

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/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 City of Calgary, 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:

R. Scotnicki, Presiding Officer
T. Golden, Member
R. Strauss, Member

Case Managers:

G. Dziwenka
D. Hawthorne

After careful examination of the submissions from the City of Calgary (City), the Municipal District of Rocky View No. 44 (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.

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- (a) effective January 1, 2007, the land described in Appendix A and shown on the sketches in Appendix B is separated from the Municipal District of Rocky View No. 44 and annexed to the City of Calgary,
- (b) any taxes owing to the Municipal District of Rocky View No. 44 at the end of December 31, 2006 in respect of the annexed land are transferred to and become payable to the City of Calgary together with any lawful penalties and costs levied in respect of those taxes, and the City of Calgary upon collecting those taxes, penalties and costs must, in accordance with Appendix C, pay them to the Municipal District of Rocky View No. 44,

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

- (c) despite the effective date set out in clause (a),
- (i) for the purposes of taxation in 2007, the Municipal District of Rocky View No. 44 must assess and tax the annexed land and the assessable improvements to it,
 - (ii) upon receipt of the 2007 taxes for the annexed land, the Municipal District of Rocky View No. 44 must transfer the taxes to the City of Calgary,
 - (iii) any 2007 taxes owing at the end of December 31, 2007 in respect of the annexed land become payable to the City of Calgary together with any lawful penalties and costs levied in respect of those taxes, calculated in accordance with the applicable 2007 tax penalty bylaws of the Municipal District of Rocky View No. 44, and
 - (iv) any 2007 assessment complaints in respect of the annexed land received by the City of Calgary or the Municipal District of Rocky View No. 44 remain with the Municipal District of Rocky View No. 44 Assessment Review Board, and
- (d) the assessor for the City of Calgary must assess, for the purpose of taxation in 2008 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, on the 4th day of July 2007.

MUNICIPAL GOVERNMENT BOARD

(SGD.) G. Thomas, Chairman
for R. Scotnicki, Presiding Officer

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

APPENDIX A

**DETAILED DESCRIPTION OF THE LANDS
SEPARATED FROM THE MUNICIPAL DISTRICT OF ROCKY VIEW NO. 44
AND ANNEXED TO THE CITY OF CALGARY**

WITHIN TOWNSHIP TWENTY-TWO (22), RANGE TWENTY-EIGHT (28), WEST OF THE
FOURTH MERIDIAN

SECTIONS EIGHTEEN (18), NINETEEN (19), THIRTY (30), THIRTY-ONE (31),
AND ALL THAT PORTION OF SECTION SEVEN (7) LYING NORTH OF THE
LEFT BANK OF THE BOW RIVER.

WITHIN TOWNSHIP TWENTY-TWO (22), RANGE TWENTY-NINE (29), WEST OF THE
FOURTH MERIDIAN

SECTIONS THIRTEEN (13), TWENTY-FOUR (24), TWENTY-FIVE (25), THIRTY-
SIX (36), AND ALL THAT PORTION OF SECTION TWELVE (12) LYING NORTH
OF THE LEFT BANK OF THE BOW RIVER.

WITHIN TOWNSHIP TWENTY-THREE (23), RANGE TWENTY-EIGHT (28), WEST OF
THE FOURTH MERIDIAN

SECTIONS SIX (6), SEVEN (7), SEVENTEEN (17), EIGHTEEN (18), NINETEEN
(19), TWENTY (20), AND THE WEST ONE-HALF OF SECTION EIGHT (8);

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION EIGHT (8)
LYING NORTH OF RAILWAY PLAN RW30;

THE NORTHWEST QUARTER OF SECTION FIVE (5);

ALL THAT PORTION OF BLOCK C, PLAN 628LK, WITHIN THE SOUTHWEST
QUARTER OF SECTION FIVE (5) INCLUDING UTILITY R/W U-D PLAN 628LK
NORTH OF THE BOUNDARY BETWEEN BLOCK C AND BLOCK B OF SAID
PLAN.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

WITHIN TOWNSHIP TWENTY-FOUR (24), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN

SECTIONS SEVEN (7), EIGHT (8), SEVENTEEN (17), AND EIGHTEEN (18);

THE NORTH ONE-HALF OF SECTIONS FIVE (5) AND SIX (6);

THE SOUTH ONE-HALF OF SECTIONS NINETEEN (19) AND TWENTY (20).

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

SECTIONS TWO (2), THREE (3), FOUR (4), FIVE (5), SIX (6), EIGHT (8), NINE (9), TEN (10), ELEVEN (11) AND THE EAST ONE-HALF OF SECTION SEVEN (7);

ALL THAT PORTION OF SECTION ONE (1), LYING WEST OF ROAD PLANS 7598JK AND 763LK AND ALL THAT PORTION WEST OF A LINE DRAWN BETWEEN THE SOUTHWEST CORNER OF THE NORTHERLY PORTION OF PLAN 7598JK AND THE NORTHWEST CORNER OF THE SOUTHERLY PORTION OF PLAN 7598JK WHICH ARE ADJACENT TO RAILWAY PLAN 871JK;

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION TWELVE (12) LYING WEST OF ROAD PLAN 763LK;

THE WEST ONE-HALF OF SECTION TWELVE (12).

WITHIN TOWNSHIP TWENTY-SIX (26), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN

SECTION ONE (1) EXCEPTING THEREOUT THE NORTHERLY 100.58 METRES (330 FEET) LYING EAST OF THE WESTERLY 20.12 METRES (66 FEET) IN THE NORTHEAST QUARTER SECTION AS DESCRIBED IN CERTIFICATE TITLE NUMBER 981 272 818;

SECTION TWO (2) EXCEPTING THEREOUT SUBDIVISION PLAN 0010079 WITHIN THE NORTHEAST QUARTER SECTION;

SECTION THREE (3).

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

WITHIN TOWNSHIP TWENTY-FIVE (25), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN

THE WEST ONE-HALF OF SECTION SIX (6);

ALL THAT PORTION OF THE EAST ONE-HALF OF SECTION SIX (6) LYING NORTH OF THE RIGHT BANK OF THE BOW RIVER AND NOT SHOWN WITHIN THE CITY OF CALGARY LIMITS PRIOR TO THE EFFECTIVE DATE OF THIS ORDER IN COUNCIL;

ALL THAT PORTION OF THE BOW RIVER LYING EAST OF THE EAST ONE-HALF OF SECTION SIX (6) AND NOT SHOWN WITHIN THE CITY OF CALGARY LIMITS PRIOR TO THE EFFECTIVE DATE OF THIS ORDER IN COUNCIL;

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION SEVEN (7) LOCATED WITHIN PARCEL D, PLAN 5126JK;

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION SEVEN (7) LOCATED WITHIN BLOCK 1, PLAN 9010497.

