

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 City of Airdrie, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the Municipal District of Rocky View No. 44.

BEFORE THE MUNICIPAL GOVERNMENT BOARD

Members:

L. Lundgren, Presiding Officer

D. Thomas, Member

T. Robert, Member

Secretariat Advisor:

D. Hawthorne

After careful examination of the submissions from the City of Airdrie (City), the Municipal District of Rocky View (MD), affected landowners, and other interested parties, the Municipal Government Board (MGB) makes the following recommendation for the reasons set out in the MGB's report, shown as Appendix D of this Board Order. This recommendation does not reflect the same municipal boundaries as those agreed between the City and the MD.

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- (a) effective July 1, 2003, the land described in Appendix A and shown on the sketch in Appendix B is separated from the Municipal District of Rocky View No. 44 and annexed to the City of Airdrie,

- (b) any taxes owing to the Municipal District of Rocky View No. 44 at the end of June, 2003 in respect of the annexed land are transferred to and become payable to the City of Airdrie together with any lawful penalties and costs levied in respect of the those taxes, and the City of Airdrie upon collecting those taxes, penalties and costs must pay them to the Municipal District of Rocky View No. 44, and
- (c) the assessor for the City of Airdrie must assess, for the purpose of taxation in 2004 and subsequent years, the annexed land and the assessable improvements to it,

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta 9th day of June 2003

MUNICIPAL GOVERNMENT BOARD



L. Lundgren, Presiding Officer

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS RECOMMENDED FOR
SEPARATION FROM THE MUNICIPAL DISTRICT OF ROCKY VIEW NO. 44
AND ANNEXED TO THE CITY OF AIRDRIE**

SECTION THIRTY-FIVE (35), TOWNSHIP TWENTY-SIX (26), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

THE NORTH ONE-HALF OF SECTION TWENTY-SIX (26), TOWNSHIP TWENTY-SIX (26), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

THE SOUTHEAST QUARTER OF SECTION THIRTEEN (13), TOWNSHIP TWENTY-SEVEN (27), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN

THE SOUTH ONE-HALF OF SECTION FOURTEEN (14), TOWNSHIP TWENTY-SEVEN (27), RANGE ONE (1), WEST OF THE FIFTH MERIDIAN

THE SOUTH ONE-HALF OF SECTION FIFTEEN (15), TOWNSHIP TWENTY-SEVEN (27), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN

THE SOUTHWEST QUARTER OF SECTION FOURTEEN (14), TOWNSHIP TWENTY-SEVEN, RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN

THE WEST ONE-HALF OF SECTION THIRTY-FOUR (34), TOWNSHIP TWENTY-SIX (26), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN

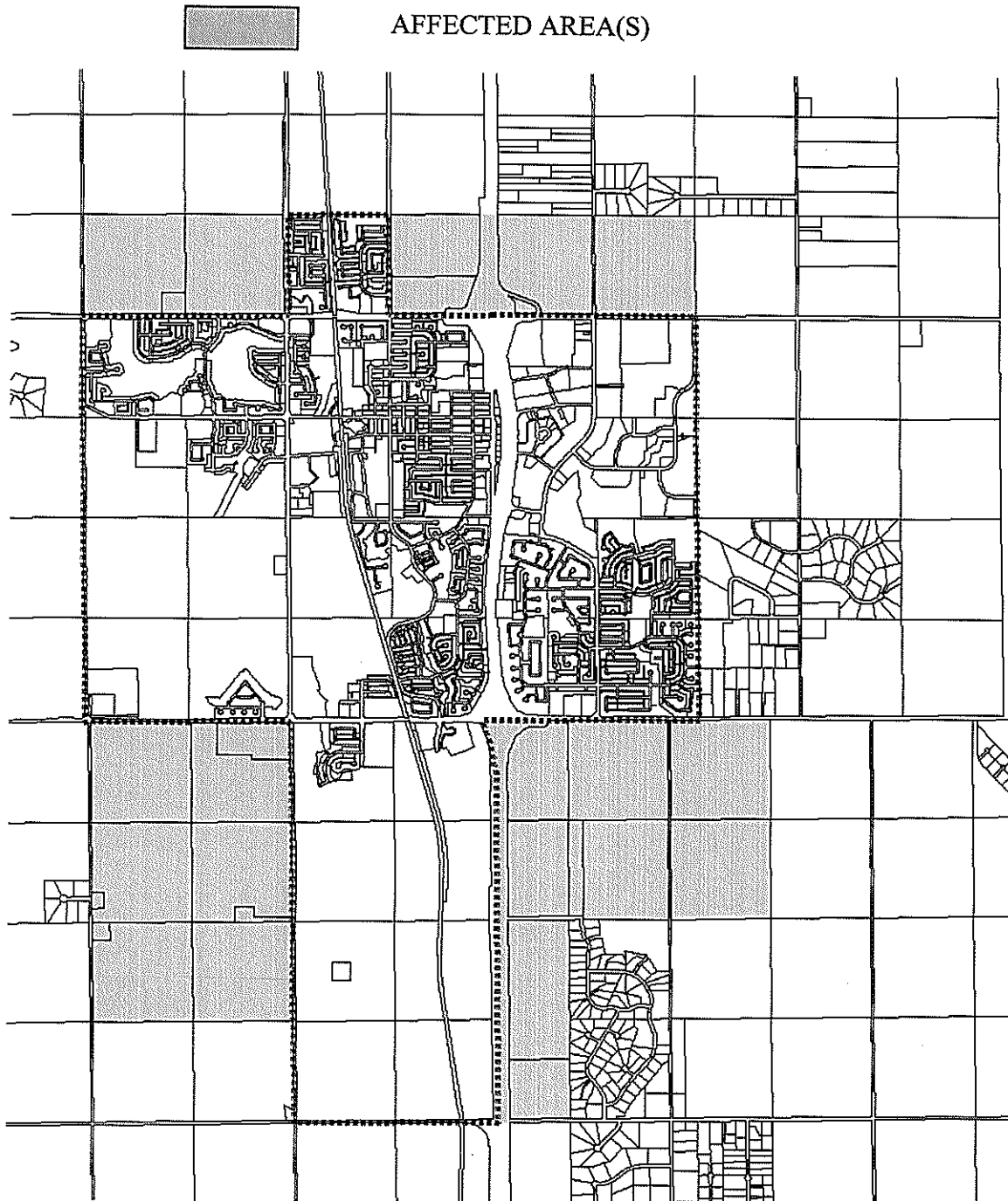
SECTION THIRTY-THREE (33), TOWNSHIP TWENTY-SIX (26), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN

THE WEST ONE-HALF OF SECTION TWENTY-EIGHT (28), TOWNSHIP TWENTY-SIX (26), RANGE TWENTY-NINE (29), WEST OF THE FOURTH MERIDIAN

ALL INTERVENING ROAD ALLOWANCES, REGISTERED ROAD AND HIGHWAY PLAN RIGHTS-OF-WAY

APPENDIX B

**A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS
RECOMMENDED FOR ANNEXATION TO THE CITY OF AIRDRIE**



APPENDIX C

ORDER

- 1 In this Order, “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B.
- 2 For taxation purposes in 2004 and later years up to and including 2012, the annexed land and the assessable improvements to it
 - (a) must be assessed by the City of Airdrie on the same basis as if they had remained in Municipal District of Rocky View No. 44, and
 - (b) must be taxed by the City of Airdrie in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the tax rate established by the Municipal District of Rocky View no. 44.
- 3(1) Section 2 ceases to apply to a portion of the annexed land and the assessable improvements to it in the taxation year immediately following the taxation year in which
 - (a) the portion 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,
 - (b) the portion is redesignated, at the request of or on behalf of the landowner, under the City of Airdrie Land Use Bylaw to another designation other than agricultural or urban reserve, or
 - (c) the portion is the subject of a local improvement project described in any local improvement by-law initiated by or with the support of the landowner pursuant to which has City of Airdrie water and sewer services made available to the land, or
 - (d) the portion is connected to the water or sanitary sewer services provided by the City of Airdrie,
- (2) Notwithstanding subsection (1)(a), section 2 does not cease to apply in respect of an existing farmstead that is subdivided from a previously unsubdivided quarter section of the annexed land.

- 4 After section 2 ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in that year in the same manner as other property of the same assessment class in the City of Airdrie is assessed and taxed.
- 5 The City of Airdrie must pay to the Municipal District of Rocky View No. 44 not later than July 1 in each of the years 2004, 2005, 2006, 2007 and 2008, an amount equal to the taxes imposed in 2002 in respect of the annexed land and the assessable improvements to it pursuant to the property tax bylaw of the Municipal District of Rocky View No. 44.
- 6 The City of Airdrie must pay to the Municipal District of Rocky View No. 44, not later than December 31, 2003, an amount equal to the value of the Highway 2 service road located in Sections 28 and 33 within Township 26, Range 29, West of the Fourth Meridian, calculated as of July 1, 2003.

APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE MINISTER OF
MUNICIPAL AFFAIRS RESPECTING THE CITY OF AIRDRIE
PROPOSED ANNEXATION OF TERRITORY FROM
THE MUNICIPAL DISTRICT OF ROCKY VIEW**

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Executive Summary

In the annexation process the MGB is only a hearing and recommending body. The MGB, after hearing from the parties, prepares findings and recommendations for consideration by the Minister and the Lieutenant Governor in Council (LGC). The Minister and the LGC are not bound by the recommendations of the MGB.

The City of Airdrie (City), with a population of 20,832, is a rapidly growing municipality resulting in the need for expanded boundaries to meet its long-term land needs. The City submitted an annexation proposal that did not meet with the approval of the neighboring municipality, the Municipal District of Rocky View (MD). As a result of the disagreement, the two municipalities entered into mediation as required by the Act. The end result of the mediation is a settlement that added and deleted certain lands from the original annexation proposal.

The impact of these changes to the original annexation proposal resulted in a number of landowners raising objections to the alternative annexation plan. Most notably, objections were raised from owners in the northeast annexation area known as Croxford Estates and from owners in the southeast annexation area known as the Melcor/Chitwood lands.

As required by the Act, the MGB determined there was no general agreement with the annexation as proposed and held a hearing to determine the concerns of all parties impacted by the annexation.

