

BOARD ORDER NO. MGB 071/10

FILE: AN07/STET/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 Stettler, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from County of Stettler No. 6.

BEFORE:

Members:

H. Kim, Presiding Officer
J. Acker, Member
L. Patrick, Member

MGB Staff:

R. Duncan, Case Manager

SUMMARY

After careful examination of the submissions from the Town of Stettler (Town), County of Stettler No. 6 (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.

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- (a) effective January 1, 2010, the land described in Appendix A and shown on the sketch in Appendix B is separated from The County of Stettler No. 6 and annexed to the Town of Stettler,
- (b) any taxes owing to The County of Stettler No. 6 at the end of December 31, 2009 in respect of the annexed land are transferred to and become payable to the Town of Stettler together with any lawful penalties and costs levied in respect of those taxes, and the Town of Stettler upon collecting those taxes, penalties and costs must pay them to The County of Stettler No. 6,

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- (c) the assessor for The County of Stettler No. 6 must assess the annexed land and the assessable improvements to it for the purposes of taxation in 2010,
- (d) taxes payable in 2010 in respect of the annexed land and any assessable improvements to it are to be paid to and retained by The County of Stettler No. 6, and
- (e) the assessor for the Town of Stettler must assess, for the purposes of taxation in 2011 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, 17th day of June 2010.

MUNICIPAL GOVERNMENT BOARD

(SGD.) L. Patrick, Member

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APPENDIX A

DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM THE COUNTY OF STETTLER NO. 6 AND ANNEXED TO THE TOWN OF STETTLER

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION THIRTY-ONE (31), TOWNSHIP THIRTY-EIGHT (38), RANGE NINETEEN (19) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF STETTLER.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION THIRTY-SIX (36), TOWNSHIP THIRTY-EIGHT (38), RANGE TWENTY (20) WEST OF THE FOURTH MERIDIAN NOT WITHIN THE TOWN OF STETTLER.

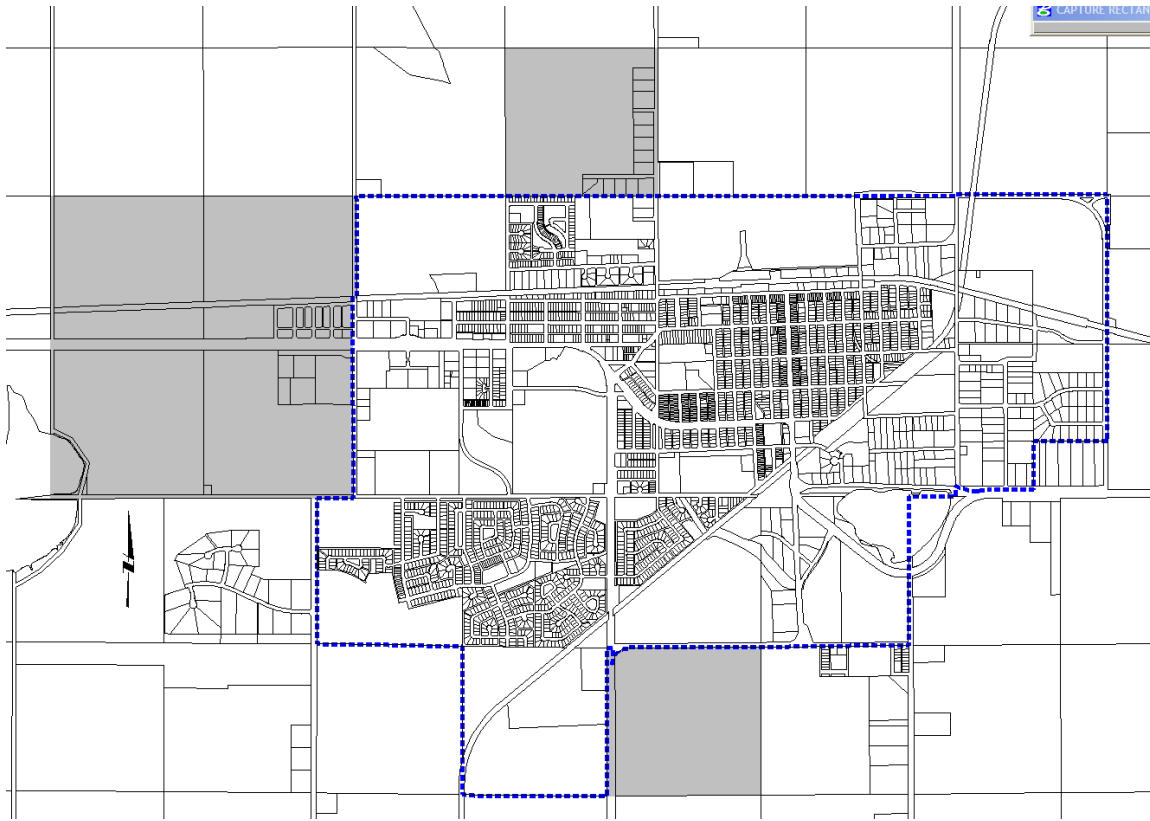
THE SOUTH HALF OF SECTION ONE (1), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY (20) WEST OF THE FOURTH MERIDIAN.