WITHIN TOWNSHIP TWENTY-FIVE (25), RANGE THREE (3), WEST OF THE FIFTH MERIDIAN

ALL THOSE PORTIONS OF SECTIONS ONE (1), TWELVE (12) AND FOURTEEN (14) LYING NORTH AND EAST OF THE LEFT BANK OF THE BOW RIVER (BEARSPAW RESERVOIR);

ALL THAT PORTION OF SECTION THIRTEEN (13) LYING NORTH AND EAST OF THE LEFT BANK OF THE BOW RIVER (BEARSPAW RESERVOIR) AND LYING WEST OF BLOCK 1, BLOCK R1 AND BLOCK 2 IN SUBDIVISION PLAN 7410769, AND LYING WEST OF THE FOLLOWING IN SUBDIVISION PLAN 7410769:

A STRAIGHT LINE FROM THE SOUTHWEST CORNER OF LOT 6 TO THE WEST CORNER OF LOT 7 IN BLOCK 1;

A STRAIGHT LINE FROM THE SOUTHWEST CORNER OF LOT 12 TO THE NORTH CORNER OF LOT 15 IN BLOCK 2;

A STRAIGHT LINE FROM THE SOUTH CORNER OF LOT 19 TO THE NORTHWEST CORNER OF LOT 21 IN BLOCK 2.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

WITHIN TOWNSHIP TWENTY-FOUR (24), RANGE TWO (2), WEST OF THE FIFTH MERIDIAN

ALL THAT PORTION OF BLOCK 2, PLAN 7510024 WITHIN THE NORTHEAST QUARTER OF SECTION THIRTY (30);

THE WEST HALF OF SECTION THIRTY-ONE (31).

WITHIN TOWNSHIP TWENTY-FOUR (24), RANGE THREE (3), WEST OF THE FIFTH MERIDIAN

THE EAST ONE-HALF OF SECTION THIRTY-SIX (36).

ALL INTERVENING AND ADJOINING GOVERNMENT ROAD ALLOWANCES AND GOVERNMENT ROAD ALLOWANCE INTERSECTIONS, HIGHWAY PLANS AND ROAD PLANS, EXCEPTING THEREOUT THE FOLLOWING:

THAT PORTION OF THE GOVERNMENT ROAD ALLOWANCE (RANGE ROAD 285) AND ALL ROAD WIDENINGS ADJOINING THE EASTERN BOUNDARIES OF SECTIONS SEVEN (7), EIGHTEEN (18), NINETEEN (19), THIRTY (30) AND THIRTY-ONE (31), ALL WITHIN TOWNSHIP TWENTY-TWO (22), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN;

THAT PORTION OF GOVERNMENT ROAD ALLOWANCE INCLUDING ROAD PLAN 1400LK (HIGHWAY 560) AND THE SERVICE ROAD WITHIN SUBDIVISION PLAN 7510318 LYING ADJACENT TO THE NORTHERN BOUNDARY OF SECTIONS NINETEEN (19) AND TWENTY (20), ALL WITHIN TOWNSHIP TWENTY-THREE (23), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN;

THAT PORTION OF THE GOVERNMENT ROAD ALLOWANCE (RANGE ROAD 284) ADJOINING THE EAST BOUNDARIES OF SECTIONS EIGHT (8), SEVENTEEN (17), AND TWENTY (20), ALL WITHIN TOWNSHIP TWENTY-THREE (23), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN;

THAT PORTION OF THE GOVERNMENT ROAD ALLOWANCE (RANGE ROAD 285), ADJOINING THE WEST BOUNDARY OF THE SOUTHWEST QUARTER OF SECTION FIVE (5), TOWNSHIP TWENTY-THREE (23), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN, EXCEPT THAT PORTION OF THE SAID ROAD ALLOWANCE LYING WEST OF BLOCK C, PLAN 628LK IN THE SAID QUARTER SECTION;

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

THAT PORTION OF THE GOVERNMENT ROAD ALLOWANCE (RANGE ROAD 284), ADJOINING THE EAST BOUNDARY OF THE NORTHEAST QUARTER OF SECTION FIVE (5), SECTIONS EIGHT (8) AND SEVENTEEN (17), AND THE SOUTHEAST QUARTER OF SECTION TWENTY (20), ALL WITHIN TOWNSHIP TWENTY-FOUR (24), RANGE TWENTY-EIGHT (28), WEST OF THE FOURTH MERIDIAN;

THAT PORTION OF THE GOVERNMENT ROAD ALLOWANCE (HIGHWAY 566) LYING ADJACENT TO THE NORTH BOUNDARY OF THE NORTHEAST QUARTER OF SECTION SEVEN (7) AND ADJACENT TO THE NORTH BOUNDARIES OF SECTIONS EIGHT (8) AND NINE (9), ALL WITHIN TOWNSHIP TWENTY-SIX (26), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN;

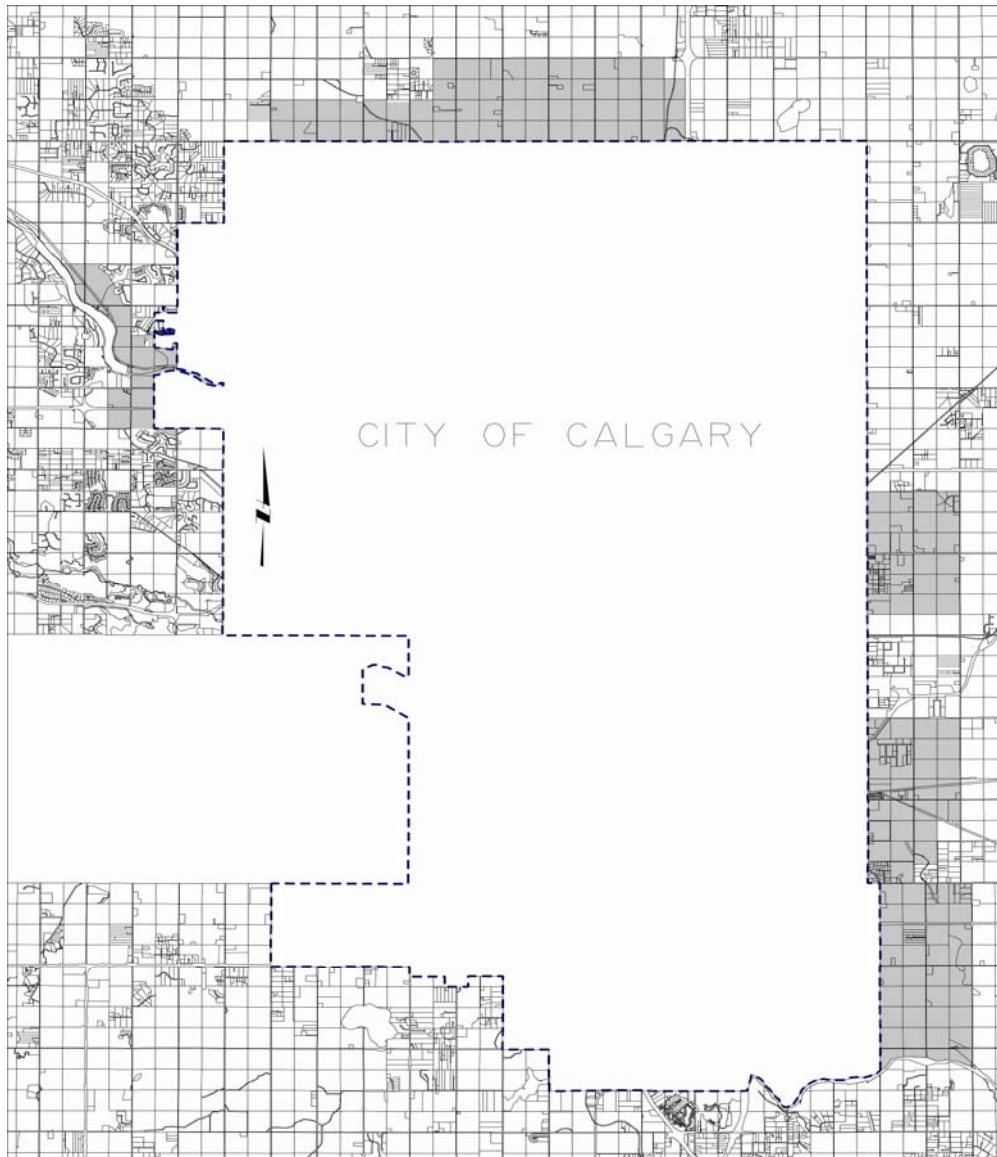
THAT PORTION OF THE GOVERNMENT ROAD ALLOWANCE AND ROAD PLAN 8210192 (HIGHWAY 566), LYING ADJACENT TO THE NORTHERN BOUNDARIES OF SECTIONS TEN (10), ELEVEN (11), AND THE NORTHWEST QUARTER OF SECTION TWELVE (12), ALL WITHIN TOWNSHIP TWENTY-SIX (26), RANGE ONE (1) WEST OF THE FIFTH MERIDIAN;

