provides a brief summary of the application.

Reasons for the Proposed Annexation

[32] The annexation application stated that there has been significant growth in the fringe area immediately surrounding the Town. The Town is concerned that development in the urban fringe will completely encircle the municipality, leaving it with nowhere to grow. The proposed annexation is seen as a way to:

1. Provide an adequate supply of land for future residential and business growth,
2. Incorporate the growth in the Drayton Valley urban community into a local and properly planned context,
3. Allow for the extension and provision of municipal services and infrastructure to the Drayton Valley urban community in a consistent and properly planned manner,
4. Provide a framework for the most effective delivery of municipal government services to the residents and businesses in the Drayton Valley urban community, and
5. Create a strong, unified economic unit to attract new businesses, jobs and service

Intermunicipal Cooperation

[33] There has been a long history between the Town and the County regarding annexation. In 2001, the two municipalities entered into an agreement that saw the Town annex 473 hectares (1,168 acres) of land from the County. As part of this agreement, the municipalities adopted an Intermunicipal Development Plan (IDP) in 2001 to provide direction and guidance for future growth and development.

[34] The two municipalities soon found themselves discussing a further expansion of the Town. Although these annexation discussions continued for a number of years, the two municipalities were unable to negotiate an agreement. The attempt to use mediation to resolve the outstanding annexation issues, as required by the Act, was also unsuccessful.

[35] During the most recent annexation negotiations, the County withdrew from the 2001 IDP. Although there had been some dialogue regarding the establishment of a new IDP, the two municipalities had not made any significant progress. Since withdrawing from the 2001 IDP, the County has proposed a new Municipal Development Plan (MDP) and three new Area Structure Plans (ASP) that would essentially surround the Town. These statutory plans would establish development criteria that may not necessarily be in accordance with the Town's future development plans.

[36] Although the Town regrets the two municipalities were not able to reach an annexation agreement, the Town reported it has entered into nine formal intermunicipal agreements with the County. These agreements pertain to: water services, fire services, library services, recreation facilities, road system usage, water and wastewater services, stormwater management, and sand and salt storage. In particular, the Town notes that it is providing municipal services to much of the urban fringe area.

Growth Projections

[37] The application estimates the Town and urban fringe area has 9,000 residents. For the period from 2001 to 2006, the annual growth rate of the Town was 2.64 percent, which is relatively close to the 2.5 percent annual growth rate identified in the Town's MDP and is consistent with the growth experienced by the Town over the past 50 years. Using a growth rate

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of 2.5 percent, it is projected that the Town and urban fringe area would increase to 30,000 residents over the next 50 years.

[38] The application identifies that there is enough vacant developable residential land within the Town's existing boundary to accommodate an additional 7,500 residents. Using the existing ratio of 2.6 people per dwelling and 10 dwellings per hectare, the Town believes it will require an additional 565 hectares (1,396 acres) of vacant residential land to meet the 50 year projected population. The Town contends that an additional 20% (115 hectares/284 acres) will be required to accommodate supporting residential uses, such as schools, parks and institutional uses.

[39] The amount of industrial and commercial land required to accommodate the projected 50 year population was calculated by considering the ratio of the current amount of land dedicated for these categories to the current population in the Town and urban fringe area. Based on this, the Town expects it will require approximately 760 hectares (1,878 acres) of land for industrial and commercial use.

[40] The annexation application provides a long-term land use concept. Residential development in the annexation area is expected to be distributed evenly around the north, east and south sides of the established commercial core of the Town. Future industrial and commercial growth is to be planned in a way that will minimize the impact on the residential areas of the municipality.

Overview of Servicing

[41] The Town conducted a study to review the infrastructure requirements to accommodate the proposed annexation. Changes to the wastewater treatment infrastructure will increase the sewage lagoon capacity to accommodate 14,000 residents. Various major sewer trunk lines are being constructed to provide wastewater services within the annexation area. The Town estimates that wastewater and treatment infrastructure investment over the next 25 years will be \$29.9 million.

[42] It is anticipated that paved roads will replace the gravel roads currently provided by the County in the proposed annexation area. The Town envisions arterial road standards would include a four lane divided (centre median) asphalt road with curb and gutter to accommodate drainage flows, sidewalks to accommodate pedestrian traffic, street lighting for illumination and trees and other landscaping to improve the aesthetic appearance of the community.

[43] Water service will require new water mains and water distribution services. A water distribution ring will be used to provide a reliable feed to the various neighbourhood distribution loops.

[44] Stormwater management will be addressed by implementing the recently completed Stormwater Master Plan. Various stormwater ponds and pond interceptors will be brought on line to support the growth of the municipality.

Public/Landowner Consultation

[45] The annexation application states that the Town made every effort to provide consistent, up-to-date information to the public. Activities conducted by the Town to keep landowners informed about the progress of the annexation included correspondence, the use of the Town's website, media releases and an open house specifically for affected landowners. Public consultation activities included a public open house, media releases and invitations to various stakeholders to meet with the Town to discuss concerns. The issues brought forward during the Town's landowner / public consultation process are briefly described below.