THE NORTH HALF OF SECTION ONE (1), TOWNSHIP THIRTY-NINE (39), RANGE TWENTY (20) WEST OF THE FOURTH MERIDIAN INCLUDING ALL THAT LAND ADJACENT TO THE EAST SIDE OF SAID HALF SECTION LYING WEST OF THE EAST BOUNDARY OF THE NORTH-SOUTH ROAD ALLOWANCE.

THE SOUTHEAST QUARTER OF SECTION SEVEN (7), TOWNSHIP THIRTY-NINE (39), RANGE NINETEEN (19) WEST OF THE FOURTH MERIDIAN INCLUDING ALL THAT LAND ADJACENT TO THE EAST SIDE OF SAID QUARTER SECTION LYING WEST OF THE EAST BOUNDARY OF THE NORTH-SOUTH ROAD ALLOWANCE.

APPENDIX B

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



Legend



Existing Town Boundary



Annexation Area

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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 the purposes of taxation in 2010 and in each subsequent year up to and including 2019, the annexed land and the assessable improvements to it

- (a) must be assessed by the Town of Stettler on the same basis as if they had remained in The County of Stettler No. 6, and
- (b) must be taxed by the Town of Stettler 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 The County of Stettler No. 6, or
 - (ii) the municipal tax rate established by the Town of Stettler,

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) becomes a residual portion of 16 hectares or less as the result of the creation of a parcel referred to in clause (a),
- (c) is redesignated at the request of, or on behalf of the landowner under the Town of Stettler Land Use Bylaw to a designation other than “agricultural” or “urban reserve”,
- (d) is provided with water and sewer services by the Town of Stettler pursuant to a local improvement tax bylaw at the request of or on behalf of the landowner, or
- (e) is connected to water or sewer services provided by the Town of Stettler,

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.

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4 After section 2 ceases to apply to the annexed land or any portion of it, the annexed land or portion and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other property of the same assessment class in the Town of Stettler is assessed and taxed.

5 The Town of Stettler shall pay to The County of Stettler No. 6 the amount of two hundred and sixteen thousand three hundred and ninety dollars (\$216,390.00) on or before July 30, 2010.

APPENDIX D

**MUNICIPAL GOVERNMENT BOARD REPORT
TO THE MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF STETTLER PROPOSED ANNEXATION OF
TERRITORY FROM THE COUNTY OF STETTLER NO. 6**