THE ROAD ALLOWANCE AND THOSE PORTIONS OF ROAD PLANS 3461JK, 5738K AND 6162BM LYING SOUTH OF THE SOUTHEAST QUARTER OF SECTION THIRTY-SIX (36), TOWNSHIP TWENTY-FOUR (24), RANGE THREE (3), WEST OF THE FIFTH MERIDIAN.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

**APPENDIX B
A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS
ANNEXED TO THE CITY OF CALGARY**

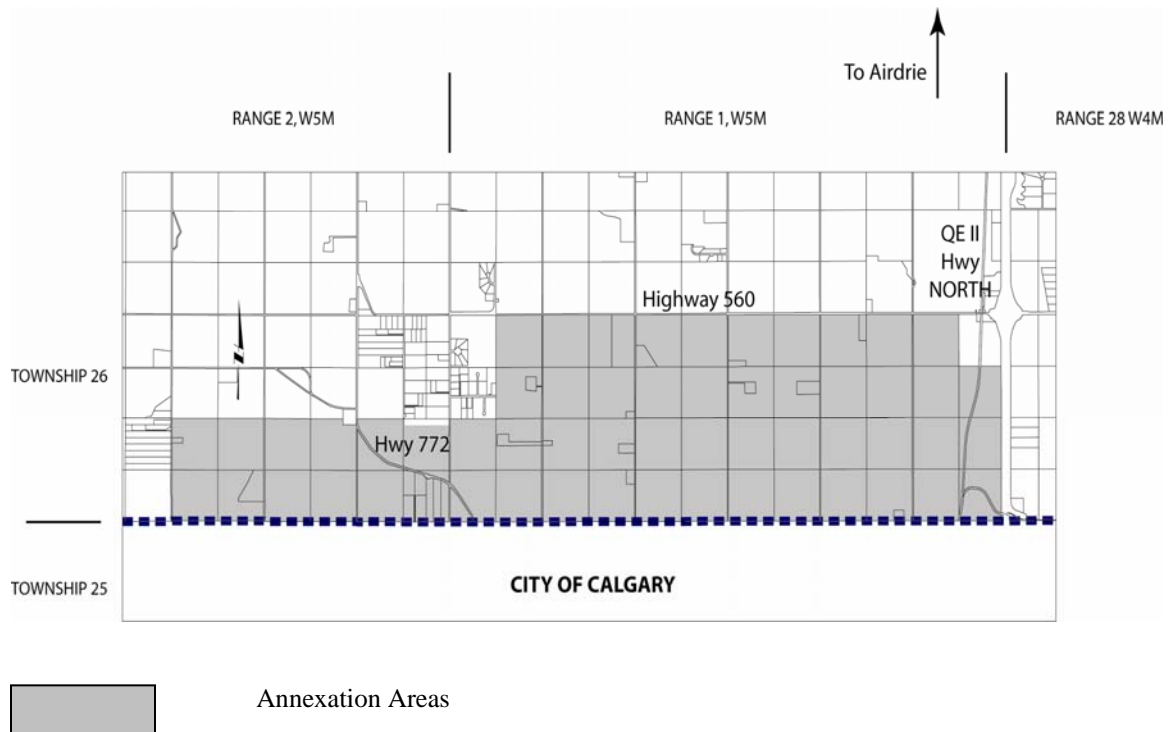


Annexation Areas

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

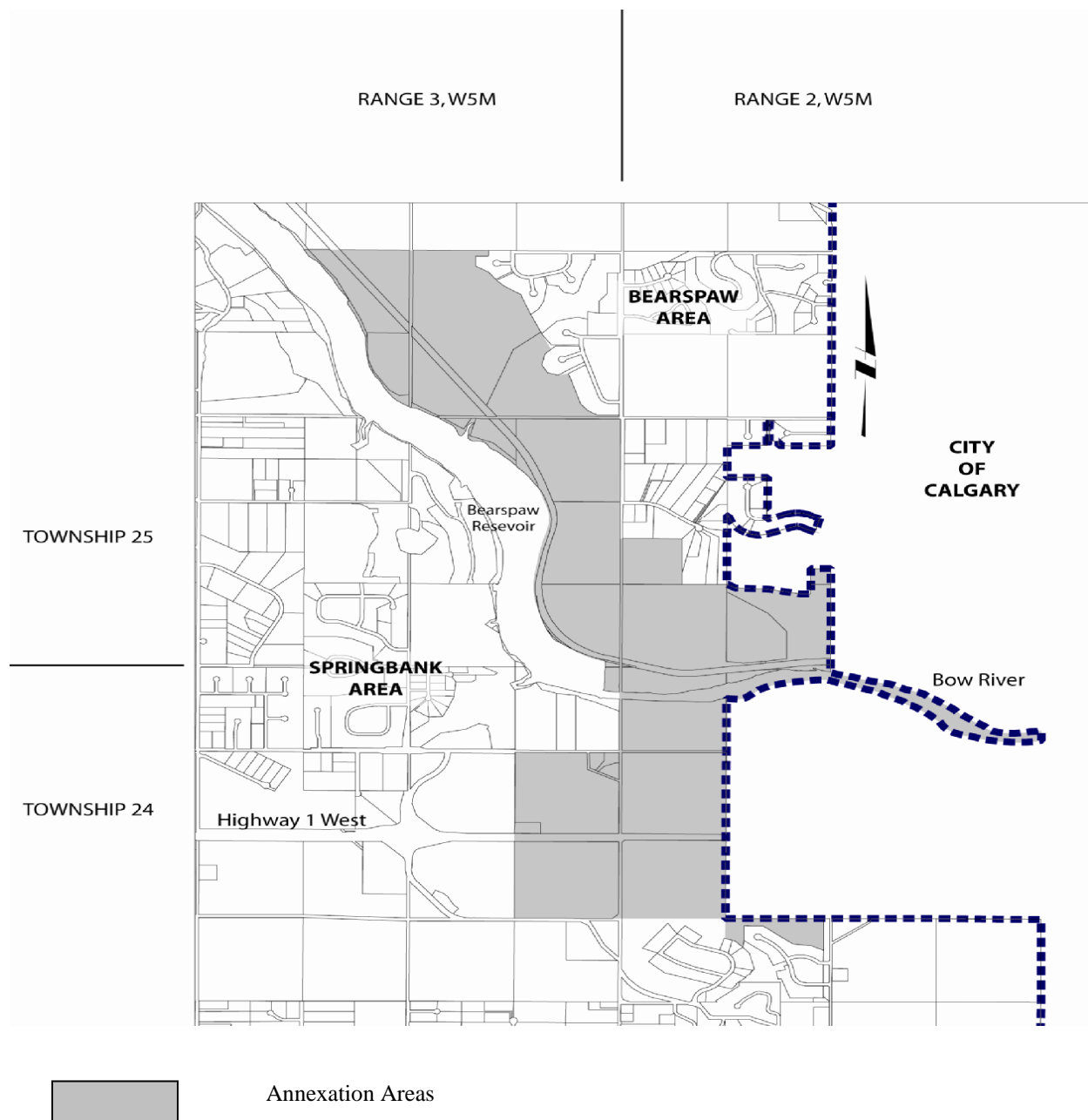
APPENDIX B – DETAILED AREA MAP 1, WEST ANNEXATION AREA



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

**APPENDIX B - DETAILED AREA MAP 2,
NORTH ANNEXATION AREA**



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

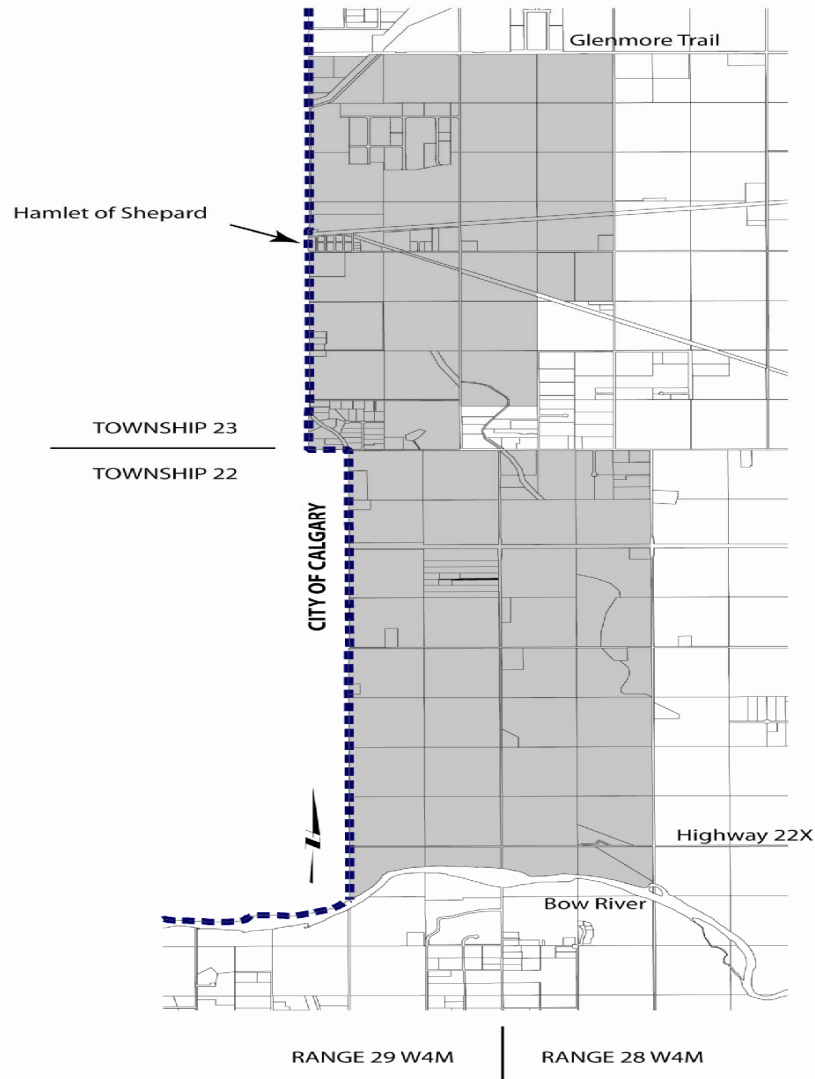
APPENDIX B – DETAILED AREA MAP 3, EAST ANNEXATION AREA



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

APPENDIX B – DETAILED AREA MAP 4, SOUTH ANNEXATION AREA



Annexation Areas



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

APPENDIX C

ORDER

1 In this Order, “annexed land” means the land described in Appendix A and shown on the sketches in Appendix B.

2 Farm property within the annexed land that qualifies for exemption from taxation shall continue to be exempt from taxation as long as the exemption for Municipal Districts is provided for under the Municipal Government Act or any successor Act.

3 Notwithstanding section 2, if the exemption for farm property is no longer provided for under the Municipal Government Act or any successor Act, the exemption from taxation shall apply to the end of December 31, 2036.

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 Calgary is assessed and taxed.

5 Despite section 135(1)(a.1) of the Municipal Government Act, for any taxation year up to and including 2007, the City of Calgary will collect arrears owing to the Municipal District of Rocky View No. 44 in accordance with the Municipal District of Rocky View No. 44’s tax penalty bylaw.

6 Subject to section 7, for taxation purposes in 2007 and subsequent years, up to and including 2021, the annexed land, other than farm property referred to under section 2, and the assessable improvements to it

(a) must be taxed by the City of Calgary in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the municipal tax rate established by the Municipal District of Rocky View No. 44, and

(b) business related taxes for existing businesses operating in the annexation area shall not be greater than the taxes levied if the land had remained in the Municipal District of Rocky View No. 44.