In deliberating the merits of the annexation, the MGB gave full consideration to the interests of both municipalities. The key interest of the City is to acquire additional lands to accommodate the ongoing rapid growth. The key interest of the MD is to preserve its ability to develop economic development nodes throughout the municipality. One of these nodes is to the south of Airdrie along Highway 2. The annexation proposal, as submitted and as recommended, does not include this area and preserves the option. The other relevant economic develop node is located at the Airdrie Industrial Park (Airdrie Airport) which is southeast of the current City boundaries and not part of any annexation plan. The MGB gave this factor careful consideration when determining the recommendation for the southeast area.

The MGB heard two primary issues of dispute relating to the annexation proposal. One issue relates to the northeast Croxford Estates area added to the annexation proposal following mediation. The second issue relates to the southeast Melcor/Chitwood area deleted from the annexation following mediation. The remainder of the land in the annexation proposal generated little or no controversy.

The Act does not allow a property owner to submit an annexation proposal. However, the MGB first determined that the Melcor/Chitwood lands were part of the original annexation application

submitted by the City and, therefore, not a new proposal by a landowner. Second, the two municipalities agreed that neither the Minister nor the LGC are bound to the annexation agreement. However, the MD stressed the need to give the agreement considerable weight.

In the past, the MGB has given considerable weight to these annexation agreements especially in those situations with the full agreement of impacted landowners and when substantive growth studies support the conclusions reached in the agreement. However, in the Airdrie annexation the MGB could not determine an adequate rationale in the mediated settlement for including certain land and excluding other land from the original annexation proposal.

The MGB is not convinced that inclusion of Croxford Estates is based on any supportive growth studies, or studies showing how the country residential area could be incorporated into the higher densities envisioned by the City. The MGB also observed that there are other similar country residential developments on the fringe of Airdrie not considered for annexation by the municipalities and no further explanation was given. As well, the MGB heard objections to annexation from landowners in the subdivision. In the absence of a comprehensive strategy to incorporate country residential development into the City's boundaries, the MGB is reluctant to recommend that this area be included.

With respect to the exclusion of the Melcor/Chitwood lands, the MGB concluded that the lands should be included. The inclusion of this area will not prejudice the MD in developing the node area around the Airdrie Airport Industrial Park, as there is sufficient distance between the two areas to accommodate the transition from residential to industrial uses. As well, the Melcor/Chitwood lands are a logical extension of the existing land uses in the City, can be readily serviced with existing capacities, and can be developed in the short term. Development here will also help maximize the use of the Highway 2 interchange and reduce the need for future interchanges. By excluding these lands, existing servicing capacity within the City would be underutilized.

With regard to the remainder of the lands included in the mediated settlement, the MGB found technical support for the inclusion of these lands. In total, the lands recommended for annexation by the MGB represent a logical extension of land use patterns, logical extension of services, maximum use of existing services and infrastructure, minimal loss of quality agricultural lands and MD revenue with little or no negative environmental impact.

With respect to the conditions of annexation, only those conditions which can be dealt with in a specific manner have been included. This is to ensure that the LGC is not involved in the day-to-day management of local affairs and to avoid a necessity for continuous amendments to the Order in Council owing to minor corrections of changes in any quantities or numbers related to the agreement between the two municipalities.

In conclusion, the MGB recommends annexation of the lands described in Appendix A and illustrated in Appendix B.

Part I Introduction

The City is located approximately four miles north of Calgary on Highway 2. Between 1991 and 2001 the City's annual growth rate ranged from 3.9% to 6.2 %. The City's present population is 20,838 and it is expected to achieve a population of 65,000 persons within the next 30 years. Through a comprehensive growth study, the City decided it needed approximately 2,300 acres of territory from the MD in order to accommodate its 30-year land needs.

The City originally applied to the MGB for the annexation of approximately 2,400 acres of the MD's territory. The application was made without the consent of the MD; however, the City advised that it would be entering into mediation as required by the Act. After mediation occurred, the City and the MD signed an agreement requiring the City to amend its annexation application.

Among other things, the annexation agreement resulted in the relocation of some of the proposed boundaries from those boundaries originally proposed. Several directly affected landowners objected to the boundary change amendment, thereby triggering a public hearing before the MGB held on January 23, 2003.

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

Pursuant to Division 6 of the Act, the MGB only has authority to hear from parties to an annexation, make findings and recommendations to the Minister and the 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. Pursuant to section 126 of the Act, the LGC upon a recommendation of the Minister, may annex land to a municipality without a report from the MGB.

Part III Disputed Annexation Issues and Areas

Primary Issues

As a result of mediation, certain lands were added or deleted from the original proposal. While some of the boundary changes do not cause conflict, it has become evident that two main areas on the east side of Highway 2 are subject of a dispute. These areas are generally described as follows.

1. Melcor/Chitwood Lands: The boundary change in the annexation proposal resulted in the deletion of 600 acres of land lying in the southeast annexation area. Two hundred and eighty

acres of this land is owned by Melcor Developments Ltd. (also known as Highview), while the remaining 320 acres is owned by Ken Chitwood. Both landowners object to being deleted from the original annexation proposal.

2. Croxford Estates: The boundary change also resulted in the addition of 320 acres of land lying in the northeast annexation area. One hundred and sixty acres of this area was originally subdivided into eight 20-acre parcels then resubdivided into a variety of parcel sizes ranging from four acres to 10 acres in size. The other 160 acres includes a country residential subdivision known as Croxford Estates containing 17 four-acre parcels and a larger balance parcel. Two of the landowners in this subdivision, Mr. Ball and Mr. Bennett, object to being included in the annexation.

In addition to submissions made by the City and the MD, the MGB received submissions from several landowners claiming to be affected by the proposed annexation.

Reference Aids

Table 1 on the following page illustrates the names, location and other details about each of the parties making presentations to the MGB.

On the pages following Table 1, are three maps providing key references to the parties and issues before the MGB. Each map identifies the location and names of the main landowners, company names or neighbourhood names that are repeatedly referenced throughout this report.

Map 1 shows the proposed annexation areas on the original application, before mediation occurred.

Map 2 shows the annexation areas after mediation and subject of the agreement between the two municipalities.

Map 3 shows (in cross-hatch symbols) the lands in dispute.

Table #1 Submissions to the MGB other than those of the City and the MD

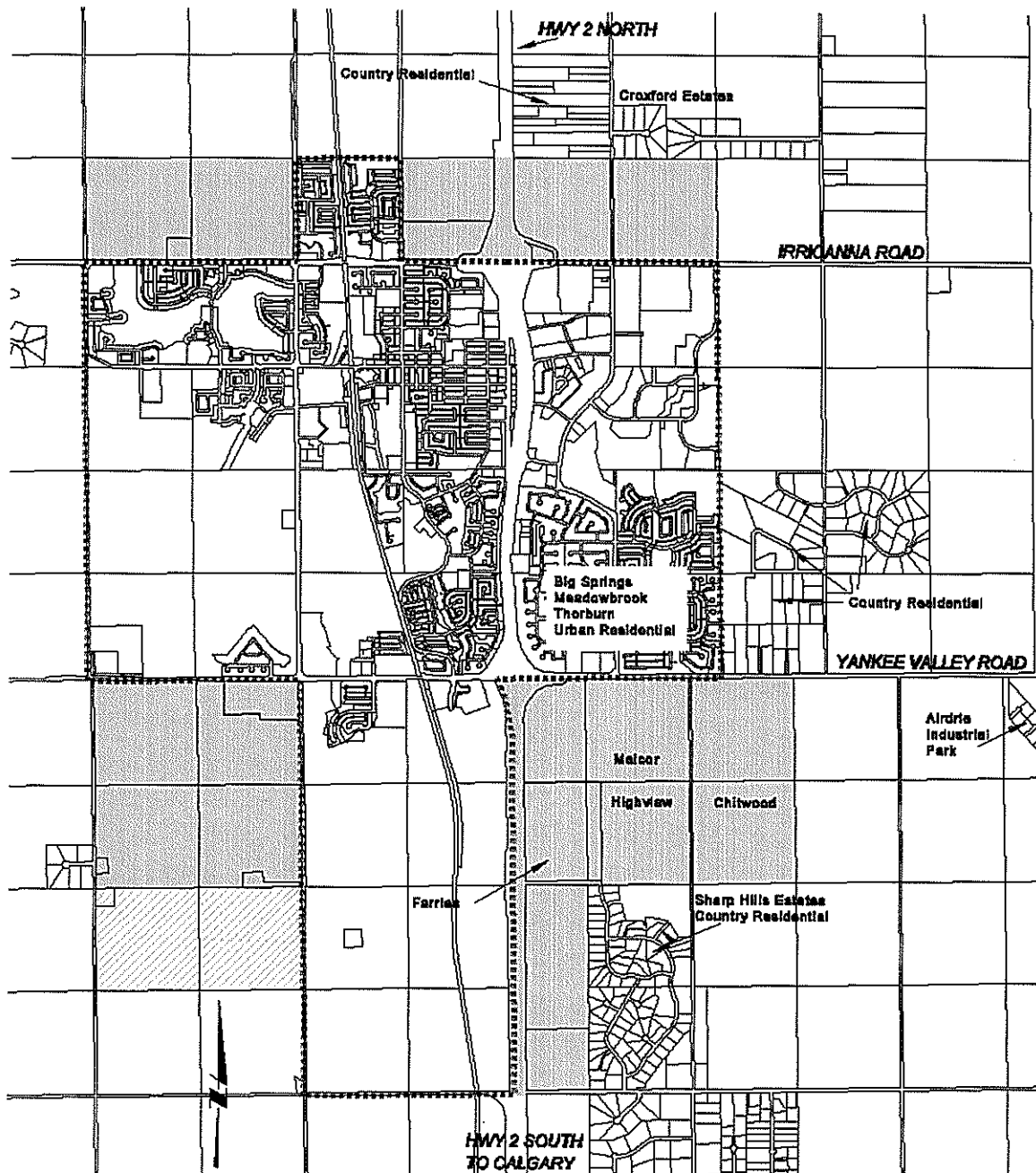
Landowner name	Location	Land Use	In Original Application	In Amended Application	Landowner's Position
Melcor	Southeast area – one-half mile east of Highway 2	280 acres Vacant Farm/Pasture	Yes	No	Objects to being excluded
Chitwood	Southeast area – one mile east of Highway 2	320 acres Farmland	Yes	No	Objects to being excluded
Farries	Southeast area adjacent to Highway 2	220 acres Vacant Farmland	Yes	Yes	Supports inclusion of Melcor/ Chitwood lands
Wilson	Southeast area south of Melcor land	4 acres Country Residential	No	No	Supports inclusion of Melcor/Chitwood
Latter	Southwest area	160 acres Vacant Farmland	Yes	Yes	Supports annexation agreement
Hamilton	Northeast area – north of Croxford Estates	100 acres Farmland	No	Yes	Supports inclusion of his land
Bennett	Northeast area (Croxford Estates)	4 acres Country Residential	No	Yes	Opposes to inclusion of his land
Ball	Northeast (Croxford Estates)	4 acres Country Residential	No	Yes	Opposes to inclusion of his land