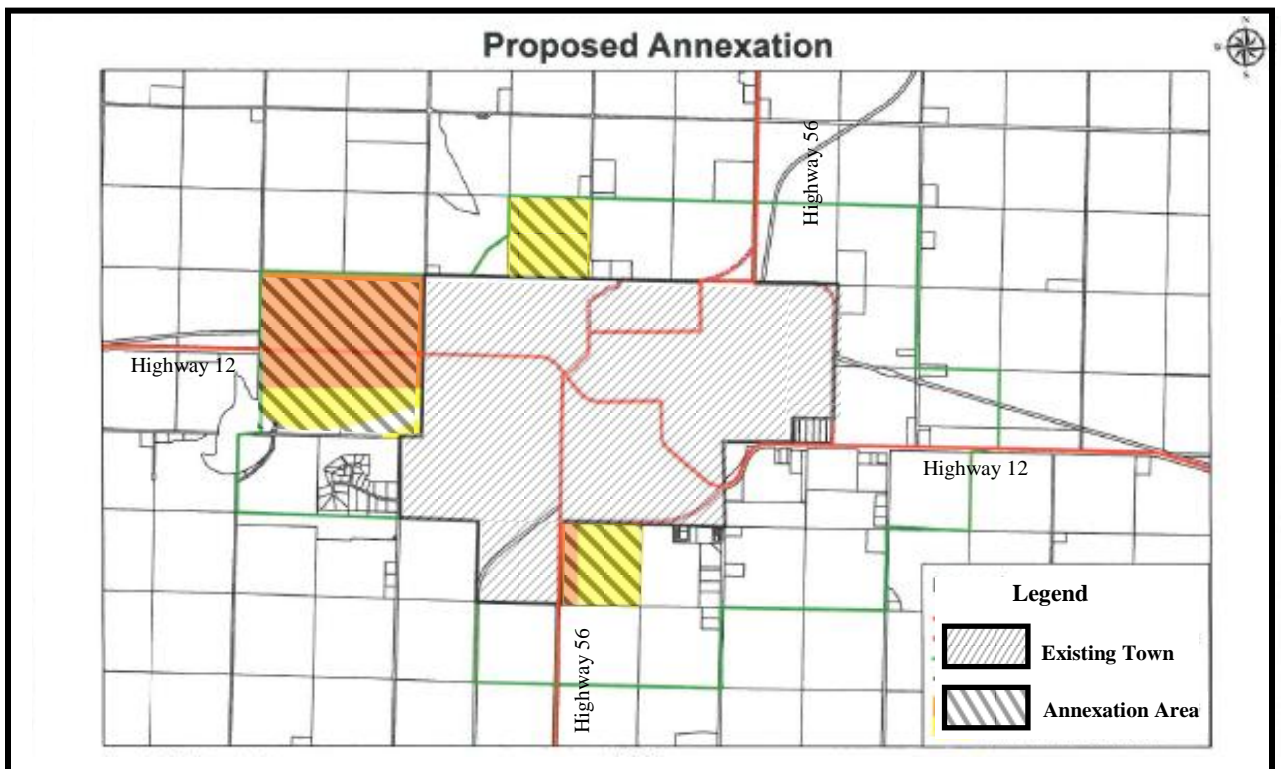
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Executive Summary

The Town of Stettler (Town) is located at the junction of Highways 12 and 56, approximately 80 kilometres east of the City of Red Deer. On April 6, 2009, the Municipal Government Board (MGB) received a notice from the Town to annex approximately 899 acres (363 hectares) of territory from County of Stettler No. 6 (County). Map 1 shows the proposed annexation area.

Map 1: Town of Stettler Proposed Annexation Area



Source: Town of Stettler Annexation Application

The Town contends that the proposed annexation will provide it with an estimated 40 year land supply for commercial and residential growth. Included in the annexation application is a Memorandum of Understanding (MOU) and a draft revised Intermunicipal Development Plan (IDP) between the Town and the County.

Objections Received

The MGB received a number of letters from affected landowners opposing the proposed annexation. In accordance with section 120(3) of the Act, the MGB held a public hearing on

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March 3, 2010 to receive information, evidence and argument on the annexation proposal. During the hearing the MGB received presentations from the Town, the County and two of the objecting landowners.

Recommendation

After reviewing all the written and oral submissions, the MGB recommends that the annexation be approved as applied for by the Town.

Reasons

The MGB finds that the purpose of the annexation and amount of land being requested by the Town is reasonable and that the concerns of affected landowners have been given proper consideration. The detailed analysis and reasons of the MGB are contained in Part VI of this report.

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Introduction

The Town of Stettler (Town) is located in central Alberta at the junction of Highways 12 and 56, approximately 80 kilometres east of the City of Red Deer. The Town filed its formal notice of annexation to the MGB pursuant to section 116 of the Act on April 6, 2009. The notice proposed the annexation of approximately 899 acres (363 hectares) of land from the County of Stettler No. 6 (County). On January 5, 2010, the Municipal Government Board (MGB) received the required Negotiation Report and application fee from the Town.