7(1) Section 6 ceases to apply to a portion of the annexed land and the assessable improvements to it and to existing businesses operating in the annexation area in the taxation year immediately following the taxation year in which

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

- (a) the portion becomes a new parcel of land less than 16 hectares (40 acres) in size 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 becomes a residual portion of less than 16 hectares (40 acres) after a new parcel referred to in clause (a) has been created,
 - (c) the portion is redesignated, at the request of, or on behalf of the landowner, under the City of Calgary's Land Use Bylaw to a designation other than an Urban Reserve as defined in the City of Calgary's Land Use Bylaw 2P80 as amended, or its equivalent,
 - (d) the portion is the subject of a local improvement project described in a local improvement by-law initiated by, with the support of, or on behalf of the landowner pursuant to which the City of Calgary water and sewer services are connected to the land, or
 - (e) the portion is connected to the water or sanitary sewer services provided by the City of Calgary.
- (2) Notwithstanding subsection (1)(a) and (b), section 6 continues to apply in respect of
- (a) an existing farmstead within the annexed land, or
 - (b) residential infill areas located within section 6, township 23, range 28 west of the fourth meridian and section 7, township 24, range 28, west of the fourth meridian.
- 8 After section 6 ceases to apply to a portion of the annexed land in a taxation year,
- (a) 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 Calgary is assessed and taxed, and
 - (b) business related taxes for existing businesses operating in the annexation area must be taxed in accordance with the City of Calgary's business tax bylaw.
- 9(1) The City of Calgary shall pay to the Municipal District of Rocky View No. 44 seventeen million three hundred and sixty three thousand seven hundred and fifty six dollars (\$17,363,756.00) in Canadian dollars, not later than 30 days after the date this Order in Council is signed by the Lieutenant Governor in Council.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

(2) The City of Calgary shall pay to the Municipal District of Rocky View No. 44 one hundred thousand dollars (\$100,000.00) in Canadian dollars annually for ten (10) years or for the life of the gravel operations, whichever occurs first, for gravel operations in the annexation area existing at the time this Order in Council is signed by the Lieutenant Governor in Council, pursuant to the Municipal District of Rocky View No. 44 Community Aggregate Payment Levy Bylaw C-6214-2006.

(3) The payment referred to in subsection (2) shall be made as follows:

- (a) the first payment shall be made on or before July 1, 2007, or within 30 days of the date this Order in Council is signed by the Lieutenant Governor in Council if this Order in Council is signed after July 1, 2007;
- (b) subsequent payments shall be made before July 1 of each subsequent year unless the gravel operations cease to operate.

10 Notwithstanding the effective date of this Order, for the period from January 1, 2007 until 30 days after the date this Order is signed by the Lieutenant Governor in Council, the Municipal District of Rocky View No. 44 is responsible for

- (a) the direction, control and management of all roads within the annexed land,
- (b) providing all municipal services within the annexed land, and
- (c) any liability that arises from
 - (i) the direction, control and management of all roads within the annexed land, and
 - (ii) the provision of any municipal services within the annexed land.

11 Any decision relating to subdivision and development made by the subdivision and development authorities of the Municipal District of Rocky View No. 44 between the effective date of this Order in Council and the date this Order in Council is signed by the Lieutenant Governor in Council continues and is deemed to be a decision relating to subdivision and development made by the subdivision and development authorities of the City of Calgary.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

APPENDIX D

**MGB REPORT TO THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING
REGARDING THE CITY OF CALGARY PROPOSED ANNEXATION OF
TERRITORY FROM THE MUNICIPAL DISTRICT OF ROCKY VIEW #44**

Table of Contents

Executive Summary

Part 1 - Introduction

- 1.0 Organization of Report
- 1.1 Background Facts
- 1.2 The Annexation Process
- 1.3 The Role of the MGB and the Lieutenant Governor in Council
- 1.4 Provincial Legislation (Act) and Policies

Part 2 - The Annexation Application

- 2.1 Map and Description of Proposed Annexation Area
- 2.2 The Annexation Report
- 2.3 The Agreement Between the City and the MD

Part 3 - Description of the Municipalities' Annexation Process

- 3.1 The Annexation Notices
- 3.2 The Consultation and Mediation Process
- 3.3 The Financial Impact Report
- 3.4 The City's Interests
- 3.5 The MD's Interests

Part 4 - Description of MGB process

- 4.1 Determination of Need for Public Hearing
- 4.2 Initial Advertising and Registration
- 4.3 Advertising of Hearing Dates

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 5 - Submission From City of Airdrie

- 5.1. Position of the City of Airdrie
- 5.2. MD's Position
- 5.3. City's Position
- 5.4. Findings
- 5.5. MGB Decision
- 5.6. Reasons
- 5.7. Recommendation

Part 6 - Submission from Fortis Alberta

- 6.1 Submission from Fortis Alberta
- 6.2 MD's Position
- 6.3 City's Position
- 6.4 Findings
- 6.5 Reasons

Part 7 - Opposition to Annexation in General

- 7.1.0 Springbank Community Planning Association (SCPA)
- 7.1.1 City's Position
- 7.1.2 MD's Position
- 7.1.3 Findings
- 7.1.4 Reasons
- 7.2.0 Action for Agriculture
- 7.2.1 Position of Action for Agriculture
- 7.2.2 City's Position
- 7.2.3 MD's Position
- 7.2.4 Findings
- 7.2.5 Reasons

Part 8 - Submissions/Findings/Reasons by Specific Area

- 8.1 West Area
- 8.2 North Area
- 8.3 East Area
- 8.4 Hamlet of Shepard

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 9 - Legal Argument - Jurisdiction of MGB to Consider and Recommend Additional Lands

- 9.1 Landowner Submissions
- 9.2 MD's Position
- 9.3 City's Position
- 9.4 Findings
- 9.5 Reasons

Part 10 - Summary

- 10.1 Summary of Annexation Proposal
- 10.2 General Findings
- 10.3 Recommendations
- 10.4 Reasons

Attachment A - Submissions on Requests for Inclusion in the Annexation

Attachment B – Appearances and Submissions Received by Area

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Executive Summary

According to the *Municipal Government Act* (Act), the Minister and the Lieutenant Governor in Council have the final authority to decide on an annexation application. The Municipal Government Board (MGB) undertakes the processing of the annexation application, conducts a hearing if objections to the annexation are received and prepares a recommendation to the Minister and the Lieutenant Governor in Council. The Minister and the Lieutenant Governor in Council may accept in whole, in part or reject the recommendation of the MGB.

The City of Calgary (City) with the support of the Municipal District of Rocky View (MD) have applied for annexation of approximately 25,000 acres of land to be included into the City from the MD. Having found that there were objections to the City annexation proposal, the MGB conducted a hearing and has prepared this report with findings and recommendations for consideration by the Minister and the Lieutenant Governor in Council.

The proposal to annex approximately 25,000 acres is made up of lands on the west, north and east sides of the City all within the MD. In 2006 the City had a population of approximately 992,000. In the last 15 years the City has grown by 42% and it is expected that over the next 30 years the City will grow by another 51%. The objective of the City is to ensure that it has within its current boundaries an overall land supply of 30 to 35 years. Currently, the City only has an estimated 20 year land supply for residential and industrial development. The MGB has concluded that it is reasonable for a city the size of Calgary and its projected rapid growth to have within its boundaries a 30 to 35 year land supply in order to accommodate both short-term land needs but also to facilitate orderly development and long range coordination of services and infrastructure for the long-term planning horizon. None of the submissions against the annexation convinced the MGB otherwise.