- **Farming Operations** – Landowners expressed desire to continue to their farming operations and communicated a desire to not be pressured by the Town to sell or develop their lands. The Town stated that existing land uses would not change unless initiated by the landowner. Upon implementation of the Town's proposed growth plan, the existing uses would be permitted to continue as non-conforming uses.
- **Tax Increase** – A number of landowners were concerned that their taxes would increase. It was also alleged that the proposed annexation was an attempt by the Town to increase its tax revenue by including a large amount assessment associated with oil/gas production equipment and transmission lines. The Town responded to the tax increase concern by proposing that the land within the annexation area be taxed using the County mill rate for a period of ten years, or until the land was redesignated or subdivided at the request of the landowner. In response to the assertion that the annexation was an attempt by the Town to increase its tax revenue, the Town indicated that the assessment information contained in the Boundary Change Application Report shows that the anticipated change in assessment will have minimal impact on either municipality.
- **Bylaw Conflicts** – Concerns about Town bylaws were noted, specifically issues regarding all terrain vehicle (ATV) users, and the ability to raise horses and/or other farm animals. The Town indicated that it would take a proactive stance on ATV use within the annexation area and would provide clarification regarding the raising and ownership of animals on acreages.
- **Waste Management** – A number of landowners raised concerns about the Aspen Waste Facility and the garbage collection and transfer stations. The Town expects that the Aspen Waste Facility could continue to operate well into the future. The Town believes it would be premature to devise closure plans at this time and that ongoing plans for environmental monitoring will be adequate. Door to door pick up of garbage will be considered as part of the Town's regular annual budget process.

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- **Water and Wastewater** – A number of landowners asked about water and wastewater services. In the south east ring road area, the Town identified that it would implement the solutions and plans that are already underway by the County; however, provision of a sanitary sewer system would likely be provided through a general tax rate increase and may be recovered from parties that connect to it. In general, the Town indicated that it intended to modify its existing water and sewer mater plan and review the service connection policies and related service principles.
- **Development** – Landowners expressed displeasure with the County’s planned development of the Poplar Ridge area. The Town confirmed that it is opposed to this development and continues to object to the County’s plans in this area. Other landowners asked about the subdivision process after the annexation. The Town stated that it will ensure a continuity process is established for subdivision applications in process.
- **Roads** – Concern about the continued use of heavy vehicles on roads in the proposed annexation area and the existing heavy vehicle agreements were expressed by one landowner. In response, the Town indicated that it will conduct an inventory of agreements within the annexation area in order to ensure continuity of services and also acknowledged that additional research may be required. The Town was also asked if it would continue the County’s practice of providing snow removal on landowner driveways. The Town advised that it expects that service levels in the annexation area will continue or improve as a result of the annexation. In the short term the Town intends to continue the snow removal program as outlined by the County’s policy, but a review of this service will be undertaken as part of future budget decisions. Landowners also asked about the impact of the annexation on the south highway. The Town stated that it will work with Alberta Transportation (AT) on the re-alignment of Highway 22.
- **Utility Franchise Agreements** – The landowners surrounding the Town currently receive their natural gas and electrical services from providers that are different than those that provide these services to the Town. In particular, Evergreen Gas Co-op expressed a concern that the annexation proposal could potentially reduce its customer base and have a direct impact on the finances of the natural gas provider. In response, the Town has reviewed the legal ramifications associated with franchise agreements and the ability to have multiple service providers within its boundary as a result of the annexation. The Town entered into preliminary discussions with utility service providers and informed them of the potential issues. The Town stated that it will work with the utility providers to find an acceptable solution in the event there is a jurisdictional change.
- **Other** – Other general concerns included: size and location of the annexation area, the County’s loss of assessment base, quality of life issues, desire for the Town to amalgamate with the County, and the amount of resources spent on the annexation.

Fiscal Accountability

[46] The Boundary Change Application Report contained within the annexation application provides a review of infrastructure required to support future growth of the community. Anticipated capital infrastructure investment for the expanded urban community over the next 25 years for utility services, roads, protective services, recreation and culture investment is estimated to be \$324.1 million. Although the capital investment associated with the expanded Town are significant, the Report concludes that the overall impact on residential taxes is reasonable.

Affected Agencies and Landowners

[47] On October 30, 2007, a copy of the notice of proposed annexation was sent to the Saint Thomas Aquinas Roman Catholic Schools, the Wild Rose School Division No. 66, the Drayton Valley Community Health Centre, and the Wetaskiwin Community Health Centre. The Town received no responses from any of these local authorities.

[48] A letter from AT dated June 14, 2008 identifies that the proposed annexation would affect Highways 22 and 620. The correspondence provides comments for the Town to consider during the development of the annexation proposal. However, AT states that its “requirements can be addressed under Section 14 and/or Section 15 of the Subdivision and Development Regulation”.

[49] The annexation application identified that the most significant environmental feature within the proposed annexation area was the North Saskatchewan River. The Town contends that its application considers the environmental sensitivity of the North Saskatchewan River valley and ravines and takes into consideration the establishment of the Eagle Point Provincial Park and Blue Rapids Provincial Recreation Area. Moreover, the application gives consideration to an organic soil deposit located in the northwest portion of the proposed annexation area. Overall, the Town is committed to conservation of the environment and will take the necessary measures to ensure the environmentally sensitive areas are protected.

Part IV Summary of Landowner/Public Written Submissions

[50] In accordance with instruction issued in MGB Decision Letter 036/10, the MGB received a number of written submissions objecting to the proposed annexation prior to the start of the November 15, 2010 merit hearing. In general, these objections relate to: the size of the annexation area, the annexation of land that has already been planned and/or developed, the amount of undeveloped land currently within the Town, the potential loss of County tax revenue, the potential increase in Town tax revenue, the costs associated with a contentious annexation, the use of existing water systems/wells, the ability of residents to keep farm animals, the ability to continue farming operations, the risks associated with high pressure oil and gas pipelines

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within an urban area, the transportation of farm and forestry by-products through the Town, the Town's public consultation process, and the desire to not have a titled property split between two jurisdictions.

Part V Public Hearing

[51] The merit hearing was commenced on November 15, 2010. In accordance with Section 122 of the Act, hearing notifications were published in the **Breton Booster** and **Drayton Valley Western Review**, local newspapers circulating in the area, during the weeks of October 11 and October 18, 2010.