The documentation submitted by the Town to the MGB identified that some of the affected landowners objected to the proposed annexation; therefore, in accordance with section 120(3) of the Act, the MGB held a public hearing on March 3, 2010 to receive information, evidence and argument on the annexation proposal.

The following report has been divided into four parts. The first part outlines the role of the MGB in relation to annexations. The second part provides a brief overview of the Town's annexation application. The third part describes the hearing process and summarizes the March 3, 2010 public hearing. Part IV provides the MGB's recommendation and reasons. This report fulfills the MGB's annexation duties in accordance with the Act.

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

A municipality seeking annexation must first initiate the process, pursuant to section 116 of the Act, by giving written notice of the proposed annexation 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 being considered for annexation, set out the reasons for the annexation and include proposals for consulting with the public and meeting with the landowners. Once the notice has been given to the responding municipality, the two municipalities must negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve any outstanding issues.

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

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Once the report is submitted to the MGB and the initiating municipality asks the MGB to proceed, the report becomes the application for annexation pursuant to section 119 of the Act. If the MGB is satisfied that the affected municipalities and public are generally in agreement, the MGB notifies the parties of their findings and unless objections to the annexation are filed with the MGB by a specific date, the MGB will make its recommendation to the Minister without holding a public hearing.

If the MGB finds that an objection has been filed or there is no general agreement, the MGB must notify the parties of its finding and conduct one or more public hearings. The MGB may investigate, analyze and make findings of fact about the annexation. The MGB is then required to prepare a written report of its findings and recommendations for the Minister of Municipal Affairs. The Minister and the Lieutenant Governor in Council have the authority to accept in whole or in part or completely reject the findings and recommendations the MGB.

Part II Annexation Application

On January 5, 2010, the Town submitted the required negotiation report and requested the MGB to proceed with the annexation process. The application identified that this annexation request was the result of two years of effort by the Town and the County, in which the two municipalities were able to develop a Memorandum of Understanding (MOU) and a draft Intermunicipal Development Plan (IDP). The following summarizes the annexation application submitted by the Town.

Intermunicipal Cooperation

In 2007, the Town prepared a Growth Study. At that time the Town believed that this document would form the core of its new Municipal Development Plan (MDP) and provided the foundation for annexation discussions between the Town and the County. Unfortunately, the County disagreed with the content of the Growth Study. At that point the two municipalities entered into mediation and were able to develop a MOU. The MOU identified lands to be annexed to the Town. The two municipalities concur that the six quarter sections identified in the annexation application will enable the Town to achieve its growth objectives for the next 40 years. Moreover, the MOU identifies areas of growth for the County and can be used to help guide future planning efforts.

A revised IDP, currently in draft form, was prepared based on principals established in the MOU. The MOU and IDP form the basis of this annexation application. The development of these documents demonstrates the cooperative effort of the two municipalities to work together to serve the needs of their communities.

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Fiscal Accountability

The application identifies that the annexation will result in a 1.2% loss of assessment for the County and a 3.0% increase in assessment for the Town. The majority of the land in the annexation area is assessed as farmland or residential. The County is more reliant on non-residential assessment to generate its taxes. An analysis of the property taxes conducted by the Town concludes that the effect of the annexation on the County is minimal.

The two municipalities agreed that the Town will make a one-time payment to the County as compensation for infrastructure (service roads and upgrades completed by the County) within the Town's immediate growth area. The Town will not pay any other compensation to the County.

Conflicts between the Town and County have historically revolved around recreational funding. In return for not having to pay additional compensation, the Town agreed that the County's annual recreation contribution will be capped at the 2009 level for a period of ten years, when it will be revised to reflect inflation over the previous ten years. The County considered that having the amount of recreation contribution frozen for ten years was of significant benefit, while the Town recognized that the annexation lands (location and area) will significantly support its provision of recreation services.

The two municipalities have agreed that the Town will transfer the education tax revenues to be collected in the first year the annexation comes into effect to the County.

The annexation application identifies that the Town will make a one time payment of \$287,990 to the County as compensation for infrastructure the County has provided in the proposed annexation area. After the hearing, the Town and County reviewed this amount and, to be fair to both municipalities, reduced the infrastructure compensation to \$216,390.