Map 1 Annexation Application before Mediation Occurred




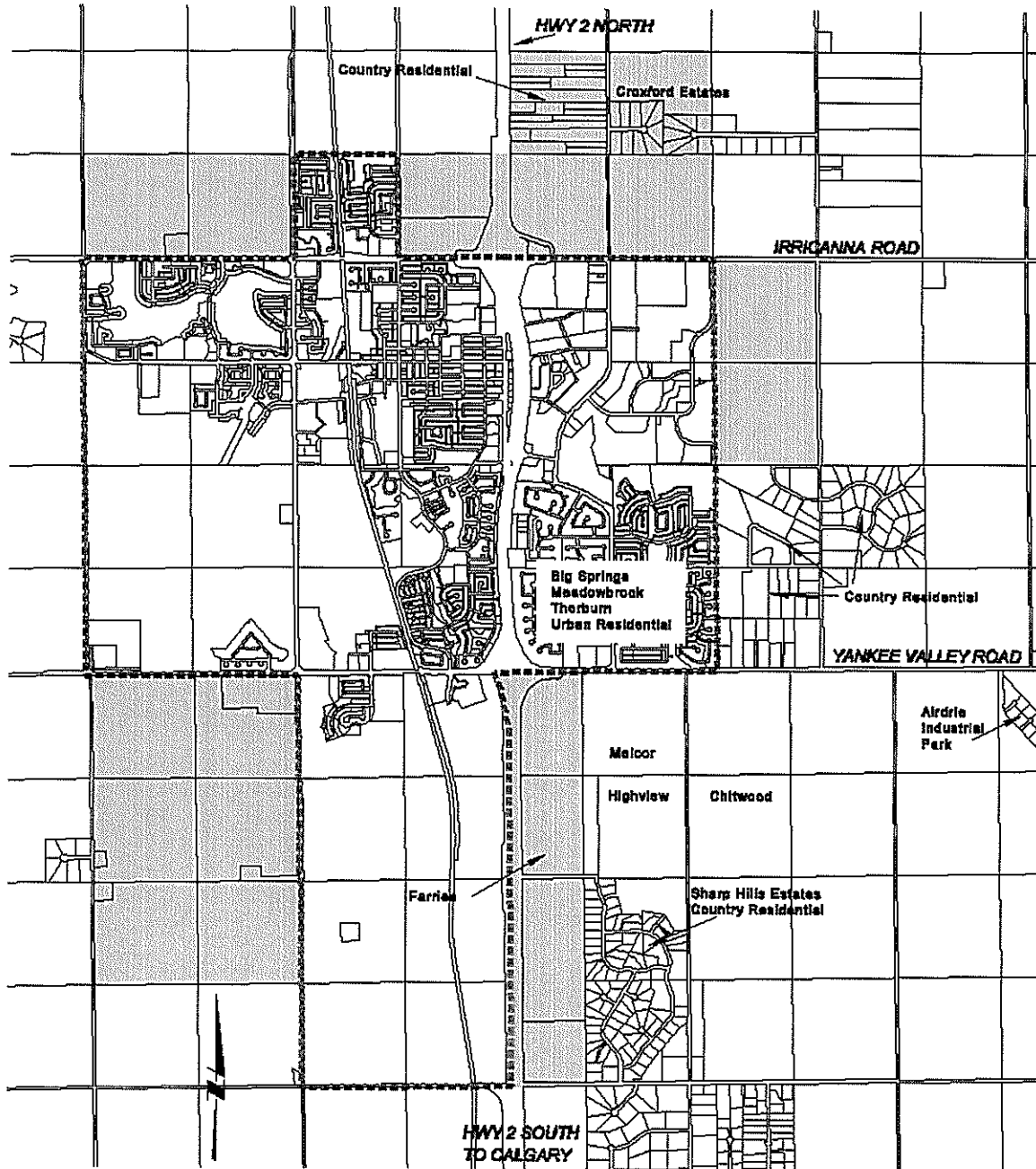
Proposed Annexation Areas (Also known as "Growth Option B" in the Airdrie Growth Study)

The cross-hatched area is identified as excellent potential for inclusion in "Growth Option B" but beyond the 30 year land requirement.

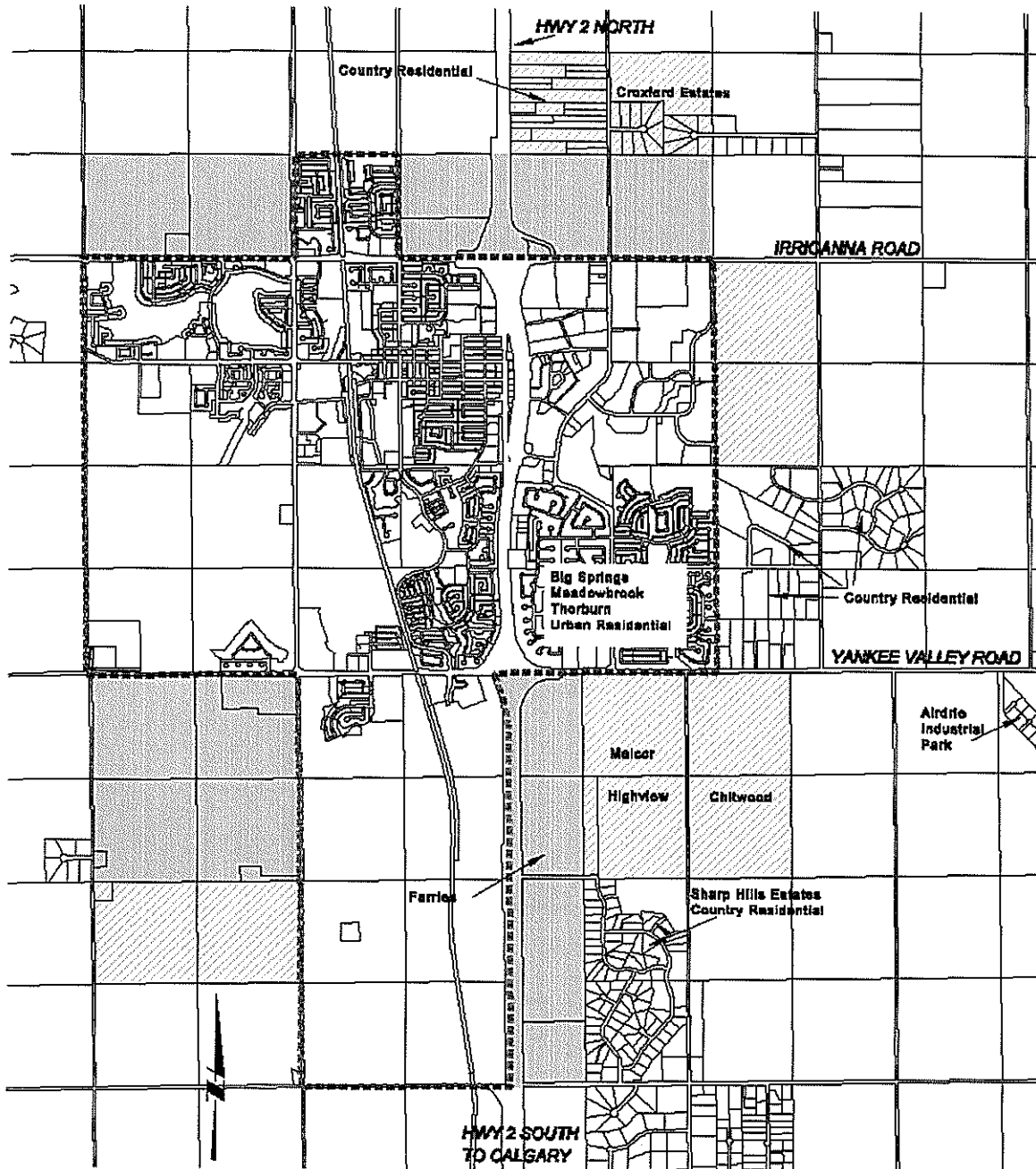


Map 2 Amended Annexation Application After Mediation Occurred

 Proposed Annexation Areas



Map 3 "Cross Hatched" areas are lands that were added to the annexation after mediation, except for the section of land shown as Melcor/Highview/Chitwood which was deleted after mediation.



Part IV What Constitutes the Annexation Application

The mediated settlement between the City and the MD changed the boundaries of the original application resulting in some debate as to what lands constituted the annexation application - the lands as described prior to the mediated settlement or the lands as described after the mediated settlement. It was also argued that pursuant to the Act, an owner of land is not authorized to make an application for annexation.

The MGB does not act in a quasi-judicial capacity when hearing and recommending annexation matters, however, the MGB still must be satisfied that the requirements of the Act have been followed.

The three main issues are:

- Issue 1 What is the application before the MGB and who bears onus in an annexation case? What is the role of the annexing municipality and the landowners?
- Issue 2 Does the MGB have jurisdiction to make recommendations which are inconsistent with the annexation agreement, and if so, should the MGB exercise that discretion in this case?
- Issue3 Are the joint planning provisions in the annexation agreement appropriate? What can be included in the Order in Council and what cannot be included?

In addressing these issues, the MGB heard from the solicitor's representing the MD and Melcor.