[52] At the start of the November 15, 2011 merit hearing the Town advised the MGB that the two municipalities had reached an annexation agreement. As the experts for the Town were available, the Town and the County requested the MGB to proceed with the merit hearing. However, oral submissions from Gary Mastre, Rick Stuckenburg and Cecile Anderson expressed concerns about not having time to review the new annexation agreement and associated documentation. The presenters argued that many people may not know whether or not they are in the new annexation area and suggested that information such as the impact of the annexation on the County's tax base, patterns of land use and additional public consultation would be helpful. It was also suggested that the municipalities should seek public input regarding the annexation agreement. In response to questioning, Ms. Anderson stated that two to three weeks would be sufficient for her to review the documents and consult with her neighbours. No other comments were provided regarding the public document review period from the other presenters or any of the affected landowners / members of the public in attendance at the hearing.

[53] In response, the Town and the County requested that the MGB hear from the expert witnesses of the Town on November 15 and 16, 2010 and that the merit hearing be adjourned until December 16, 2010. This would reduce the costs associated with having the experts available on two separate occasions. During the adjournment period, the Town would place radio advertisements and publish newspaper advertisements notifying the public of the new annexation agreement. Letters would be sent by the Town to the affected landowners advising them of the agreement and providing them with a summary of the reports from the experts. Annexation agreement information would also be placed on the Town's website for access by the public. The Town would conduct one-on-one meetings with the affected landowners and the public upon request to address any questions about the annexation agreement. The MGB received no submissions regarding the public consultation process suggested by the Town.

[54] After considering the positions of the two municipalities as well as oral submissions by the affected landowners and member of the public, the MGB issued the following oral decision. The MGB would hear the Town's experts on November 15 and 16, 2010. The merit hearing would then be adjourned until December 16, 2010 to allow the landowners and public the opportunity to review the annexation agreement and consult with the Town. The MGB concluded that the one month adjournment would be adequate given the two to three week

period requested by Ms. Anderson during her oral submission. The Town was to place radio advertisements and publish notices in the local newspaper advising of the annexation agreement and placing the information on the Town's website in order to provide access to the annexation agreement information. At the December 16, 2010 proceedings, the Town would report on the public consultation and provide an overview of the submissions from the experts. The MGB would also hear from affected landowners and the public regarding the proposed annexation and hear the responses from the Town and County. The MGB found that this process would balance the Town's costs associated with the having the experts appear at two hearings with the desire of the landowners/public to have time to review the annexation agreement, meet with the Town, and develop their submissions.

[55] A summary of the oral submissions received from the Town, the County and the landowners/public regarding the annexation agreed to by the two municipalities are provided below.

Town's Submission

[56] The Town stated that the annexation agreement with the County represented a new chapter in the relationship between the two municipalities and predicted it would lead to an increased level of intermunicipal cooperation. The agreement is believed to be fair to both municipalities as well as the residents.

[57] It was explained that the new agreement reduced the annexation area from 69 quarter sections to 27.5 quarter sections. Since some of the land being proposed by the annexation agreement was not identified as part of the Town's original application, bringing the entire 27.5 quarter sections within the Town's jurisdiction would be accomplished in two stages. Therefore, the MGB was not being asked to consider the lands (approximately 8 quarter sections) to the north east as part of these proceedings. The MGB was informed that the 8 quarter sections were not part of the public consultation process conducted for this annexation application, but that they would be included in a second application that the Town would bring forward in the near future.

[58] The Town provided the MGB with a copy of the Annexation Settlement Agreement (ASA) and the Memorandum of Understanding (MOU) Implementation Plan signed by the two municipalities. The documentation confirms that both municipalities believe it is important that they move forward with the MOU and ASA (subject to the result of the MGB recommendation and subsequent Order) as well as the process to develop a new Growth Management Plan (GMP), which will be adopted as a statutory plan by the two municipalities. To facilitate this, the two municipalities have agreed to a plan that outlines the methodology, process and steps necessary to: implement the MOU and the subsequent adoption of an Intermunicipal Cooperation Agreement, approve the new GMP, complete the agreed upon annexation, and resolve the intermunicipal dispute appeals that have been filed by the Town. Moreover, the documentation stated that the Town and the County have agreed to explore and develop opportunities for

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regional initiatives that enhance intermunicipal cooperation and fiscal sustainability for the two municipalities. In particular, the MOU contemplates intermunicipal agreements that will address, among other things: joint economic development, joint infrastructure development, and joint service delivery.

[59] The ASA addresses the assessment and taxation transition conditions, compensation, franchise fees, future annexations and weed control. Each of these ASA components is briefly described below.

[60] With regards to assessment and taxation, the ASA proposed the annexed land and assessable improvements to it must be assessed as if it had remained in the County and be taxed by the Town in respect of each assessment class that applies to the annexed land using the lower of the tax rates established by the Town and the County for a period of 50 years. These conditions would cease to apply if the land becomes a new parcel created as the result of a subdivision or separation of 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. The exception would be the first parcel out for a homestead parcel. The assessment and taxation conditions would also apply for lands with approved or lawful non-conforming industrial use unless the land is subdivided. The assessment and tax conditions would cease to apply if the land is no longer used as farmland or for any of the uses contained within the County's Land Use Bylaw within the Agricultural District (AG).

[61] The ASA identified that the Town would compensate the County for any verifiable expenses for the 2010 annexation area for which the County will continue to be liable after the effective date of the annexation. This is to include by is not limited to debentures and long term service contracts. Specifically, the Town agreed to pay the County \$2,550,553.00 for the County's debenture associated with the Coulee Road.

[62] The ASA addressed concerns regarding franchise agreements. Customers within the annexed lands served by the Evergreen Gas Coop and the Drayton Valley Rural Electrification Association (REA) as of the effective date of the annexation would continue to be served by these utility providers for a period of 50 years. If it is not legally possible for the Drayton Valley REA to continue to operate in the annexation area, the Town shall take reasonable steps to work with the owners of the annexed land to address the financial impact of their loss of share equity in the Drayton Valley REA, assuming the owners of the annexed land have share equity. The Town's submission also identifies that on May 19, 2010, Town Council passed a resolution stating that "should the Town annex more than 25 percent of its current area as a result of its current annexation request, then the Town will agree that Evergreen Gas Coop may continue to be the service provider for any areas within the annexed area to which it is currently providing services."