Assessment and Taxation

The lands within the annexation are assessed as farmland, residential, non-residential, and machinery and equipment. The County has a lower tax rate for residential property, while the Town has lower tax rates for non-residential and farmland. The Town does not tax machinery and equipment.

The Town reviewed the effect of annexation on property taxes. Assuming unchanged tax rates from the 2009 value, upon which the MOU was based, the Town will collect almost \$30,000 less taxes from the annexed lands (based on 2008 assessment values) than was collected by the County in 2009, and the total taxes for the 18 properties within the annexation area will decrease.

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The Town and County will protect landowners from fluctuating tax rates. The Town will tax the annexed properties at the lower rate of the two municipalities for a period of ten years. When subdivision, development or redevelopment occurs, the lands will be taxed at the Town's tax rate. Farming operations are protected through the Town's Land Use Bylaw, which considers farming a permitted use within the Urban Reserve District.

Growth Projections

In lieu of providing growth projections based on historical data, the two municipalities have adopted a MOU in which the County recognizes that the Town requires land for commercial growth. The Town does have two quarter sections of land within its current boundary, but these lands are being farmed and are unavailable for development due to the current landowner's lack of interest in selling. The two municipalities believe that the Town's current available land plus the six quarter sections identified in the annexation application will provide the Town with a minimum inventory of 40 years for future commercial and residential growth at current densities. The Town's immediate need is for highway commercial land on Highway 12 on the west side, considered to be more desirable than land on the east side of Highway 12 or south (Highway 56).

The Town is making a conscious effort to diversify its tax base and is including in this annexation proposal a plan to annex significant lands for commercial and industrial pursuits. Mixed business areas will be concentrated to the west adjacent to Highway 12 and to the south adjacent to Highway 56. Residential development will be in three areas which are extensions to the existing residential areas. Unless otherwise agreed to by the Town and County, residential development in the Town's annexed lands will be urban lots of a maximum of one acre. The Town and County will ensure that adjacent, potentially incompatible land uses are spatially removed or visually and otherwise screened and functionally separated from each other.

The Town will provide the standards and proposed routes for its future arterial roads and utility trunk mains and the County will protect these rights-of-way in its land use documents. The two municipalities will also adopt similar design guidelines for mixed business development at the highway gateways.

As stated previously, the shared vision contained within the MOU identifies growth areas for both the Town and County. The Town will have six quarter sections by way of annexation and the County will have a growth area of approximately ten quarter sections.

Overview of Servicing

As part of the Growth Study, the Town undertook a servicing study that considers the provision of sanitary and water services to the lands adjacent to its current boundary. The MOU states that

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this study will be revised to reflect the agreed to annexation area and the proposed County growth area.

The water plant near the Red Deer River has sufficient capacity and the trunk lines are large enough to supply the regional water line east of Consort. Water lines will be extended from the existing neighbourhoods adjacent to the annexed lands.

New sewer trunk lines will have to be installed to service the annexation lands. These lines will provide enough capacity to service the entire annexation area.

Solid waste is handled by a regional landfill, located approximately eleven miles north of the Town. This facility has enough capacity to handle the Town's anticipated growth for many years.

Stormwater management plans for all annexed areas will be completed as part of an Area Structure Plan and/or as an update to the current stormwater management plan. There are existing natural drainage features in some of the areas that provide a framework for the development of the future drainage system.

The Town collects offsite levies when vacant lands are developed to cover the costs of shared infrastructure. This practice will continue as the annexed lands are developed to an urban standard.

The Town and County have agreed to develop services within the identified growth areas. The Town has an off-site levy bylaw for sewage treatment facilities that identifies a benefiting area, which includes lands within the County's growth area. The County agrees to collect from future developments the agreed-upon contributions towards the Town's off-site levies and pay those contributions to the Town as well as a portion of taxes received on such new developments.

Environmental Stewardship

The MOU identifies key environmental features that must be protected across municipal boundaries. It states that the Town and County will cooperate and collaborate in their efforts to protect sensitive environmental features. The draft IDP contained in the annexation application is based on the MOU and proposes to carry these concepts forward into policy.

Statutory Plans

The public consultation component of the annexation application was undertaken concurrently with the development of the draft IDP. During the mediation leading to the MOU, the Town agreed to withhold the adoption of its new MDP. The MOU states that the Town will finalize its new MDP based on the shared vision as expressed in the MOU.