Position of the MD

Issue 1 – What constitutes the annexation application?

The only application before the MGB is the annexation proposed as a result of the agreement reached between the two municipalities. While the City made its original application including the Melcor and Chitwood lands, the application was incomplete as the City advised the MGB that mediation had not been completed. As a result of mediation, the City forwarded the agreement to the MGB stating that the City trusted that the requirements in sections 118 and 119 of the Act were now met. Section 119 of the Act expressly states that the report submitted pursuant to section 119(1) and prepared pursuant to section 118 "becomes the initiating municipal authority's application for the annexation". The onus is on the City to prove the need for annexation. Airdrie has clearly met the onus through the annexation agreement and indicated in evidence that it does not require the Melcor lands to meet its growth objectives.

Issue 2 - Is the MGB limited in its recommendations by the mediated settlement?

The MD does not dispute the powers of the MGB in making recommendations to the Minister. Indeed, the MGB could recommend any changes to the annexation agreement it desires. While the MGB may consider including or deleting lands that were not part of the completed annexation application, it must do so with clear reasons and only under extreme circumstances. The MD maintains that the overall scheme of the legislation and the emphasis given to intermunicipal cooperation in the Act and the Provincial Land Use Policies take priority over any other consideration.

The legislation specifically states that only a municipality can put forward an annexation proposal. There is no ability for an individual or group of landowners like Melcor, to initiate an annexation. The MGB should be very cautious in creating ability for landowners to put a proposal before the MGB when that ability is not provided for in the Act.

Issue 3 – Are joint planning provisions appropriate conditions for annexation approval?

A number of landowners expressed concern about the joint planning initiatives expressed in the annexation agreement. The submissions made about these concerns runs directly counter to the intent of the legislature in these matters. The Provincial Land Use Policies expressly encourage municipalities to expand intermunicipal planning efforts and to cooperate in the planning of future land uses in the vicinity of their adjoining municipal boundaries through the use of statutory plans.

Position of Melcor

Issue 1 – What constitutes the annexation application?

Melcor maintains that the application before the MGB includes the Melcor land because this land was part of the original submission to the MGB when the application fees were paid. Even if the application was amended by submission of the annexation agreement, Melcor is a significantly affected party and its concerns should be heard by the MGB.

Melcor agrees with the MD that the onus is on the City to prove that it needs the land proposed for annexation. Melcor maintains that the City demonstrated that need by including the Melcor land in the original application. The original application was based on the Airdrie Growth Study. The Growth Study was exhaustive in demonstrating the need for annexation including the Melcor land.

Issue 2 - Is the MGB limited in its recommendations by the mediated settlement?

Melcor maintains that whether or not the Melcor lands are considered part of the annexation application, it is prudent for the MGB to consider all practical alternatives to the annexation

agreement. The MGB found that some landowners and the general public were not in agreement with the annexation as agreed to between the municipalities. The MGB was therefore required to hold a public hearing. With respect, the MGB is not a "rubber stamp" body and is duty bound to consider all the details surrounding the annexation proposal. If this were not the case, there would be no point in the MGB conducting a hearing or making a recommendation to the Minister. An agreement reached through mediation would be the final application directly to the Minister without involvement of the MGB.

The Provincial Land Use Policies not only help to guide municipalities in cooperative land use planning matters but to ensure that land use in Alberta is achieved in a logical and economical manner to benefit all the citizens of the region. Melcor maintains that the mediated settlement did not take into account valid land use planning principles based on statistics and other matters within the Airdrie Growth Study.

Neither Melcor nor the other landowners have attempted to put an annexation application before the MGB. The parties with concerns just wished to be heard and make sure the MGB understood that they were not part of the mediation process and had no option but to come forth to the MGB. All the parties that made submissions to the MGB have a vested interest in the annexation and are directly affected parties. The MGB has recognized these parties.

Issue 3 – Are joint planning provisions appropriate conditions for annexation approval?

Neither Melcor nor any other party made further submissions on the issue of joint planning.

Findings for Issue 1

What constitutes the annexation application?

The City's annexation application consists of those lands included within the original filing and the lands after the mediated settlement.

Reasons

The MGB agrees with the MD that an individual landowner cannot submit an annexation application. The MGB comes to this conclusion by comparing the provisions of the previous Act with the current Act. In the previous Act there was clear provision for a landowner to request to be annexed, however, this provision is not in the current Act.

In this specific case, the MGB does not interpret the submissions from those landowners whose lands were left out of the mediated settlement as an annexation application made on their own motion. These lands were included in the original report made by the City and thus form part of the report referred to in section 119(2) of the Act.

119(2) If the initiating municipality indicates in the report that it wishes to proceed with the annexation, the report becomes the initiating municipal authority's application for the annexation.

The MD would like the MGB to interpret the word "report" in section 119(2) in a very narrow fashion as referring to those lands agreed to after the mediated settlement. If the legislators had meant that only those lands agreed to after the mediated settlement, then section 119(2) would have used these specific words. In the MGB's opinion, the word "report" must be given a broad meaning when it is examined within the total context of sections 118 and 119.

To underline the point, sections 118 and 119 anticipate both agreement and disagreement by the parties to an annexation. This implies to the MGB that all documents and materials that come before the MGB constitute the report. This would include all the growth studies, engineering reports, public participation reports, environmental reports, financial reports, and the lands agreed to and lands not agreed to, whether or not those lands are included in a mediated settlement.

This approach is consistent with the opinion of both the City and the MD, that the MGB, the Minister, and the LGC are not bound to the mediated settlement. This does not take away from the weight that should be accorded an agreement provided that agreement is based on sound rationale.

Findings for Issue 2

Is the MGB limited in its recommendations by the mediated settlement?

The MGB is not limited by the provisions of the mediated settlement.

Reasons

The MGB is concerned about the potential perception that the MGB could overstep its mandate by recommending annexation that did not conform to the annexation agreement or by considering the inclusion of the Melcor and Chitwood lands in the annexation. Therefore, the MGB invited the parties to make submissions on these issues. When the MGB is required to hold a public hearing on annexation matters, section 121 of the Act states that the MGB must allow any affected person to appear before it at the hearing. Historically, the MGB has considered anyone interested in the annexation to be an affected party. This practice is supported by case law resulting from a 1986 City of Leduc annexation. Depending on the nature of submissions by an affected party, the MGB determines whether or not the affected parties submission is meritorious and helpful to the MGB's ultimate deliberation of the matter.

The City, the MD and other parties at the hearing confirmed that the MGB can make any recommendation it chooses even if it means that the terms of the annexation agreement are changed as a result. Indeed the Act is silent on the status of a mediated settlement relative to a recommendation for annexation. Had the legislature intended that a mediated settlement be the final annexation solution, then the Act would state this and there would be no point in the MGB conducting a hearing and making a recommendation to the Minister.

In practice the annexation agreement between two municipalities (mediated or not) has carried considerable weight with the MGB. Since the inception of the new Act nearly all annexations have come forward as an agreement between the involved municipalities. This is in contrast to the directions taken from previous legislation where annexations tended to be adversarial.

In the past, the MGB's recommendation to the Minister had only deviated from the annexation agreement in cases where an affected landowner raised objections and where the annexation agreement had not provided a sound rationale. In most cases, the MGB found that landowner concerns could be resolved by further explanation to the landowner, appropriate adjustments to the conditions of annexation, and in some cases leaving certain lands out of the annexation. In this specific annexation application, the MGB observes that all parties, including the MD, advise that the MGB is not bound by a mediated settlement.

Findings for Issue 3

Are joint planning provisions appropriate conditions for annexation approval?

Joint planning provisions are not appropriate conditions in an annexation Order in Council.

Reasons

The MGB is unwilling to include provisions for these items in the annexation Order in Council whether or not the annexation is approved according to the agreement or according to "Growth Option B". The Act provides for these matters whether or not annexation is approved. The City and the MD have each adopted an Intermunicipal Development Plan that recognizes the need for joint planning and establishes methods for resolving disputes between the municipalities when development is proposed in either jurisdiction. The Act also provides remedies for resolving disputes separately from the annexation process.

Part V Summary of Submissions made to the MGB

The City

The City outlined the following chronology of events leading to its formal annexation application.

- June 1997 - City directed its planning department to investigate the need for annexation.
- November 1999 - City identified its need for a 30-year land supply to accommodate residential, commercial and industrial land uses and directed a number of studies be undertaken.
- June 2000 - Fiscal Impact Evaluation Report underlined the need to balance assessment base.
- February 2001 - City completed a comprehensive growth study.
- March 8, 2001 - City notified the MGB of its intent to apply for annexation in accordance with Growth Option "B" outlined in the Growth Study.
- April 2001 - City and MD establish a strategy to initiate negotiations.
- April 2001 - City received an evaluation of its Infrastructure and Off-Site Levy Review.
- May to September 2001 - City and MD jointly establish public consultation process through newsletters and open houses and non-statutory public hearings.
- August 2001 - City and MD View adopted an intermunicipal development plan.
- October 2001 - City Master Drainage Study completed.
- December 2001 - Negotiating committees prepare draft annexation agreement.
- January 2002 - Public Open House meeting convened to review draft agreement.
- March 2002 - City submitted official annexation application details "Growth Option B" and advised negotiations failed but mediation is now underway.
- July 2002 - as a result of mediation, City and MD signed an annexation agreement showing boundaries substantially different than "Growth Option B" identified in the original application.
- September 2002 - Public Open house held to review the annexation agreement with all affected landowners and other interested parties.

- November 13, 2002 - City forwarded its final report including the annexation agreement to the MGB. The report included a listing of landowners objecting to being included in the annexation, objections to some provisions within the annexation agreement, or objections to the annexation boundary as now proposed.

The City advised the MGB that its original application for annexation was based on "Growth Option B" which was the culmination of a principled approach to growth as outlined in the growth study adopted by City Council in 2001. These principles involve strategies for managed growth, development of whole communities within the City, fiscal balance, environmental stewardship and intermunicipal cooperation.