[63] The ASA established that the Town will not seek to annex further land from the County until: the population of the Town reaches 19,362 or, a landowner within the County with land

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lying adjacent to the Town boundary requests the Town to annex the land, or a specified date (January 1, 2061), whichever occurs first.

[64] The ASA identified that for a five year period, the Town is to maintain programs for the control of noxious weeds to the same standards as in the County

Planning

[65] In light of the ASA, the Town's planning and development consultant provided evidence regarding the proposed annexation. The consultant identified that the application before the MGB would address the shortage of industrial/commercial land within the Town. The southwest and northwest portions of the annexation area are seen to be a logical extension of the Town's existing industrial / commercial area.

[66] It was explained that in the absence of regional planning, the Town originally requested more land to reduce possible conflicts caused by different land uses within the two jurisdictions. However, during the merit hearing the Town's planning and development consultant identified the rationale for the annexation area identified by the ASA and discussed the reasons for the reduction in the annexation request. The lands to the south and west of the Town were designated as agricultural/urban reserve. These lands would not have been required for development until the latter part of the 50 year time frame and could be controlled through the GMP. The lands to the east of Town were designated as consolidation and upgrading with the proposed land use being residential infill. Due to development constraints, such as the North Saskatchewan River, sewage lagoon setbacks and large amounts of existing development, these lands provided limited growth opportunities for future residential development. The consultant noted that approximately 2,500 hectares of the 4,600 hectares originally requested was already in use. As such, these lands would not assist the Town in meeting its future growth needs.

[67] The planning and development consultant explained that the Town does require more residential lands; however, a second annexation application is to be submitted by the Town to address this need. The area identified for the next annexation is to the north east. These lands provide a more attractive and appropriate land area for future residential use, are a logical extension of the Town's existing residential area, and can be separated and buffered from the Town's industrial/commercial areas.

[68] In response to questioning, the Town Manager identified that the annexation area being brought to the MGB in this application would give the Town approximately a 30 year supply of industrial/commercial land. Although a large amount of the land is agriculture, the permitted uses will continue. In response to questioning, the Town Manager confirmed that all permitted agricultural land uses, as stated in the County's current Land Use Bylaw, will continue to be allowed and that no one can be forced to change the land use. The Town does not wish to restrict farming operations and stated that the Town is working well with the cattle auction mart

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currently located in the middle of the municipality. He concluded that this clearly demonstrates that the Town is working well with the agricultural industry.

Finance

[69] The Town's financial consultant informed the MGB that the modified annexation area is largely underdeveloped as most of the populated areas have been eliminated as a result of the ASA. This decreased the number of capital projects required in the original application and in turn reduced the financial impact of that upon the Town. The Town will now be able to effectively plan, stage and manage capital projects required in the future.

[70] The financial consultant indicated that the Town's operating plan resulting from the modified annexation is expected to be reasonable and sustainable. As the populated areas are to remain in the County, the assessment and taxation revenue will be less. However, this will be offset by not having to provide for the establishment of municipal services to an already developed area. This will also reduce the impact of debt financing. The consultant stated that the 50 year assessment and taxation transition period offered to the annexed lands will have minimal impact on the Town as the proposed annexation area is largely undeveloped.

[71] The financial consultant noted that the County is a "have" municipality with approximately 50% of the County's total assessment base being linear assessment. The estimated impact on the County mill rate resulting from the annexation is expected to be minimal, less than 1.31% (\$255,312). However, in lieu of compensation, the Town will take over a \$2.5 million debenture for the construction of the Coulee Road in the next phase of the annexation. As a result, the County will be reducing or eliminating the \$500,000 - \$600,000 annuity payments. Since the County's linear assessment is expected to grow, the loss of the assessment base due to the proposed annexation is likely to be offset in 1 to 3 years.

Engineering

[72] The Town's engineering consultant indicated that the Town can provide water, wastewater, stormwater and transportation services to the areas identified by the ASA. Existing systems are either adequate or can be readily expanded into the annexation area. Connecting to the Town's water and wastewater service would be more efficient way of providing services to the proposed annexation area than having these lands serviced by stand alone systems. The Town Manager indicated that the capital and operating plans identified projects that would bring services levels to Town standards over time.

Additional Documentation – MGB Update Report

[73] In accordance with the oral instructions issued by the MGB on November 15, 2010, the Town submitted additional information regarding the proposed annexation.

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[74] The Town advised that on November 10, 2010 the two municipalities reached an agreement in principle regarding the proposed annexation. A joint news release was issued on November 11, 2010 and arrangements were made to meet with local media to provide an update. Information concerning the annexation settlement was placed on the County website on November 11, 2010 and the Town posted a map of the amended annexation area on its website on November 12, 2010. A front page article appeared in the **Drayton Valley Western Wheel** on November 16, 2010 and readers were advised that details regarding the annexation agreement could be found on the Town and County websites. Newspaper advertisements in the **Drayton Valley Western Wheel** published on November 30 and December 7, 2010 advised of the settlement and listed the websites where the public could find detailed information. Information packages from the two municipalities were sent to landowners in the original annexation area advising of the settlement and providing summaries of the information from the Town's consultants.

[75] The Town confirmed that the proposed annexation would allow growth to continue in rational directions and will allow it to plan for long term growth. The Town has a limited amount of vacant commercial / industrial land within its boundary and the proposed annexation would be a logical extension of these land uses patterns. The ASA identifies that the Town will undertake a second annexation to address its future residential growth. As the total annexation area identified by the ASA represents less than 1 percent of the County's land area, the annexation application currently before the MGB will not impede the County's future growth.