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Affected Agencies

The Town circulated a copy of the letter initiating the annexation to all agencies required under the Act. Alberta Transportation (AT), in a letter dated February 4, 2010 stated that it has no objections to the proposed annexation. However, AT noted that when these areas are subdivided, Area Structure Plans that outline highway access will be required. AT expects the Town will be responsible for mitigating any effects that may occur from future developments and subdivisions that impact the provincial highway system.

There were no responses from any other affected agencies.

Public Consultation Process

There were three main target groups for the public consultation process: owners of land within the annexation areas, owners of properties neighbouring the annexation areas, and the general public. The consultation process consisted of publications, mail outs, public meetings, and meetings with individual landowners. The consultation activities undertaken by the Town are described below.

- A media release was issued to the local newspaper and radio station in February 2007 upon completion of the Town of Stettler's 2007 Growth Study. The media release provided background on the contents of the Growth Study and contact information for further details. Affected County residents were also sent an information package including a summary of the proposed boundary extension, a copy of the 2007 Growth Study, and details on upcoming landowner information sessions.
- In March 2007 the Town issued a media release regarding initiation of the annexation process and placed an advertisement in the local newspaper regarding an upcoming public meeting to present the 2007 Growth Study and proposed annexation. The public meeting held on March 14, 2007 attracted a large proportion of the affected landowners. The Town held two additional public meetings in March 2007 for those unable to attend the initial session.
- An information letter was mailed out to County residents within the proposed annexation area and the proposed IDP area identified in the Stettler Growth Study. This letter included a questionnaire and notified people of a public meeting to be conducted by the Reeve and County Council on March 28, 2007.
- Many of the landowners did not want to be annexed by the Town. Based on this input, the Town's annexation committee examined other options as it moved forward with its

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mediation with the County. As a result a number of boundary and land use changes were made to both the annexation and IDP fringe and referral areas.

- The County held another public meeting on June 27, 2007 to outline the final analysis of the growth study before entering into mediation. As a result of concerns raised, the annexation and IDP processes were addressed simultaneously.

Response from information session and objection letters

Following successful mediation, the Town and County formally signed the MOU on March 30, 2009. The Town held a landowner information session on April 16, 2009.

In summary, of the 43 parcels being annexed, a total of 36 property owners either did not respond or were in favour of the annexation. Twenty-six landowners did not respond. Five of the landowners in favour of the annexation requested conditions. Of the seven landowners that were opposed to the annexation, two requested conditions. See Table 1 below.

Table 1: Landowner Consent Summary

RESPONSE	Number
In Favour	5
In Favour Subject to Conditions	5
Opposed	5
Opposed Subject to Conditions	2
No Response	<u>26</u>
Total	<u><u>43</u></u>

Residents who were opposed to the annexation indicated particular concern over the Repp subdivision and the future land use designation of this area as Highway Commercial. This subdivision is located in the annexation area located on the west side of the Town. Issues raised also included the limitations that the future Highway Commercial land use will place on further residential development and the effect the annexation will have on the current municipal services provided for existing dwelling units within the subdivision. A number of issues raised related to changes that might come out of the new tax assessments and concerns over a substantial increase in taxes overnight. However, landowners were assured that a ten year window is provided where the lower of the two municipal tax rates would be utilized, unless land is developed.

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Part III Public Hearing

As a result of the objections contained in the annexation application submitted by the Town and in accordance with section 120(3) of the Act, the MGB held a public hearing on March 3, 2010 to receive information, evidence and argument on the annexation proposal. The following describes the hearing notification process and provides a brief summary of the submissions received by the MGB.

MGB Hearing Notification Process

On January 29, 2010, the MGB sent notification letters of the March 3, 2010 hearing to the landowners within the proposed annexation area. Also, in accordance with Section 122 of the Act, the MGB published hearing notices in the **Stettler Independent**, a local newspaper circulating in the affected area, the weeks of February 3 and 10, 2010. A total of 21 people attended the hearing. The Town and County made a joint presentation, and two landowner presentations were heard. Summaries of the oral and supplemental written submissions made to the MGB are provided below.