This proposed annexation exemplifies an exhaustive consultation process over many years between the two municipalities which has resulted in a comprehensive intermunicipal agreement referred to by the two municipalities as the “Annexation Agreement”. One of the key and fundamental principles enunciated in the Act, the Provincial Land Use Policies and the MGB’s annexation principles is the demonstration of intermunicipal cooperation. This prerequisite for annexation has clearly been met in this case. Although parties objecting to the annexation requested that the MGB give less weight to this agreement, the MGB was not convinced that the agreement should be ignored but rather that it should be given significant weight in considering this specific annexation application.

Only two major groups objected to the total annexation voicing concerns about the loss of agricultural lands, the sprawling nature of the City and the inadequate financial compensation to the MD. The MGB heard that the residential densities achieved by the City have nearly doubled over the last decade and that the City’s planning mechanisms encourage and facilitate compact and contiguous development at ever increasing densities which reduces the premature loss of

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

agricultural lands. The MGB is satisfied that the densities achieved are within the accepted norms within Alberta and that any loss of agricultural lands occurs in an orderly fashion. The generic debate of whether municipalities should be required to develop at even higher densities and reduce the consumption of agricultural lands is best left to the broader debate and current review of the Provincial Land Use Policies. It is the view of the MGB that because of the rapid growth pressures experienced by Calgary that this annexation should not be postponed or altered based on presumptions of what the outcome of this review will be.

Both municipalities conducted an exhaustive financial impact analysis which formed the basis for the financial compensation package from the City to the MD. This financial analysis illustrated that the financial impact on either municipality would be negligible. Although Springbank Community Planning Association suggested that the MD should have received additional financial benefits, its analysis only examined gross revenues and did not take into consideration net costs and benefits to the MD. The duly elected Council of the MD gave learned consideration to the sizeable financial package and with expert advice was satisfied that the compensation to the MD was sufficient. The MGB was not convinced to think otherwise. As well, the MGB is of the view that this sizeable financial package of nearly \$17.5 million does not set a precedent for other annexations in Alberta since very few, if any, municipalities are in the same or similar circumstances as the City and the MD.

The MGB did hear, by area, a minor number of objections to the annexation of small portions of land or objections to the City growing in that specific direction. In the west annexation area, a few objections were raised by Springbank and Bearspaw residents that the rural lifestyle on the western side of the City will be eroded by increased urbanization. The annexation into these rural communities in the west side of the City is relatively small and the MGB is not convinced that any dramatic change would occur that is not already existing as a result of a large urban centre of nearly a million people at the doorstep of these rural communities. The annexation to the west is a logical extension of a major open space system and a minor extension of residential areas. The MGB was satisfied that planning mechanisms exist to protect the major natural area in the west and can integrate urban residential areas adjacent to the acreage residential areas with minimal impact. As well, the MGB heard only minor concerns from landowners in the north and east area that did not want to be in the annexation or that did not want to see the City grow in that direction. These concerns were insufficient to reduce the 30 to 35 year land supply requested by the City to facilitate the growth expected in this major urban centre. The MGB was satisfied that the Hamlet of Shepard would achieve its desired municipal servicing within the City of Calgary in the short to medium planning horizon and would eventually become an urbanized part of the eastern growth of the City. The majority of landowners owning the majority of the land areas in the west, north and east were strongly supportive of the annexation.

This annexation, in the view of the MGB, provides the ability of each municipality to pursue rational growth and achieve the purposes of a municipality as outlined in the Act. The rapid growth of the City is facilitated by this annexation. The Annexation Agreement provides for the

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

interests of each municipality to be achieved and has established reasonable transition conditions which address the taxation concerns of the various landowners in the annexed territory. The Annexation Agreement also sets the parameters and initiatives for continued long term intermunicipal planning by establishing dates for the review of strategic intermunicipal plans.

The annexation is a logical extension of existing growth patterns, transportation and infrastructure plans providing for cost effective, efficient and coordinated approaches to the provision of services. The financial impact report prepared by both municipalities illustrates that the proposed annexation and the associated agreed-to compensation will have minimal impact on either municipality. As well, no other municipal authority indicated that it would be affected negatively by the annexation.

Throughout the MGB annexation hearing, the MGB heard more requests to be included in the annexation than requests in opposition to the annexation, however, the City made it very clear that the annexation application did not include these additional lands. As well, the City agreed with the MD that the MGB cannot recommend additional lands to be included in the annexation when the application did not include such lands. The MGB has consistently ruled that the Act no longer permits an individual landowner to make an application for annexation. There was a deliberate amendment to the Act by the legislators to ensure that the lands to be annexed were agreed to by the initiating municipality first. In this specific annexation, the City made it very clear these lands were not included in the application.

Even if the MGB had the authority to consider the additional lands and even though some of these lands may have some merit to be in the urban boundaries, the MGB would be reluctant to recommend their inclusion at this point as it would arbitrarily impact the fundamental financial arrangements agreed to between the two municipalities. The focus and attention to intermunicipal cooperation in the Act must be given considerable weight in the view of the MGB. If the absorption of land within the annexation area occurs at a greater pace in the short-term planning period the City is free to make another annexation application to ensure it is able to maintain the reasonable goal of a 30 to 35 year supply of land within its boundaries. Individual landowners whose lands have not been included can make a request to the City and to the MD for their support to be included in a future phase of annexation. This process respects the increased role municipalities have been given in the annexation process in the current Act. Alternatively, pursuant to section 126 of the Act the Lieutenant Governor in Council, on recommendation of the Minister, may annex other lands despite the recommendations contained in this report.

In conclusion, it is recommended that the annexation as proposed by the City and supported by the MD be approved subject to the conditions outlined in the recommended Order in Council.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 1 - Introduction

1.0 Organization of Report

This report is organized into ten parts. The first four parts of the report provide background information on the proposed annexation, the annexation area proposed, the application, the annexation process in general and specifically as it evolved in the Calgary annexation as well as events leading to the MGB hearing.

Part 5 specifically deals with a preliminary objection by the MD to the submission of the City of Airdrie and the concerns raised by Airdrie. Part 6 addresses the concerns raised by Fortis Alberta and Part 7 deals with the objection by two groups to the total annexation. The submissions by parties, the MGB's findings and reasons related to specific objections and concerns in each major area of the annexation are included in Part 8. A large number of submissions at the MGB hearing related to a request to include additional lands in the annexation. Part 9 addresses the jurisdiction of the MGB to recommend additional lands not included in the annexation application. Attachment A provides a summary of the submissions made on requests to add additional lands.

The MGB concludes its general findings, recommendations and reasons in Part 10.

1.1 Background Facts

The City of Calgary (City) is bounded by the Municipal District of Rocky View and the Municipal District of Foothills. This annexation affects lands in the MD of Rocky View (MD).

The City has applied to annex approximately 39 sections of land for a total of approximately 25,000 acres from the MD. The annexation involves three areas:

- East: Approximately 14,000 acres in two groupings along the City's eastern boundary, south of Highway 1 and north of the Bow River,
- North: Approximately 9,000 acres along the City's northern boundary, west of Highway 2,
- West: Approximately 2,000 acres along the City's western boundary, lying north of the Bow River adjacent to the Bearspaw Reservoir and lying south of the Bow River straddling Highway 1.