[76] The Town confirmed that the proposed annexation will address its growth requirements on a long term basis and allow the two municipalities as well as the affected landowner to move forward. The Town asserted that reducing annexation area would simply mean the parties would find themselves dealing with the same issues again in a relatively short period.

[77] In response to questions from the MGB, the Town confirmed that amount of land resulting from the ASA would provide the Town with a thirty year industrial /commercial land inventory. Implementation of the ASA would ensure the Town is not hemmed in. The Town also informed the MGB that during the adjournment period only two affected landowners called the Town to ask questions plus an additional five other County residents.

County Position

[78] During the hearing, the County confirmed that it agreed with the proposed annexation.

[79] The County explained that land use disagreements between the two municipalities had resulted in a number of intermunicipal disputes. The recent municipal election had caused a paradigm shift which resulted in a desire to use an interest based approach to negotiations. The County believes this is in keeping with the municipal goal of good government (Section 3 of the Act), the responsibilities of Councillors to consider the welfare of the municipality as a whole (Section 153(a)), and the requirement to negotiate in good faith as part of the annexation process

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(Section 117(1)). The County emphasized that the public does have a right to be heard, but that it is common for a paradigm shift of this type to cause discomfort.

[80] The County does not consider the annexation to be a “tax grab” or that the ASA was arrived at in haste. The two municipalities considered all programs that could affect the annexation area. In regard to taxes, the County believes the revenue loss from the annexation area will be offset by the decrease in expenses. The County stated that its gross tax revenue was \$29.4 million, with \$18.4 million from non-residential and \$4.4 million from machinery and equipment. The MGB was informed that the County intends to place any additional tax burden on the non-residential tax base, so no burden will be shifted to the farmland or residential assessment base.

[81] The County does not consider amalgamation to be an option. The County wants to retain its autonomy and wants to work with its neighbours. The revised annexation area is particularly suited to a Drayton Valley/Brazeau solution. The County concluded that the ASA conditions are fair and respectful, and meet the interests of the two municipalities as well as the landowners.

Landowner/Public Submissions

[82] As mentioned previously, on November 16, 2010 the MGB adjourned the merit proceedings to December 16, 2010 to allow the landowners and the public time to review the ASA, the MOU, and other documentation that had been submitted by the two municipalities. In advance of the December 16, 2010 merit hearing continuation, the MGB published hearing notifications in the **Breton Booster** and **Drayton Valley Western Review** the weeks of November 29 and December 6, 2010. In response to the request for written submissions, the MGB received a form letter from number of people. A summary of the form letter is provided below followed by a summary of the other written submissions.

[83] The form letter asserted that the annexation agreement will affect all County residents and that the County has not consulted or communicated with its taxpayers regarding the ASA. Concern was expressed that the County had abdicated its responsibility and that no one was looking after the interests of the County ratepayers and residents. It was submitted that prior to the 2010 municipal election the County stated that it was prepared to agree to an annexation of approximately 13 quarter sections. However, at no time during the election campaign did the Reeve or any other candidate indicate they were in favour of offering additional land to the Town. Although the MGB had placed advertisements in the local newspapers advising of the reconvening of the merit hearing on December 16, 2010 and the written submission timeline, concern was expressed that the County had not placed this information on its website. The submissions contend that the ASA process was not transparent and the result of hasty decisions made without thought of the impact to traffic patterns, growth patterns and servicing within the County in the future.

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[84] It was stressed that all lands north, northwest and northeast of the coulee on range road 73 should remain in the County as they are agricultural lands. It was submitted that agricultural practices associated with these lands should take place in a rural area. Concern was also expressed about the Town's ability to service and maintain the roads in the proposed annexation area as well as the potential for the Town to influence development to the north of Township Road 494.

[85] It was argued that the areas adjacent to the west of Highway 22 as well as the areas west of Highway 22 at 50th Avenue should remain in the County as this would reduce the possibility of having that area and road within two jurisdictions. It was explained that the change in jurisdiction suggested by the ASA would result in the County giving up assessment that is used to offset the cost of maintaining roads used by the heavy equipment associated with these properties. In addition, the County would be losing the highway frontage assessment from any future development along Highway 22 north near the junction of Secondary Highway 621, which will be needed to offset significant intersection treatments and the high costs of providing servicing for development to take place. The County has cited continued growth as the reason to construct a new administration building and shop, but it is not understood how continued growth can be achieved if the area with the greatest growth potential is annexed by the Town.

[86] In light of these concerns, as well other issues, such as the provisions for weed control, recreation agreements and utility agreements, the MGB was requested to direct the County to undertake a consultation process which includes open houses where ratepayers can ask questions.

[87] As stated above, a summary of the two other written submissions is provided below.

Jean Beckett

[88] Jean Beckett identified that she is a landowner in the area proposed by the ASA for annexation. She indicated that she objected to the agreement and that she wished to speak at the upcoming hearing to express her concerns.

Dennis McGinn and Avalie Peck

[89] Dennis McGinn and Avalie Peck identified they were Brazeau County taxpayers and were opposed to the ASA between the Town and the County. They do not believe the Town needs the additional twenty-seven quarter sections and did not understand why the thirteen quarter sections of land that the County had offered the Town prior to the municipal elections had been changed three weeks after the election. In their opinion, the proposed annexation represents a significant tax loss to the County and expressed concern the remaining County taxpayers would be responsible for the County's new administration facility. They stated the "Coulee Road" was paved to provide a quicker and safer route for those living north of the Town and east of Highway 22 and that the Town is equipped to offer the same level of road

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maintenance as is expected by County residents. Mr. McGinn and Ms. Peck expressed concerns that the ASA was done without the input or knowledge of the taxpayers.