Submissions by Town and County

The presentations made by the Town and the County to the MGB at the hearing summarized the information contained in the annexation application. Both municipalities detailed the public consultation process and highlighted the MOU and draft IDP.

Landowner and Public Submission

Anne Swainston

Anne Swainston is landowner in the Repp subdivision on the north side of Highway 12 west of current Town limits, and has a home-based business. She had previously sent a letter on January 26, 2010 objecting to the annexation on the following points:

- The Town has requested too much land for their present or future needs. There has never been a map showing the existing vacant land in the Town. She feels the land on the west side of the Town should be deleted from the application.
- The growth of commercial and industrial land has been to the east, evidenced by the East Industrial Park and infrastructure already exists. The west side of the Town is residential.
- The Repp subdivision is zoned for mixed business. If included in the Town the residences will be non-conforming uses and additional structures such as a shed or garage will not

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be allowed. This will create hardship for all the residents, who will not get any benefit from annexation.

She requested that the Repp subdivision not be included in the annexation area.

Challenger Development Corporation

Challenger Development Corporation (Challenger) is a small private natural gas exploration and production company. This company holds the rights to a shallow gas pool that runs north-south under Section 1-39-20 W4M as well as title to the south west quarter of this section. Brent Hepfner, Challenger's General Manager, sent a letter on February 10, 2010 objecting to the proposed annexation, and made a presentation at the hearing.

During his presentation to the MGB, Mr. Hepfner stated his company would like their property excluded from the annexation area for the following reasons:

- Over the past 10 years, Challenger has made a substantial investment to develop and operate gas wells and associated pipelines. In 2007, Challenger purchased the south west quarter of Section 1 due to increasing difficulty in obtaining wellsite locations because of subdivision and development activity in the area. Challenger has two wells on this land in Legal Subdivision 3 and 4, along with connecting pipelines. The company's plans will require further wells, some located close to the highway right-of-way.
- Upon hearing of the annexation plans they made inquiries of the Town to determine what restrictions would be put in place if the annexation were to proceed. They were given the understanding that the Town would not allow further development of wellsites and pipelines within several hundred meters of Highway 12. This is unacceptable as depletion of the natural gas reserves will require further wells, located in accordance with the current normal highway setback of 60 metres. The gas is a shallow pool located within 250 to 300 metres and cannot be directionally drilled. It is sweet gas, not sour gas.
- The current economic climate does not support the immediate development of additional wellsites. It is imperative that Challenger be able to do so in the future when conditions improve, otherwise the financial impact on the company will be too great.

The annexation of this land is intended to accommodate 40 years of growth of the Town. Challenger would like to have their land excluded from the annexation. In the alternative, any annexation of their land should have conditions attached that will allow a 20 year period for development and depletion of the natural gas (five years for the gas industry to recover, five years to drill and 10 years to deplete the reserves) and a similar period before taxation increase on their facilities.

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Town Response

Repp Subdivision

The Town stated that it has limited highway commercial land within its boundary. This was made evident when it was unable to find land to relocate existing businesses. There are a number of oil-contaminated sites within the Town that can be remediated, but the cost associated with this is an issue. The vacant farmland within the Town is unavailable for development. The need to develop highway commercial to the west is due to desirability – there are 6,000 vehicles per day on the west side compared to 3,000 on the east side. The Town asserted that businesses want to locate where the traffic is.

The Repp subdivision is not a pure country residential subdivision. There are no less than five shops operating on the properties and a John Deere dealership is also located there. The service road in front of subdivision is not large enough to accommodate large trucks. The intent is to have mixed business zoning. As areas are rezoned, incompatible uses will become non conforming uses. The Town is committed to working with the landowners in this process. For example, the commercial area in East Stettler has old farmsteads that have been enveloped and have been zoned Direct Control to allow the existing uses to continue. However, the ultimate intent is for the area to be commercial.

The Town noted that to the south, on Hwy 56, there are four-acre and nine-acre parcels being subdivided for commercial/industrial uses. This annexation will bring in 100 acres to the Town for that purpose. North of the railway tracks, the sewage lagoon setback requirements restrict development.

The Town has traditionally been the developer of residential lands due to others being unwilling to take the risk. The annexed lands intended for residential uses are easily serviced by extending existing services. Existing private servicing will be allowed to continue as long as they meet code.