The City noted that the annexation agreement reached between the City and the MD does not represent a best-case alternative from the perspective of the City. However, the City feels that the agreement does not severely interfere with the integrity of the principles that the City has been promoting for many years and through many studies. The City felt that mediation involved in reaching an annexation agreement with the MD was successful owing to the future needs for intermunicipal cooperation for the overall economic health of the region. The City also stated that the need to keep the mediation process confidential was recommended by Municipal Affairs and agreed to at the outset as concerns were expressed about the ability to speak frankly and openly in a public setting. As a result, an agreement was reached that the two municipalities can live with.

The MD

The MD expressed its philosophy regarding annexation and the view that rural municipalities are considered equal partners under the new Act. The MD is facing seven major annexation applications over the next two years. Annexations of this magnitude will significantly reduce the MD's land base and severely impact the MD's options for securing a balanced assessment base and offering a high standard of development and level of service to the MD's ratepayers. With respect to the Airdrie annexation, the MD stated that its ability to plan strategically has not kept pace with the rate of growth experienced by all municipalities in the region. The MD has not had the opportunity to effectively put a growth management strategy in place that will reflect the Council's aspirations for various types of development in the area.

In an effort to identify the MD's vision for growth, more time is needed to develop intermunicipal growth strategies. For the lands finally agreed to in the Airdrie mediation, the MD felt the need to maintain its options to accommodate potential development on the Melcor and Chitwood lands. As a trade-off, the MD agreed to include other lands where it felt there was limited potential for development benefits to the MD. The result being that land has been included in the annexation proposal increasing the overall amount of land than that originally envisaged for annexation by the City in "Growth Option B".

The MD uses certain criteria to evaluate annexation proposals. These criteria are outlined as follows.

Balancing the Assessment Base

As do most of the centers in the Calgary region, the MD sees a need to balance its assessment base between residential and other types of development. Currently residential development comprises 74% of the MD's assessment base while non-residential comprises 15%. Farmland and machinery and equipment make up the balance at 3.5% and 7.6%, respectively. Changes to planning legislation have provided the MD an opportunity to expand its assessment base. Accordingly, the MD has adopted an economic development strategy. This strategy identifies three potential economic development nodes in close proximity to the Highway 2 corridor. Two nodes are in the Balzac area just south of the present Airdrie boundary and the third is the Airdrie Industrial Park lying just east of Airdrie at the old Airdrie Airport.

The obvious development potential in the Highway 2 corridor can benefit both the City and the MD. The annexation agreement recognizes the potential and addresses the possibility of developing joint statutory plans and revenue sharing agreements.

Protection of the Agricultural Land Base

One prime objective of the MD is to preserve the existing agricultural land base. In the Airdrie situation, the MD sees benefit to allowing the continuance of larger agricultural parcels such as the Melcor and Chitwood lands, to remain in agricultural use for as long as possible. One of the trade-offs in the Airdrie case was to allow the Croxford Estates area to be annexed because that area is already so badly fragmented as to be useless for any agricultural pursuit.

Political Isolation

Landowners adjacent to municipal boundaries suffer from political isolation when it comes to decision-making on land use changes in the adjacent municipality. The MD's criteria acknowledge this problem and promote the development of joint area structure plans. The annexation agreement encourages joint planning, revenue sharing and input for development decisions by affected ratepayers on both sides of a municipal boundary.

The Need for Future Strategic Planning Policy

The MD has already identified an economic development node just east of the City at the Airdrie Airport. The annexation agreement recognizes the need for the Melcor, Chitwood and surrounding lands to be scrutinized for their development potential in relation to the Airdrie Industrial Airport node. The annexation agreement encourages a joint planning study and potential for revenue sharing.

Protection of the East-West Corridor across Highway 2

In addition to providing the potential for future economic development, the existing Highway 2 corridor between Calgary and Airdrie is critical to maintaining the integrity of the MD as a whole, connecting Rocky View lands and the east and west sides of the highway. The potential for Calgary and Airdrie sharing a boundary is high in this corridor, however the mediated agreement maintains the corridor in its current form.

Joint Planning of Intermunicipal Entranceways

The visual character of the Highway 2 corridor is important to Calgary, Airdrie and Rocky View. Joint planning proposed in the annexation agreement provides the opportunity for enhanced appearances that will accompany well-planned sequential development.

Enhanced Cooperation with Airdrie

There is a strong need for positive working relationships administratively and politically between municipalities in a region experiencing substantial growth. The mediated annexation agreement provides opportunities to cooperate on an ongoing basis through joint planning and revenue sharing.

The MD was an active participant in the public consultation process. After mediation was successful, the MD agreed to some changes based on concerns from the public and the landowners involved, as follows:

- Subject to some conditions, the length of time during which the MD mill rate would apply to taxes on lands annexed to the City was lengthened to 15 years from 10 years in those cases where title had not changed hands from the effective date of annexation. The intent of this change was to respect those residents who had bought properties within the MD and wished to retire on those properties. Other conditions that would trigger a change to the City's tax rate remained unchanged.
- Keith Farries owns a 380-foot strip of land adjacent to and east of the highway that was included in the annexation. The MD agreed to revise the boundary to allow the long narrow strip be included.
- Preparation of an area structure plan for the Melcor and Chitwood land will commence with the joint adoption of a terms of reference in 2003 rather than 2005. This change was made in response to the landowner perception that these lands would effectively be sterilized until the plan was completed.

Finally, the MD stated that the mediated agreement represents a package of solutions which, taken as a whole, addresses the interests of both municipalities. All parts of the agreement are integrally tied together and the separation or alteration of any one part could have a profound effect on the balance that the mediated agreement imparts.

Melcor

Since 1999, Melcor has been working with the City to insure that its land would be included in the annexation proposal. As a result of the Airdrie Growth Study, the Melcor land was identified as having high growth capability most suitable to accommodate the 30-year urban growth requirement. This study identified imminent growth potential because of access to developed roadways, utilities, limited physical constraints and landowner preference in the immediate vicinity. As a result, the City did include the Melcor lands in its application to the MGB, however mediation had not yet occurred. After mediation, the annexation agreement reached excluded the Melcor land. This mediation was done in private without disclosure of key facts in the mediation.

A large number of landowners expressed concerns about the results of the agreement and how and why the provisions of the agreement were reached. Five hundred and ninety-six residents of the City (primarily in Meadowbrook) and 64 residents from Sharp Hills in the MD signed petitions expressing support for the inclusion of the Melcor and Chitwood lands. The residents are concerned that if the land remains in the MD, the resulting type of development may be industrial/commercial, thereby isolating all the existing residential development and creating obvious land use conflicts.

No reasons have ever been formally provided to Melcor in relation to why these lands were excluded.

In an attempt to rationalize annexation of the Melcor land, Melcor has evaluated some historical annexation information relating to the Alberta experience. The only publicly available decision of the MGB relates to the application made by the Town of Bow Island to annex territory from the County of Forty Mile (May 9, 2001). In that decision the MGB stated that "the underlying purpose of annexation is to provide land use planning control for municipalities contemplating growth". After identifying that section 76 of the Act allows principles, standards and criteria be established relevant to annexation, but that none have yet been established, the MGB provides some guidance as to what should be considered in an annexation proposal. Melcor believes that its land falls squarely within the annexation logic set out in the MGB decision.

The City's own growth study and previous approvals of annexation in Airdrie by the Local Authorities Board demonstrate the need for annexation and, in particular, the inclusion of the Melcor land. The City has capacity to service up to 50,000 persons, is the fourth fastest growing municipality in Canada and has hard services readily available and oversized to accommodate

development of the Melcor land. Melcor also referenced a Local Authorities Board decision in a 1989 Order for a Calgary annexation. The annexation concepts expressed by the Chairman underline Melcor's position that inclusion of the Melcor land is in keeping with these concepts generally accepted as logical and to the point at hand.

Finally, Melcor submits that the annexation agreement includes the Farries land (immediately west of Melcor) and the intended use is for urban industrial. The MD is apparently opposing inclusion of the Melcor land on the premise it may be utilized for non-residential use. This gives rise to the scenario of having urban industrial within Airdrie immediately adjacent to industrial in the MD. Long-standing principles in Alberta have established that where industrial growth takes place immediately adjoining the boundaries of a city, the proper and best suited municipal unit to govern and control such growth is that city. Consistent with that theme and the continent wide move away from metropolitan areas, the creation of an area with strong urban characteristics immediately adjacent to a city should be under the aegis of that city in preference to a rural municipal council.

Melcor believes that the MD is not yet ready to take on urban style development or provide services for urban style development for lands that are ripe for development to accommodate the urgent growth needs of the City.

Ken Chitwood

The Chitwood lands have always been identified for future residential land use in Airdrie owing to the exceptional mountain and city views achieved from this high area. There has never been any indication from the MD that they were interested in the Chitwood land and cannot understand the MD's position. While the site is presently agricultural land, it is already bounded by urban residential in Airdrie (Meadowbrook and Thorburn, and developed country residential lots to the north and southwest. This places a high restriction on the farm use and there are constant complaints about the farming operation from surrounding small holders and people in the City. There are also significant problems with water supply in this area. Any significant development would need access to City water and with the present situation the City is not allowed to supply water beyond its boundaries. Indeed, the City gets its water supply from Calgary.

The Chitwoods are also opposed to the joint planning concept for areas in and around the City. Joint planning will delay development and cause further mediation to occur.

Keith Farries

Mr. Farries supports the annexation of his land into the City, however, fully supports the annexation of the Melcor and Chitwood lands. The main concern respecting the annexation agreement is the concept expressed respecting joint planning and revenue sharing. There is an

ongoing potential for impasse between the two municipalities and the establishment of joint planning commissions and appeal boards creates another level of bureaucracy that is expensive to operate.

Hugh Hamilton

Mr. Hamilton owns the large balance of land north of Croxford Estates and was the original developer of Croxford Estates. Mr. Hamilton advised the MGB that he had contacted the majority of landowners in Croxford Estates and most had no objection or no comment on the proposal to include Croxford. Only Mr. Bennett and Mr. Ball have voiced objections.

Mr. Hamilton requests that his land remain included in the annexation as agreed to between the City and the MD.