[90] During the December 16, 2010 hearing, the MGB received oral submissions from affected landowners and members of the public. The following provides a summary of these presentations.

Lynn Oberle

[91] Lynn Oberle stated he is a landowner in the County and maintained that the Town had a large amount of vacant land within its boundary and stated that in his opinion the thirteen quarter sections originally offered to the Town by the County was reasonable.

Dave Starling

[92] Dave Starling commented that the Town should expand to the north of the Town and questioned whether the annexation should extend south of the Town as it would be difficult to provide services to that area. He expressed concern about the assessment appeal process in regard to land use changes. He was unsure where he would appeal the removal of the assessment and taxation condition and how it would be determined that the land is not being used for agricultural purposes. Mr. Starling pointed out that the annexation agreement was for 50 years but the agreement regarding noxious weeds was only for five. He also questioned how the Town would work with the DVREA to compensate the landowners with equity. In conclusion, Mr. Starling stated he did not find the ASA to be beneficial and suggested it may be better to explore amalgamation.

Cecile Andersen

[93] Cecile Anderson identified that the area to the south of the Town contained a major coulee which was a major constraint to the provision of services. She questioned how the Town was going to look after the five people that resided in that area as she does not expect the land to be developed in the near future. She suggested a smaller annexation would make it more likely the Councils could consider these issues. Ms. Andersen also commented that the appendixes were not included in the letters that the Town provided to the landowner. In a supplemental submission, Ms. Andersen stated that a lumber mill had moved to Town, but that it was not in use so the Town could not collect the taxes which has an adverse financial effect on the Town.

Robert Lind

[94] Robert Lind stated that he does not want to stop growth, but was concerned about the amount of land being requested by the Town. He expressed concern about future tax loss and noted that in his opinion the annexation should be to the north of the Town in order to keep the Town together.

Town Response

[95] In response to the contention that there is sufficient vacant land within the Town, the Town explained that the majority of the vacant land within its boundaries is being developed or has been planned for development. The Town stated it has very little land available for future development.

[96] The Town acknowledged that the lumber mill was no longer in operation. However, the Town has been in discussions with the company that owns the mill and they are attempting to work on a way that the mill can resume operations in the future.

[97] The Town stated that the 50 year assessment and taxation conditions period was reasonable in that it provided certainty. However, the assessment and tax protection would be lost if the lands were subdivided or rezoned at the request of or on the behalf of the landowner. The conditions would also be removed if the lands were used for anything other than those uses allowed by Agricultural District of the existing County Bylaw. The Town stated that under the Act, the appropriate assessment review board would deal with an appeal regarding a contested use. The Town also advised that the sale of the land would not eliminate the assessment and taxation protection.

[98] The Town stated that once the annexation is complete, the Town would address the issue of noxious weeds. As part of the ASA, the two municipalities discussed issues related to noxious weed. The Town explained that the five years contract with the County for noxious weed control was to provide the Town with a transition period. The Town emphasized that it would attempt to maintain service levels within the annexation area at County levels and that over time these services would be upgraded to Town standards.

[99] With regards to the utilities, the Town stated that customers served by the Evergreen Gas Co-op would continue to be served by that utility provider for 50 years. The Town explained that it has a franchise agreement with another electrical provider but would seek clarification to see if it was possible to allow the Drayton Valley Rural Electrification Association (DVREA) to continue serving its customers in the proposed annexation area. The Town noted that if this was not legally possible it would take reasonable steps to work with the owners of the annexed land to address the financial impact of their loss of equity in the DVREA, if the landowners have share equity.

[100] The Town explained that its engineering consultant reviewed the servicing of the annexation area to the south of the town and has confirmed that the lands can be serviced.

[101] Upon questioning, the Town indicated that landowners within the proposed annexation area were provided with access to the consultant's reports received by the MGB. Although a letter from both municipalities was sent to the landowners that were originally contacted

regarding the proposed annexation, this letter did not include the attachments. However, the attachments were available on both the Town and the County websites. Moreover, the two municipalities used newspapers and radio advertisements to notify the public of where to obtain this information.

County Response

[102] The County provided no additional responses.

Part V MGB Recommendation

[103] After reviewing the submitted documentation and hearing from the Town, the County the affected landowners/public, the MGB finds the annexation application to be reasonable. Therefore, the MGB recommends the annexation of the land by the Town with an effective date of January 1, 2012. The MGB also recommends the approval of the assessment and taxation conditions as requested in the ASA. However, the MGB does not recommend the Order in Council contain clauses that address the franchise agreements.

Part VI Reasons

Intermunicipal Cooperation

[104] The MGB is finds that that the two municipalities have clearly demonstrated intermunicipal cooperation. The Town and the County are currently engaged in nine formal intermunicipal agreements and they were able to resolve their issues regarding the proposed annexation prior to start of the November 15, 2010 merit hearing. The ASA confirms the annexation area and identifies the conditions the two municipalities have agreed to. The MOU is forward looking in that it identifies that the Town and the County will consider intermunicipal agreements regarding economic development, infrastructure development and service delivery. The development of the GMP and the adoption of the GMP as a statutory document clearly shows the two municipalities are attempting to work together to plan the fringe area in a way that will benefit both municipalities. The MGB finds that as a statutory plan, the GMP will allow both municipalities to influence development in the fringe area in a way that will reduce the number of intermunicipal land use conflicts. Moreover, the MGB observes that the two municipalities are cooperating in compliance the Provincial Land Use Policies and the Act.