Challenger Development Corporation

The Town's long range plan is for an interchange at the east side of the quarter section owned by Challenger and this land is necessary to implement the strategy. Further, it would be costly to leapfrog development over this quarter section. The Town recognizes the landowner's requirements and is committed to working with Challenger to allow the company to develop their lands within the framework for the future land use concept. The reserves are sweet gas, not sour gas; therefore drilling sites for gas wells could be incorporated into an Area Structure Plan without onerous setback requirements.

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In summary, the Town stated that it is prepared to work with the landowners to alleviate their concerns.

County Response

The County did not provide a response.

Part IV MGB Recommendation

The MGB recommends that the annexation of the area be approved as requested with an effective date of January 1, 2010.

Part V Reasons

After reviewing the documentation provided, as well as hearing the presentations by the objecting landowners affected by the proposed annexation, the MGB finds the annexation application to be reasonable and the area requested to be supported by the documentation submitted and oral presentations by the Town and the County. The MOU and draft IDP are the result of a high level of cooperation between the municipalities, in accordance with the Provincial Land Use Policies (PLUP), and should be encouraged.

The intent of the PLUP is for two or more municipalities to work cooperatively on planning matters and to develop processes that will allow them to do this effectively. The Town and the County have successfully demonstrated the ability to discuss and collaborate on a variety of issues that affect municipal growth including diversification, environmental stewardship and servicing issues that will impact the Town and surrounding areas.

The MGB acknowledges the extensive efforts that both municipalities have demonstrated in addressing the concerns expressed by the landowners affected by the proposed annexation during the public consultation. This includes the intention to protect landowners from fluctuating tax rates through the taxation of the annexed properties based on the lower rate of the two municipalities for a period of ten years. In addition to affected landowners, government departments and agencies were informed of the annexation. The hearing notification required by the Act also allowed individuals from the public to bring their concerns regarding the proposed annexation forward to be heard by the MGB.

The Town has demonstrated the need for Highway Commercial land based on the current volume of traffic flowing through the west side and has satisfied the MGB that the existing amount of land within the Town's limits is inadequate. The prime area for Highway Commercial is the land to the west of the Town on Highway 12. All of the landowners objecting to the

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annexation are within this area; however, to remove those lands from this annexation would negate the efforts of the Town and County in arriving at their agreed plan for mutual growth and remove the primary rationale for this annexation application. The MGB is satisfied that the annexation of the six quarter sections will likely provide the Town a minimum of 40 years of land base for commercial and residential growth.

The MGB acknowledges that the two municipalities have agreed to reduce the amount of the compensation to be paid by the Town to the County for infrastructure within the annexation area from \$287,990 to \$216,390. The MGB also acknowledges that in lieu of revenue sharing, the County's recreation requisition will be capped for a period of ten years. The MGB places a great deal of weight on the agreement reached by the two municipalities and, therefore, finds that the financial arrangements contained in the annexation application will not unduly burden either municipality

The MGB considered the objection brought forward by Ms. Swainston and her request for the Repp subdivision to be excluded from the annexation. However, the MGB accepts the Town's submission that it will work with the landowners to allow existing uses to continue and will attempt to minimize the impact of the proposed annexation. The Repp subdivision as it currently exists is not purely residential. The parcels in this subdivision are relatively large and compatible commercial uses could be introduced in a transitional basis.

The MGB also accepts the Town's submission that it would accommodate gas field development by Challenger Development Corporation through the incorporation of this land in a future Area Structure Plan. The MGB does not believe the landowner would be unduly affected should the land be in demand for highway commercial before gas prices recover. At such point it would be a business decision on the part of the landowner whether to subdivide and sell or continue holding the land for future gas development. In the mean time, the landowner would benefit from the Town's lower tax rate on non-residential and farmland as well as not being taxed on machinery and equipment. The 10 year assessment and taxation conditions are reasonable and provide sufficient transitional time for affected landowners.

Summary

The MGB finds that the Annexation Agreement meets the criteria of outlining conditions that are certain, enforceable, and time specific. The annexation application presented, along with the testimony of the Town and County, indicates that the criteria for annexation are met. As such, the MGB recommends approval of the proposed annexation with an effective date of January 1, 2010.