William Bennett

The Bennetts live on a four acre parcel in Croxford Estates. Mr. Bennett objects to the inclusion of Croxford because after 15 years, taxes would automatically go up owing to City jurisdiction. Further, the City may end up destroying a beautiful and expensive subdivision with rarely found tree stands, because urban resubdivision is the only way to justify the costs of servicing. There is no benefit to the City for including Croxford.

Jerry Ball

Mr. Ball lives in Croxford Estates and advised the MGB that his land, and the other neighbours, were suddenly included in the annexation without any prior consultation. Although the municipalities advised the neighbours after mediation that they were included in the proposal, it was really too late to make any formal objection. There was no information as to why the lands were included.

Mr. Ball also stated that all of Croxford Estates is developed with expensive homes and there is no logic to have the City extend its boundaries to include Croxford or the long narrow parcels immediately west of Croxford. These properties cannot be resubdivided or be brought into an urban design. Further, the only road giving access to Croxford Estates will come through the MD. It does not make sense to isolate these parcels from the MD.

Part VI Framework for the Recommendation

The Annexation Agreement

There are a number of elements in the agreement that are common to the annexation process, such as the continuance of weed control, animal control and the continuation of agricultural uses

until such time as development of certain lands becomes imminent. The key elements of the agreement refer to the change in the location of boundaries and associated joint planning activities. Some of the key provisions are as follows:

- The MD and the City agreed that assessment and taxation in the annexation areas would remain as if the land remained in the MD for a period of 10 years unless redesignation, utility servicing or subdivision occurs prior to that time. This time limitation was extended to 15 years for certain landowners living mostly in Croxford Estates.
- An agreement to work together as equal partners for the joint planning of lands in the southeast sector (Farries, Melcor, Chitwood) whether the lands are in the City or in the MD.
- An agreement to establish a joint subdivision and development authority and appeal board for proposals in the southeast sector.
- An agreement that the City would provide funding for planning exercises (studies) in the general area.
- An agreement in principle for net revenue sharing on the lands within the southeast annexation area. This part of the agreement contains provisions for the municipalities to use all reasonable efforts to achieve revenue sharing, however, there is no outright or quantifiable commitment.
- The City agreed to pay the MD the sum of \$8,570.56 per year for the next five years for revenues (taxes) that would have otherwise been collected by the MD.
- The City agreed to pay the MD the sum of \$17,000.00 per year for the next 10 years as compensation for road upgrades to Range Road 291 lying south of Irricana Road. (This road is in the annexation area as mediated but not within the annexation area described as Growth Option "B".)
- The City agreed to a one-time payment to the MD of \$74,200.00 to compensate for service road adjacent to Highway 2, north of Irricana Road. (This service road is in the annexation area as mediated but not within the annexation area described as "Growth Option "B").
- The City and the MD agree to resolve any disputes regarding the provisions of the agreement, through a mediation process.

The Airdrie Growth Study (2000)

In 2001, the City adopted the Airdrie Growth Study and decided to proceed with annexation based on "Growth Option B" as identified in the report. One of the key findings in the report

states that the inventory of vacant developable land within the City includes 1,851 acres of residential land and 476 acres of industrial land. The existing East Lake industrial area has experienced high absorption rates during recent years and is virtually built-out. Development of the existing inventory of vacant industrial land may be delayed owing to the timing for provision of necessary roadway and highway interchange infrastructure. Therefore, the City currently has no supply of available or readily serviceable industrial land. The priority for the City in the short-term future must be to bring additional industrial land onto the market.

The City found that "Growth Option B" would help to open new industrial land in South Airdrie in the short term (the Farries land) and stimulate early construction of roadway and interchange infrastructure required to serve this area. This option would delay investment in sewer trunk upgrading as the infrastructure is already in place. Further, this option would allow larger new residential areas south of Meadowbrook (the Melcor and Chitwood land). The larger residential area in this location supports comprehensive community planning and enhanced services on the east side of Highway 2.

The growth study identifies roadways, utility servicing, physical constraints, growth opportunity and landowner preference as the criteria for establishing a low, moderate or high rating for accommodation of future urban development. The higher ratings are also associated with a time factor for annexation. The higher the rating, the more suitable the site is for imminent development.

The criteria were applied to lands in each sector surrounding the City.

The Northwest Sector

These lands received a high rating for future residential development and are included in the annexation agreement and in "Growth Option B".

The Southwest Sector

These lands received a high rating for future residential development and are included in "Growth Option B". The annexation agreement included the lands in "Growth Option B" and added an additional half-section to the south to enhance the residential growth options beyond the 30 year planned growth time.

The Northeast Sector

These lands received a moderate to high rating for future industrial development and are included in the annexation agreement and "Growth Option B". The "Growth Option B" land is the half-section located on the north side of Irricana Road, however the annexation agreement land includes an additional half section to the north where existing country residential

development is located (Croxford Estates). The report did not provide a rating for the Croxford Estates area as it is considered a constraint to urban development.

The East Sector

This sector received a moderate to high rating for industrial development adjacent to Irricana Road. The balance of the sector received a low rating owing to limited transportation options and the need for lengthy extensions of storm and sanitary sewer services. The area is further constrained by existing country residential development. This land was included in the annexation agreement but was not included in "Growth Option B".

The Southeast Sector

This land includes the Farries land for a proposed industrial strip along the east side of Highway 2, as well as the Melcor and Chitwood lands located east of the Farries land and planned for residential development. This sector received a high rating for annexation potential. The high rating was determined because all of these lands can achieve easy access from Big Hill Springs Road and Yankee Valley Road. As well, these lands when developed can utilize the existing interchange on to Highway 2 without major upgrades and financial costs. Further, the lands along Highway 2 can be serviced with direct connections to the existing sanitary and storm services. For the Melcor and Chitwood lands, water supply can be provided by direct connection to existing services. Sanitary sewer service can be provided by direct connection to a new lift station on the west side of Highway 2. These areas can be serviced by gravity thus reducing the financial development costs to all parties. These lands are predominately Canada Land Inventory Class 3 rated agricultural soils with moderately severe limitations to farming.

All this land was included in "Growth Option B" but only the land located adjacent to Highway 2 was included in the annexation agreement, excluding the Melcor and Chitwood land.

The Intermunicipal Development Plan

In 2001, the City and the MD adopted an Intermunicipal Development Plan identifying areas of land in both municipalities that are subject to the policies of the plan. These policy areas surround the City and include all the lands involved in the annexation application and in the annexation described in "Growth Option B". The purpose of identifying these policy areas is to provide a base for developing detailed policies for the future development of lands that are of mutual interest. The policies are broad in scope and aimed at facilitating future planning and development of appropriate land uses that give consideration to impacts on land in both jurisdictions.

The Intermunicipal Development Plan does not identify lands considered suitable for annexation nor does it identify the location of future land uses in either municipality. Rather the plan sets

out principles to evaluate concerns in the policy areas regarding transportation, drainage, environmental constraints, agriculture, urban overlay, intermunicipal entranceways, land use transitions, institutional development, urban and rural styles of development for residential, industrial and commercial land uses. The plan also establishes a circulation and referral process between the municipalities for all development proposals within the policy areas as well as an extended notification zone beyond the policy area land.

Request for Additional Information

During its deliberations on the proposal, the MGB decided to request further details from the City and the MD respecting assessment, taxation and compensation information should “Growth Option B” be considered for approval by the Minister. In light of the MGB’s recommendation, the MGB felt it important that the Minister receive the most complete information regarding both annexation scenarios. The City and the MD provided the requested information stating that this information had not been part of the negotiation and mediation process, but simply reflected that actual assessment and taxation values for the lands in “Growth Option B”.

Legislative Framework

The Municipal Government Act – The Annexation Part

Upon receipt of a complete annexation application, section 120 of the Act requires the MGB determine whether or not there is general agreement with the proposal. In the Airdrie case, the MGB determined there was not general agreement with the proposal owing to objections raised and concerns raised by affected landowners.

When there is not general agreement with the proposal, section 121 of the Act requires the MGB to conduct a public hearing and directs the MGB 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. In the Airdrie case, the MGB conducted a public hearing in January 2003. Following the public hearing, the MGB analyzed the evidence and information provided by all the parties.

Section 123 of the Act requires the MGB to prepare a written report of its findings and recommendations and send the report to the Minister of Municipal Affairs. The Act directs that the report be prepared after considering the representations made to it. In the Airdrie case, the MGB received several volumes of reports from Airdrie and various written and verbal representations from the MD and the other affected parties.

Section 123 also requires the MGB to consider the principles, standards and criteria on annexation established under section 76 of the Act. There are no applicable principles, standards and criteria adopted pursuant to the Act, therefore, the MGB looks to the scheme of the Act, the Provincial Land Use Policies and past MGB decisions.

Section 124 of the Act requires that the MGB's report to the Minister set out a recommendation as to whether the land should be annexed, and if it is recommending annexation, a description of the land to be annexed and whether there should be revenue sharing and any terms, conditions and other things the MGB considers necessary or desirable to implement the annexation. Section 124 also states that if the MGB does not recommend land be annexed that the report be provided to all local authorities who may be affected by the annexation recommendation.

As previously mentioned, there are no detailed criteria for evaluating annexation proposals, however, a few broad themes are consistently expressed in Division 6 of the Act to which the MGB must give consideration in their deliberations on the Airdrie annexation proposals. These key themes include a significant emphasis on consultation with affected authorities, municipalities and landowners. Significant in this theme is the consultation and participation encouraged with landowners. Another major theme is the significant emphasis on an agreement or mediated solution between the affected municipalities, however, the emphasis on agreement between municipalities is not to the point of being the sole or determinative factor in a proposal. The MGB concludes that the Act purposefully sets broad parameters to ensure that the best interests of the municipalities, local authorities, landowners and the general public will be fully explored.

In order to investigate, analyze and make findings about the annexation, the MGB must test the evidence and information in order to determine if the annexation is logical and beneficial and to determine the probable effect on local authorities and the residents of the area. Because there are no principles, standards or criteria to test the proposal, the MGB has turned to the Planning Part of the Act and the Provincial Land Use Policies for guidance. The MGB has also referred to a prior public decision of the MGB respecting an annexation proposal by the Town of Bow Island. This decision enunciated a few principles under the current Act. To a lesser extent, the MGB has also used the LAB decision referred to by the landowners, however, this matter was executed prior to the new Act. The MGB has used these decisions to analyze the Airdrie annexation because each of these decisions provides valuable direction for evaluation of urban growth concepts. Further, these decisions were before all the parties at the Airdrie hearing.