Growth

[105] The MGB accepts that the vacant land within the Town has already been formally planned and that Town currently has a limited amount of land available for industrial / commercial development. The annexation proposal before the MGB will provide approximately a 30 year inventory of land industrial / commercial land for the future expansion of the Town. Moreover, the lands being annexed are a logical extension of its the current industrial /

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commercial lands. The annexation area agreed to by the two municipalities is predominantly vacant, which will make any future development less problematic. As stated in other decisions, annexations that provide for intermunicipal cooperation will be given considerable weight. The two municipalities clearly demonstrated intermunicipal cooperation by altering their positions regarding the annexation area, agreeing to explore and develop regional initiatives that may include such things as recreation and economic development as well as consenting to work cooperatively on capital projects. Furthermore, the two municipalities altered their positions with regard to the amount of land to be annexed. The MGB notes the two municipalities did not just split the difference between the two positions with regard to the amount of land to be annexed, which clearly demonstrates that there was a considerable amount of due diligence on the part of both municipalities. The MGB finds the amount of land requested as part of this annexation is reasonable.

[106] It is noted that the approval of the annexation currently before the MGB does not prejudice any future annexation application regarding the residential land identified as part of the ASA. The annexation of the residential land will have to be considered on its own merits in the future.

[107] The MGB is satisfied that the Town will take the necessary measures to ensure the ravine in the southern portion of the annexation area and the North Saskatchewan River areas are protected from development not consistent with environmentally sensitive areas.

Servicing

[108] The MGB is convinced by the submissions of the Town's engineering consultant that the Town can provide municipal services to the annexation area. Evidence provided by the engineering consultant identified that the existing systems are adequate to service the annexation area. The joint infrastructure projects and joint servicing contemplated by the MOU will contribute to the efficient and effective provision of services to the annexation area. The MGB finds that the continued operation or closure of the Aspen Waste Facility is a local matter and is beyond the scope of the MGB to comment.

[109] The MGB accepts the Town's statement that the service levels in the annexation area will continue at the same level as in the County or improve over time. The MGB understands that within a reasonable time the Town intends to bring gravel roads within the annexation area up to Town standards. With regard to snow removal, the MGB finds that it is reasonable in the short term for the Town to adopt the County's policy, but that a review of this service would be undertaken as part of future budget decisions.

Impacts on other Institutions

[110] The MGB is satisfied that the Town consulted with the local authorities that may be affected by the annexation. Since none of the local authorities contacted provided a response, the

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MGB concludes they do not object to the annexation. AT identified some concerns that the Town will need to address at the subdivision and development stage, however, the AT did state that it had no objections to the annexation.

[111] During its oral submission the Town informed the MGB that it does not have a franchise agreement for natural gas. The ASA between the Town and the County identifies that the customers within the annexed land are to be served by the Evergreen Gas Coop for a period of 50 years from the effective date of the annexation. The two municipalities and the Evergreen Gas Coop are in agreement with this condition. The Act allows a municipal council to grant a right to a person to provide utility services in all or part of the municipality. As it is within the powers of the Town to grant rights to Evergreen Gas Coop to provide utility service, the MGB considers this to be a local matter that can be best dealt with at the local level. Therefore, the MGB finds that it would be inappropriate to include this ASA condition as part of an Order in Council. Since the Town Council has already passed a resolution agreeing that Evergreen Gas Coop may continue to be the service provider for any areas within the annexed area to which it is currently providing services, the MGB expects the Town will fulfill its stated obligation, however, this is a local matter for the Town to resolve.

[112] The ASA also identifies that, if it is legally possible, the DVREA is to serve the annexed area for a period of 50 years. The MGB understands that the Town has an existing franchise agreement with another electrical utility provider and has made enquiries regarding this matter. As the Town provided no correspondence from the current electrical provider or information to confirm the request's legality or feasibility, the MGB does not recommend this request be granted. Moreover, the MGB was provided no correspondence from the DVREA regarding its ability or desire to provide services to future development in the annexation area. The MGB also expects that the Town will take reasonable steps to work with the owners of the annexed land to address the financial impact of their loss of share equity in the DVREA, if the owners of the annexed land have share equity in it.

Affected Landowner / Public Consultation

[113] The MGB is satisfied that the 50 year assessment and taxation transition conditions will protect the landowners in the annexation area. These lands are to be assessed by the Town on the same basis as if they had remained in the County and are to be taxed using the lower of the Town or County tax rates. Although the 50 year assessment and taxation transition period is somewhat long, the MGB notes the longer transition period was agreed to by the Town and is satisfied it will not have a negative impact of the Town's finances or its existing residents. Moreover, the MGB finds it is reasonable for these conditions to be removed if the land is subdivided or redesignated at the request of the landowner or ceases to be used as farmland or for any of the uses contained within the County's Land Use Bylaw. The MGB understands these conditions can impact the density of development and could increase the associated municipal expenditures. As the landowners are in control of this process it would seem likely they would consider the consequences when requesting their land be subdivided or redesignated. The MGB is satisfied

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that any concerns regarding the removal of the assessment and taxation transition conditions resulting from the land no longer being used as farmland or no longer being employed for a use that the County's Land Use Bylaw, as of November 15, 2010, authorizes for the Agricultural District (AG) can be appealed to the Town's Local Assessment Review Board or the Composite Assessment Review Board, whichever is applicable.

[114] The MGB finds that the public consultation process was reasonable. It was observed that the MGB and the public were not notified of the ASA and MOU until the start of the November 15, 2010 merit hearing. The MGB considers public consultation to be an important component of the annexation process. The MGB heard that two to three weeks would be a sufficient period for people to study the annexation information and inform others of the agreement. As no other submissions regarding the suggested adjournment period were received from the affected landowners and the public during the November 15, 2010 hearing, the MGB found it was reasonable to adjourn the hearing to December 16, 2010. The adjournment period provided sufficient opportunity to any affected landowners and the public to investigate and/or meet individually with representatives of the Town to discuss the annexation. Moreover, the information on the website and at the municipal offices allowed the affected landowners and the public to review the details of the agreements. Therefore, the MGB finds the efforts of the Town to create awareness of the ASA and MOU during the adjournment period were reasonable.