The main purpose of this annexation is to bring into the City an adequate supply of land to accommodate and manage its high rate of growth.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

The City has grown by 43% (298,874 people) over the past 15 years. The population of the City was approximately 992,000 in 2006. Over the next 30 years, the City's population is forecasted to grow by 51% with most of that growth in new suburban communities. The share of growth in the City's suburban sectors is projected to capture 112% of overall population growth (long-term average). This is due to the continuing decline of population in the existing built up areas of the City in favour of suburban residential development.

As a policy, the City endeavours to maintain a long-term land supply of at least 30 years through periodic comprehensive annexations. According to the City, the existing land inventories in the suburban residential sectors represent only a 21 year supply land supply within the City. Based on the current population growth figures, the proposed annexation territory within the MD will bolster that supply to approximately 33 years overall.

1.2 The Annexation Process

Pursuant to section 116 of the Act, a municipality seeking annexation must first initiate the process by giving written notice of the proposal to the municipal authority from which the land is to be annexed. In addition, written notice must be given to any local authority considered to be affected by the proposal and to the MGB. The notice must describe the land proposed for annexation, set out the reasons for annexation, and include a scheme for consulting with the public and meeting with the landowners.

Once notice has been given to the other municipality, the municipalities must negotiate in good faith, and if agreement cannot be reached, the municipalities must attempt mediation to resolve the outstanding matters.

At the conclusion of the negotiations, the initiating municipality must prepare a report describing the results of the negotiations. The report must include a list of agreed-to matters and a list of matters in which there is no agreement with mediation undertaken and reasons. The report must also include a description of the public consultation process and the views expressed during this process. The report is signed by both municipalities and, if not, the municipality that did not sign must provide reasons for not signing.

The report is then submitted to the MGB and becomes the application for annexation pursuant to section 119.

1.3 The Role of the MGB and the Lieutenant Governor in Council (LGC)

In the annexation process, the MGB is only a hearing and recommending body. Pursuant to Part 4, Division 6 of the Act, the MGB only has authority to hear from parties to an annexation, and to make findings and recommendations to the Minister of Municipal Affairs and Housing (Minister) and to Cabinet (the Lieutenant Governor in Council).

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Upon receipt of a complete annexation application, section 120 of the Act requires that the MGB determine whether or not there is general agreement with the proposal.

If the MGB is satisfied that the affected municipalities and the public are generally in agreement, the MGB notifies the parties of its findings, and unless there are objections to the annexation filed with the MGB by a specified date, the MGB will make its recommendation to the Minister without holding a public hearing.

But when it is determined that there is not general agreement with the proposal, section 121 of the Act requires the MGB to notify the parties and to conduct a public hearing. The Act further 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 the area.

After hearing from the parties and affected persons, the MGB prepares a written report of its findings and recommendations for consideration by the Minister of Municipal Affairs and the Lieutenant Governor in Council (LGC).

The Minister and LGC have the authority to accept in whole or in part or to completely reject the findings and recommendations of the MGB.

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.

The Act does not allow a property owner to submit an annexation proposal. As such, the MGB hears submissions from landowners that want to be included in the annexation, but can only make a recommendation for the land area included in the annexation application.

Nonetheless, the MGB in its report will identify for the Minister and LGC the circumstances related to the lands not included in the annexation application should they wish to consider their discretion pursuant to section 126 of the Act.

1.4 Provincial Legislation (Act) and Policies

Section 123 of the Act requires the MGB, after considering the representations made to it, to prepare a written report of its findings and recommendations and to submit that report to the Minister of Municipal Affairs and Housing.

In order to investigate, analyze, and make findings respecting 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 residents of the area.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Section 123 further requires the MGB to consider the principles, standards, and criteria established under section 76 of the Act. However, there are no criteria for evaluating annexation proposals adopted pursuant to section 76.

Because of this, the MGB looks to the scheme of the Act, the Planning Part of the Act, and the Provincial Land Use Policies for guidance. The MGB has also referred to its prior decisions in analyzing the proposal and the annexation principles developed by the MGB in past annexation decisions.

The Annexation Parts of the Act

Part 4, Division 6 of the Act deals with annexations. Within the division, there are key themes to which the MGB gives consideration in their deliberations on the Calgary annexation proposal.

One major theme is the emphasis on consultation with affected authorities, municipalities, and landowners. Especially significant is the consultation and participation encouraged and facilitated with the landowners.

Another major theme is the emphasis on an agreement or mediated solution between the affected municipalities. However, the emphasis on agreement between the 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.

The Planning Part of the Act

It is the MGB's opinion that 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 to the physical environment of human settlements in Alberta without infringing on the rights of individuals except where necessary for the overall greater public interest.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

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 directs that planning activities are to be carried out in a fair, open, considerate and equitable manner. The policy further states 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 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 fosters 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.

Annexation Principles

In the absence of Ministerial criteria authorized by section 76 of the Act and in order to deal with the various issues raised by the affected parties, the landowners and the interest groups, the MGB has developed a series of annexation principles. The MGB has developed these principles from the examination of the annexation provisions in the Act, the Provincial Land Use Policies and previous annexation orders and recommendations. These principles are based on significant annexation decisions prior to 1995 and a total of nearly 170 annexations processed since the introduction of the 1995 *Municipal Government Act*.

These annexation principals are best summarized in the recent MGB decision respecting the annexation application made by the City of St. Albert (Board Order 123/06) and outlined below:

1. Annexations that provide for intermunicipal cooperation will be given considerable weight. Cooperative intermunicipal policies in an intermunicipal development plan will be given careful consideration, weight and support so long as they do not conflict with Provincial policies or interests.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

2. Accommodation of growth by all municipalities (urban or rural) must be accomplished without encumbering the initiating municipality and the responding municipality's ability to achieve rational growth directions, cost effective utilization of resources, fiscal accountability and the attainment of the purposes of a municipality described in the Act.
3. An annexation or annexation conditions should not infringe on the local autonomy given to municipalities in the Act unless provisions of the Act have been breached or the public interest and individual rights have been unnecessarily impacted.
4. An annexation must be supported by growth projections, availability of lands within current boundaries, consideration of reasonable development densities, accommodation of a variety of land uses and reasonable growth options within each municipality (initiating and responding municipality).
5. An annexation must achieve a logical extension of growth patterns, transportation and infrastructure servicing for the affected municipalities.
6. Each annexation must illustrate a cost effective, efficient and coordinated approach to the administration of services.
7. Annexations that demonstrate sensitivity and respect for key environmental and natural features will be regarded as meeting provincial land use policies.
8. Coordination and cost effective use of resources will be demonstrated when annexations are aligned with and supported by intermunicipal development plans, municipal development plans, economic development plans, transportation and utility servicing plans and other related infrastructure plans.
9. Annexation proposals must fully consider the financial impact on the initiating and responding municipality.
10. Inter-agency consultation, coordination and cooperation is demonstrated when annexation proposals fully consider the impacts on other institutions providing services to the area.
11. Annexation proposals that develop reasonable solutions to impacts on property owners and citizens with certainty and specific time horizons will be given careful consideration and weight.
12. Annexation proposals must be based on effective public consultation both prior to and during any annexation hearing or proceedings.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

13. Revenue sharing may be warranted when the annexation proposal involves existing or future special properties that generate substantive and unique costs to the impacted municipality(s) as part of the annexation or as an alternative to annexation.
14. Annexation proposals must not simply be a tax initiative. Each annexation proposal must have consideration of the full scope of costs and revenues related to the affected municipalities. The financial status of the initiating or the responding municipality(s) cannot be affected to such an extent that one or the other is unable to reasonably achieve the purposes of a municipality as outlined in section 3 of the Act. The financial impact should be reasonable and be able to be mitigated through reasonable conditions of annexation.
15. Conditions of annexation must be certain, unambiguous, enforceable and be time specific.