The Planning Part of the Act

In the MGB's opinion, land use matters involved in annexation must be viewed in light of section 617 of the Act. Section 617 states that the purpose of the planning part of the Act is to provide a means whereby plans and related matters may be prepared and adopted to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and to maintain and improve the quality of the physical environment with which patterns of human settlement are situated in Alberta, without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

The Alberta Land Use Policies

These policies do not make reference to annexation of territory from one municipality to another, however the policies encourage intermunicipal planning and cooperation, which are exercises directly related to annexation issues.

Some of the key policies relative to the MGB's review are:

- Section 2.0 of the Land Use Policies direct that planning activities are to be carried out in a fair, open, considerate and equitable manner. The policy goes on to say that municipalities are expected to allow meaningful participation in the planning process by residents, landowners, community groups, interest groups, municipal service providers and other stakeholders.
- Section 3.0 of the Land Use Policies fosters cooperation and coordination between neighbouring municipalities. In particular, adjoining municipalities are encouraged to cooperate in the planning of future land uses in the vicinity of their adjoining boundaries in a manner that does not inhibit or preclude appropriate long-term land use. Accordingly, the municipalities are encouraged to jointly prepare and adopt intermunicipal development plans.
- Section 4.0 of the Policies foster the establishment of land use patterns which make efficient use of land, infrastructure, public services and public facilities which promote resource conservation, enhance economic development activities, minimize environmental impact, protect significant natural environments and contribute to the development of healthy, safe and viable communities.
- Within section 4 of the Land Use Policies, policy number 3 encourages municipalities to establish land use patterns that contribute to a wide range or economic development opportunities, thereby enhancing local employment possibilities and promoting a healthy and stable economy.
- With respect to this latter policy the MGB accepts that the MD is a full partner and the MGB recognizes that the MD has developed economic development strategies that includes the targeting of certain areas in the MD for employment generators, in this specific case, the lands adjacent to the Airdrie Airport Industrial Park. The MGB is cognizant of this desire and examines this annexation proposal in light of that initiative.

The Town of Bow Island Annexation Proposal

In 2001, the MGB recommended refusal of an annexation by the Town to acquire territory from the County of Forty Mile. Because the Town had not prepared detailed reports to support the

annexation, the MGB refused the proposal. In its deliberations, the MGB took into consideration the technical details needed to justify annexation. The list includes the following:

- A demonstrated need for short and long term municipal growth, including expected population increases and the related land requirements.
- Assure that the annexation is environmentally sound and recognizes unique physical features.
- Support for annexation based on developed growth strategies; municipal development plans, including a study for upgrading and extending hard municipal services such as water and sewer and transportation services.
- Demonstration that the annexation is not solely for revenue acquisition.
- Demonstration that other public authorities are not negatively impacted or that the impacts can be reasonably mitigated.
- Demonstration that individual property owners do not suffer major impacts or steps can be taken to soften potential negative impacts.
- Clear demonstration that the annexing municipality is financially capable of accommodating the expected growth and a clear demonstration that the municipality losing territory is not severely impacted financially.

1989 Calgary Annexation Decision by the Local Authorities Board (LAB)

The MGB placed less weight on the 1989 annexation decision referred to by Melcor since this decision was prior to the new scheme of annexations now described in the current Act. In this particular annexation proposal, the LAB felt it necessary to express its opinion on the concepts that should be considered when attempting annexation. This expression of the LAB was made based on specific concerns raised owing to this particular proposal, however the theme is common for all boundary change proposals. The five points are:

- Firstly, the underlying question is whether the land is needed to permit uninterrupted growth and development.
- Secondly, whether the land is ripe for annexation by assessing how the existing stage of development might enhance or detract from the urban municipalities' future development.
- Thirdly, whether it is a rational time to make the boundary adjustments and if there is an immediacy of jurisdiction transfer.

- Fourthly, whether boundary adjustments are the best solutions or whether other alternatives, such as special intermunicipal agreements, can be used to accommodate an objective or meet the test of ripeness.
- Fifthly, whether one municipality can provide municipal services more efficiently or economically to the lands than another.

Analysis of Proposed Annexation Areas

The MGB has applied these tools to the Airdrie annexation in sector-by-sector analysis, as follows.

Annexation in the Northeast Sector

This area encompasses a high density country residential subdivision that was added into the annexation after the mediated agreement between the two municipalities. It was not illustrated to the MGB how this subdivision could be redesigned in such a manner that future re-subdivision and incorporation to urban standards would be a practical and economic exercise, or whether or not it would remain in the long term at its current density. Further, including Croxford would result in the eastern portion of the subdivision being isolated from the balance of the City. Access to part of this subdivision can only be attained through the MD. The MD itself admits that the area is so badly fragmented that it cannot be considered as agriculturally important.

Other country residential areas currently exist immediately adjacent to the current boundaries in the southeast and adjacent to the proposed annexation areas in the southwest. This was the only intensified country residential area included in the annexation proposal.

Inclusion of this area does not meet the following tests:

- Section 617 of the Act or section 4.0 of the Land Use Policies respecting the efficient use of land and infrastructure. Urban resubdivision and servicing the area may not be economically practical. There were no studies to illustrate how these areas could be serviced or intensified to urban densities or if they could remain at their current densities in the long term.
- Inclusion of this area does not meet the test in the Bow Island decision for support based on developed growth strategies. The Airdrie Growth Study does not include the Croxford Estates area.
- The area is already developed and inclusion of the Croxford Estates area does not provide Airdrie with additional land to meet its growth objectives.
- Two landowners in Croxford Estates objected to being included in the annexation.

The remainder of the lands in the northeast sector meet the required criteria.

Annexation in the East Sector

As a result of the annexation agreement, a half section of land was included in the annexation proposal on the east side of the present Airdrie boundary, immediately south of Irricana Road. While the northerly quarter section of the area received a moderate to high rating for annexation potential (Airdrie Growth Study), the southerly quarter section received a low rating owing to its inaccessibility from existing roads, the costs involved in extending municipal services and the close proximity of multi-lot country residential subdivision. While this area would add to the industrial land base for the City, it would not be practical to develop the area any time soon. The Farries land adjacent to Highway 2 is also proposed for industrial development and is readily available for servicing. Further, the Airdrie Growth Study indicated that the land along Highway 2 is sufficient to meet the 30-year land requirement envisaged by the City.

Inclusion of this area does not meet the following tests:

- Section 4.0 of the Land Use Policies fosters the efficient use of land and infrastructure. There is no infrastructure available to provide economical and early servicing to this area. Other land in the southeast annexation area will accommodate the City's 30-year land need for industrial development.
- Inclusion of this area does not meet the criteria in the Bow Island decision as there is no demonstrated need for the short and long term municipal growth at this location. Municipal development plans do not include upgrading hard municipal services to this area owing to the high costs involved.
- There is no demonstration that the land is needed to permit uninterrupted growth and development.

Annexation in the Southeast Sector

As a result of the annexation agreement, two large areas of land were excluded from the annexation proposal (Melcor and Chitwood). These lands received a high rating in the Airdrie Growth Study for potential annexation. The lands are readily serviceable to urban standards and can be developed as 'whole communities', a major objective of future planning. These lands fall into a natural drainage pattern area allowing for economical servicing from the existing infrastructure, according to the Airdrie Growth Study.

Well over 600 residential property owners north and south of the Melcor and Chitwood property support the annexation of these lands. The support was given because the residential property owners would be assured that these lands would also be developed for residential purposes. If the land remained in the MD, the ultimate developments could be for conflicting industrial land uses. The MGB places less weight on this argument since the land use pattern north of Big Springs, Meadowbrook and Thorburn is light industrial and has been incorporated in such a

fashion to ensure an acceptable transition from residential to industrial uses. These lands also take advantage of the current highway interchange thus reducing the costs of any additional and expensive future upgrades.

The M.D. points out that it needs to protect its interests for locating industrial development in the Highway 2 corridor and options for locating industrial development suitable for rural areas. The MD already promotes and approves industrial development at the Airdrie Airport Industrial Park just 1.5 miles east of Airdrie on Yankee Valley Road. This is just one of 11 major industrial notes within the MD. With respect to concerns about development along Highway 2 between Calgary and Airdrie, the MGB notes that the protection is still in place whether or not the annexation is approved in accordance with the agreement or in accordance with "Growth Option B". The annexation lands adjacent to Highway 2 are the same in both annexation scenarios.

In addition the MGB did not hear any evidence from the MD that is planning any obnoxious industry at the Airdrie Airport that could result in major land use conflicts. The MGB is satisfied that the goal of the MD to develop industrial land uses around the Airdrie Airport and the residential development within this area can be planned in such a fashion as to provide buffers for an appropriate transition of land uses such that both can co-exist. This can be accomplished through the anticipated joint planning exercises proposed by both municipalities.

Inclusion of Melcor/Highview and Chitwood land meets all the tests in the Act, the Land Use Policies, and the Bow Island report. Of importance are the following tests:

- In accordance with the Act, annexation of these lands will provide for orderly, economical and beneficial development and use of land. The lands are readily serviceable and form an extension of residential development from existing residential development presently adjacent and inside the Airdrie boundary.
- It is clear there is a demonstrated need for growth as identified in the Growth Study. The City is financially capable of accommodating the proposed development of this site and there is no severe financial impact to the M.D. since the subject lands are presently assessed and taxed as farmland. (Reference to Bow Island decision)
- The subject lands are ripe for annexation as development would be immediate and the City is the only municipality able to provide urban municipal services such as water and sewer, more efficiently and effectively than the MD.
- Landowners in the area are strongly supportive of the lands being annexed and serviced by the City.

The MGB finds inclusion of the Melcor and Chitwood lands helps balance the residential components of land use in East Airdrie.

Annexation in the Southwest Sector

The MGB supports the addition of the half-section of land in this sector. This half-section was included in the annexation agreement but was not included in “Growth Option B” other than identifying the area as potential residential beyond the 30-year land needs of the City. In determining the suitability of this site, the MGB referred to the Airdrie Growth Study and noted that this half-section rates as a high potential for annexation and serves to balance the long-term residential growth needs for the western part of the City.