[115] The MGB accepts that County Council had a right to change its position regarding the annexation. The Act identifies that the purpose of a municipality is to provide good governance, provide services that in the opinion of Council are necessary or desirable, and develop and maintain safe viable communities. The Act also identifies that municipal councillors have a duty to consider the welfare and interest of the municipality as a whole, participate in developing and evaluating policies and programs, obtain additional information, and keep in confidence matters discussed in private. The actions of County Council appear to be constant with the Act.

[116] Although in some annexations the municipality from which the land is to be annexed is involved in the public consultation process, the MGB notes this is not a requirement of the Act. Although the County did not conduct an open house or public hearing regarding the ASA and/or the associated documents, the MGB heard no evidence to indicate the County refused to meet one-on-one with affected landowners or the public during the adjournment period. The County expressed support for the ASA and the MOU at the start of the November 15, 2010 merit hearing and again after the adjournment on December 16, 2010. The adjournment period was sufficient to provide the County with enough time to reconsider its agreement. Since the County fully supported the annexation on both occasions, the MGB sees nothing to support the assertion that the annexation agreement was entered without due consideration on the part of County Council.

[117] The MGB is not convinced that urban municipalities cannot include agricultural lands within their boundaries. The Act does not restrict agricultural land use to rural municipalities. The MGB notes that it is not any more uncommon for farming operations to be located in an

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urban setting as it is for a rural municipality to have pockets of country residential developments and/or hamlets with urban density levels. However, the MGB accepts that rural municipalities do have expertise in areas such as weed control. The MGB finds that the two municipalities have contemplated this and have included a provision in the ASA that will see the Town contract weed control services from the County. The MGB accepts the statement that the five year weed control contract will allow the Town to transition to providing this service. Based on this example and the collaborative approach to implementation of the ASA and MOU being demonstrated by the two municipalities, the MGB concludes that it is not unreasonable to expect the Town will contract other agricultural related services with the County should the need arise.

[118] The MGB accepts the Town's assertion that farming operations within the proposed annexation area will be allowed to continue. The ASA clearly contemplates this by providing assessment and taxation transition conditions to continue as long as the land is being used for agricultural purposes as identified in the County's Land Use Bylaw. The Town has also identified that it has a livestock auction mart within its current boundary, so the Town and its residents are well aware of issues regarding livestock. The MGB also accepts the Town will study the number of large animals allowed on a property as well as issues regarding ATV use and amend its bylaws accordingly.

[119] The MGB accepts that the Town can service and maintain the roads in the proposed annexation area at the same level as the County. The capital plan submitted by the Town shows the intentions to upgrade the roads to Town standards over time. It is noted that the annexation area will bring a longer section of Highway 22 within the Town's jurisdiction. AT has no objections to the proposed annexation and states any concerns it has can be addressed under Section 14 and/or Section 15 of the Subdivision and Development Regulation, which allow it to promote highway safety as part of the subdivision and development process. Accordingly, the MGB finds no reason to not allow the annexation area to extend west and south of the Town to encompass Highway 22. The MGB notes that the annexation area includes only one of the four quarter sections around the Highway 22 – Highway 621 junction. As there are would now be two municipalities adjacent to the Highway 22 – Highway 621 junction, the MGB finds that it would be reasonable for the two municipalities to share the costs associated with any required intersection upgrades in some manner with AT.

[120] The MGB accepts the annexation will have a minimal financial impact on either of the municipalities. Although the municipal taxes associated with the annexation area will be reduced for the County, the County will also realize a reduction in its expenses. The MGB accepts that any tax increase in the County associated with the annexation will be born by non-residential lands and that the municipal taxes on residential and farmland will not increase. In accordance with the ASA, the Town is to pay the County for any non-recoverable ongoing costs. The MGB finds this will reduce the tax impact on the existing County residents. Moreover, this is in accordance with Section 135 of the Act which identifies that any liabilities of the County associated with the annexation area automatically pass to the Town. The MGB finds that the

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capital plan and operating plans clearly show the Town can accommodate the increase in expenses resulting from the annexation with only minimal impact on its existing residents.

[121] With regard to the comments that the two municipalities should amalgamate, the MGB heard no evidence to suggest that the annexation would negatively affect either municipality's ability to fulfill the purposes as set out by the Act. Moreover, the ASA and MOU clearly demonstrate that the two municipalities will be undertaking activities that will be beneficial to the region. Therefore, the MGB finds no reason to consider amalgamation.

Conditions of annexation

[122] The MGB finds that the term of the annexation assessment and taxation transition period and the "subject to removal" clauses are certain, unambiguous and time specific. However, the Town requested the annexation area to be those lands in Section 21-49-7-W5 lying west of the top of the coulee. As the top of the coulee was not surveyed, there would be uncertainty as to the location of the boundary, so this land description cannot be used in an Order in Council. The MGB has approximated this area by describing it as being all that portion of section 21, township 49, range 7 west of the fifth meridian lying southwesterly of a line drawn from the intersection of the east boundary of plan 2502JY with the south boundary of plan 832 2056 to the intersection of the west boundary of plan 102 2022 with the south boundary of Section 21. The MGB finds this is a reasonable approximation and will provide certainty with regard to the boundary of the Town. The MGB also finds that the effective date of the annexation should be January 1, 2012.

Summary

[123] In summary, the MGB finds that, although somewhat late, the joint submission by the Town and the County demonstrates a high level of collaboration and cooperation. The amount of land agreed to by the two municipalities as part of this annexation application is reasonable. The MGB is satisfied that the annexation request that not only responds in a reasonable fashion to the concerns brought forward during the landowner and public consultation process but also promotes the future growth objectives of the Town. Therefore, the MGB recommends approval of the proposed annexation with an effective date of January 1, 2012.