Part VII Recommendations and Reasons

Key Alternatives

The Minister and LGC are neither bound by the recommendation of the MGB nor by the annexation agreement reached between the City and the MD. Based on the information and evidence supplied by all the parties, the MGB sees two major alternatives available for consideration by the Minister and LGC.

Alternative 1 Annexation Approval According to the Agreement

The main benefit of approving annexation in accordance with the agreement is that it supports the mediated settlement between the two municipalities and demonstrates cooperation between municipalities. It places a mediated settlement and agreement as the primary criteria for annexation.

The main drawback of approving annexation solely in accordance with the agreement is that it gives no consideration to the desires and input of landowners, does not provide for a complete examination of all the economic, physical, environmental, financial and land use plans for the proposed annexation.

Alternative 2 Annexation Approval According to the MGB’s Recommendation

The main benefit of approving annexation in accordance with the recommendation is the recognition of the technical efficiencies for future growth as outlined in the Airdrie Growth Study and the more cost efficient method of providing urban infrastructure. This can be accomplished within the framework of intermunicipal co-operation.

The main drawback of approving annexation in accordance with the recommendation is that it does not completely recognize the mediated settlement developed by the City and the MD.

MGB Recommendation

The MGB recommends that the annexation be implemented based on the lands shown in “Growth Option B” with the modification of including a half section of land in the southwest sector. This modification recognizes an area that was included in the mediated settlement and is recognized in the growth study as an area with high future development potential.

Findings

1. The City is a rapidly growing community with expected rapid future growth. The population projections and projected land needs of upwards of 2,400 acres were unchallenged and appear reasonable.
2. The lands included within the annexation agreement between the two municipalities does not fully consider the impacts on property owners and the impact on the efficient, effective and economical use of existing services. The annexation of any surrounding country residential areas is premature and not supported by substantive growth studies.
3. The lands included in “Growth Option B”, with a minor modification, best meet the greater public interest.
4. The economic development strategies of the MD at the Airdrie airport can be achieved despite the annexation in the southeast sector. The option of economic development compatible with the airport is not compromised by the annexation of the Melcor/Chitwood properties.
5. The option of the MD to consider economic development south of the City is not compromised by the recommended annexation.
6. “Growth Option B”, as modified, represents a logical extension of existing land use patterns and maximizes the use of the existing city services.
7. “Growth Option B”, as modified, maximizes the use of the existing Highway 2 interchanges and reduces the demand for additional interchanges.
8. The loss of the good quality of agricultural land is minimized and no unique environmental features are impacted.
9. There is a minimal loss of revenue producing property to the MD. Loss of revenue can be recognized in conditions of annexation.
10. “Growth Option B”, as modified, better considers the interests of impacted landowners.
11. “Growth Option B”, as modified by the MGB, is based on the sound foundation of a comprehensive growth study.

Reasons

Overview

The MGB is satisfied that the rapid growth experienced by the City and the economic and population projections result in a demonstrated need for additional lands to be brought within the

jurisdiction of the City. It is clear that this annexation will meet short, medium and long term land needs. The MGB is also satisfied that the City has the financial and administrative capabilities to effectively manage these lands with full consideration for urban infrastructure.

The lands included within the recommendation are logical extensions of established land use patterns and maximize the utilization of the existing capacity of major infrastructure such as highway interchanges, local roadways and major trunk servicing. The recommended areas are not impacted in any significant way by environmental constraints, existing sour gas facilities, or the Airdrie or Calgary Airports. The lands being annexed, although having agricultural value, are lands of lesser capability or lands with productivity limitations or location disadvantages for farming operations.

The lands being considered for annexation are large enough areas to permit for overall neighborhood planning and take strategic advantage of highway exposure and controlled access. These are high priority principles expressed by the City. The annexation proposal is not a tax grab and does not focus on lands generating extensive MD revenues. On the contrary, it represents a logical extension of the boundaries of the City.

The recommended annexation areas better incorporate the desires and initiatives of private landowners. The MGB heard that a number of landowners did not support the annexation either because they were going to be included in, or excluded from the annexation. The input of individual landowners is a significant consideration in the process as is illustrated by careful examination of the purpose section in the planning part of the Act and the numerous reference to public consultation in the annexation part of the Act.

Meeting the Objectives the City and the MD

There will be those who are critical of the fact that the MGB did not solely accept the annexation agreement between the City and MD, however, the supporting rationale for the agreement was insufficient to outweigh the interests of landowners and the effective and efficient provision of services. In today's world of scarce financial resources, the effective, efficient, and economical use of existing infrastructure must receive considerable weight. The exclusion of the Melcor/Chitwood lands in the southeast sector does not facilitate the use of the existing infrastructure in the short term planning horizon.

For the most part, this recommendation builds on the majority of the lands included in the annexation agreement between the two municipalities. Thus, their joint efforts are applauded and still form a solid foundation for future endeavors.

The MGB appreciates the diverse and common interests of the City and the MD. The MGB gave careful consideration to the strategic interest of the MD to develop economic development nodes and to diversify its economic base. In the MGB's opinion, the recommended annexation does not

extend significantly toward the south along Highway 2, therefore, the MD is not precluded from exercising its option to development in this area.

The major issue resulting from the annexation agreement is the determination of the inclusion or exclusion of the Melcor/Chitwood lands. The MGB examined this area with considerable care. The MGB looked carefully to the desire of the MD to develop compatible industrial development around the Airdrie Airport and the relationship to the Melcor/Chitwood area. It is in the interest of the M.D., the City and the province whole to ensure the efficient use of existing transportation infrastructure while minimizing potential land use conflict. The MGB heard no evidence that obnoxious industry would be developed at the Airdrie Airport and that high density residential development could occur in the Melcor/Chitwood area. The MGB believes that these two uses can exist in the vicinity, with buffers, resulting in the most efficient use of the transportation infrastructure.

In fact the development of airport related industry or another employment generator in the vicinity of the City would be beneficial to City, as residents of the City could access nearby employment rather than being required to commute considerable more distance to other employment opportunities. At least residents would have an option. From a provincial perspective, the development of an employment node at the Airdrie Airport would also reduce the stress on Highway 2 created by commuter traffic.

Although it is not the role of the MGB to undertake the land use planning for the municipalities, the MGB is satisfied that there is sufficient distance between any employment node at the Airport and any future residential at Melcor/Chitwood to appropriately plan for a transitional buffer area. As well, the topography of the area acts as a separation of the two areas. The detailed planning is a challenge that can be left to the capable hands of the two municipalities and landowners in their future joint planning endeavors.

Other Considerations

Country Residential Areas

The MGB observes, with interest, the fact that only one country residential development (Croxford Estates) was considered in the annexation agreement as being considered to be included within the City. Currently there exist three major areas of country residential development surrounding the City, one area to the northeast, one area to the southeast on Yankee Valley Road and a cluster of country residential development east of Highway 2, south of the City all having similar location characteristics. The supporting Airdrie Growth Study provided little in depth analysis as to how any of these areas could be integrated into an urban fabric either in an intensified density or at their current densities. As a result, the MGB could see no benefit to an isolated action to include the Croxford Estates within the proposed City boundaries at this time.

Annexation Agreement

With respect to mediation, the MGB understands and appreciates the commitment made by the municipalities to resolve their differences through the mediation process. As stated earlier, the mediated agreement lacked a substantial rationale as to why it included some lands and excluded others.

The result of the mediation process did not appear to take into account the expansion of existing land use patterns, effective and efficient use of the capacity of existing infrastructure, logical extension of existing services, principles expressed in the Act the Provincial Land Use Policies and the previous decisions of the MGB. And most importantly, it failed to rationalize the input of the various landowners and their initiatives.

Although the Act prescribes that the mediation process only involve the affected municipal authorities, the provision of an open house may not be sufficient to fully allow the landowners to express their views towards the inputs for the mediated process. A public hearing may be more appropriate. The Act allows for joint hearings held by both Councils.

The Intermunicipal Plan

As stated earlier, the MGB finds the Airdrie/MD Joint Intermunicipal Plan deficient of substantive detail with respect to the vision of long-term land uses. It is through this level of detail, a long-term future land use map, that the affected landowners can provide effective input to the respective municipal Councils. If a long-term future land use map had been provided to the fringe area landowners prior to the annexation proposal, these landowners would have had ample time to provide quality input on which the Councils could base their resulting decisions. Rather than dealing with the conflict between certain landowners at the time of annexation, the earlier process would have good potential to resolve conflicts at a local level.

Annexation Details regarding Approval of "Growth Option B", as modified

The Effect on the Annexation Agreement

By recommending "Growth Option B" for annexation, the MGB is aware that the annexation agreement is changed. This does not mean that the pertinent provisions of the agreement go unrecognized in the MGB's recommendation for conditions of annexation. The MGB has included in Appendix C, conditions that reflect compensation to the MD and the continuation of assessment and taxation of the annexation lands in the same way as if the agreement were in place in full.

Conditions of Annexation for an Order in Council

Even if the annexation proceeds in accordance with the agreement, there are a number of items that cannot be included in the Order because certain provisions are not specific or refer to a future action that may or may not occur. For example, the provision in the annexation agreement respecting revenue sharing refers to specific land but indicates that the idea of revenue sharing is only agreed in principle. There is no value or formula attached. The same applies to the provisions for harmonizing visions for growth based on the hope for the establishment of joint planning areas and the establishment of joint commissions or appeal boards. Alberta Justice has advised the MGB that conditions of annexation in an Order in Council must be decisive through the direction of a mandatory action with a known result. It is not appropriate to add vague conditions of annexations into an Order in Council that would require the LGC to manage on a daily basis the intermunicipal affairs of the two municipalities.

Having stated this, the MGB recognizes that these provisions are valid in the agreement and express intent. There is no reason why the municipalities could not act on these provisions despite the fact there are no such conditions listed in the Order in Council.

It is the MGB's view that if the City and the MD truly wish to cooperate in matters of revenue sharing and joint planning, such agreements and plans can be achieved without a vague condition in the Order in Council.