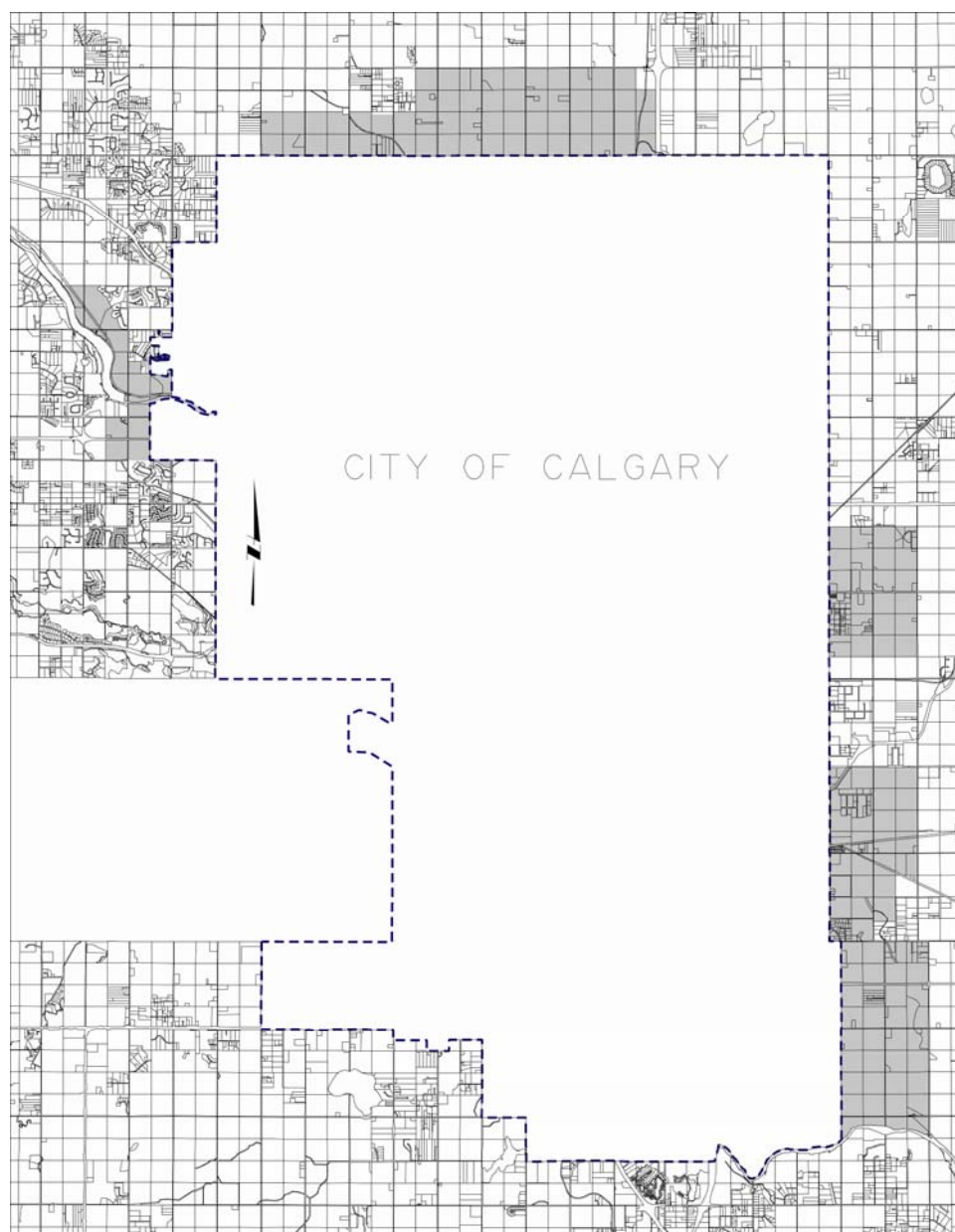
BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 2 - The Annexation Application

2.1 Overall Annexation Map

The shaded areas are the proposed annexation areas



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

2.2 The Annexation Report of the City

On November 29, 2006, the MGB received an annexation report from the City signed by both the City and the MD. This report forms the annexation application. This report clearly describes the lands included in the annexation in Schedule A-1 on pages 23, 24, and 25 and illustrates the lands to be annexed in Schedule A-2 page 26 of the Annexation Report.

A certificate is included stating that the report accurately reflects the results of the negotiations and mediation. There has been complete agreement on the annexation between the City and the MD, and an Intermunicipal Annexation Agreement has been signed by both municipalities.

Prior to signing the Agreement, both municipalities conducted an extensive public consultation process throughout the negotiation period in the form of 11 open houses and two public hearings. As a result of objections and concerns from a number of landowners, the City agreed to remove a number of properties from the annexation area.

2.3 The Annexation Agreement between the City and the MD

The Agreement states that a Joint Intermunicipal Infrastructure Committee will be formed within 30 days from the effective date of annexation to oversee all annexation implementation requirements through recommendations to the Intermunicipal Committee, including management of all technical planning and infrastructure related issues between the City and the MD.

The City and the MD agree to use all reasonable efforts and to fully cooperate with one another to ensure that the terms and conditions of this Agreement are fulfilled.

The Agreement contains a dispute resolution method for any disputed issues that may arise as a result of implementing this agreement (Part XIII).

Part II of the Agreement, “Mutual Cooperation”, provides for the City to compensate the MD for the costs incurred, to a maximum of \$50,000, for the staff hours required to comply with the requirements of the Agreement.

Under Part IV of the Agreement, “Roadways”, the MD will continue to maintain the roads in the annexation area. These roads are specifically referenced in the Agreement. The City will pay the cost of recovery.

Part V of the Agreement “Assessment and Taxation” provides that lands and improvements within the annexation territory will be taxed by the City on the same basis as if they remained in the MD and shall be taxed by the City at the applicable MD annual tax rate until the earlier of: a) the occurrence of a triggering event, b) December 31, 2021 if the effective date of annexation is

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

January 1, 2007, or c) December 31 of the calendar year following 15 full years from the earliest date specified in the annexation order when such date is after January 1, 2007.

Exempt farm property (farm residences and farm buildings) as proved for in the Act and regulations within the annexation territory continues to be exempt from taxation for as long as such exemptions is prescribed for municipal districts under the Act and, where such exemption is not provided by the Act, until December 31, 2036 where the effective date for taxation under the Annexation Order is January 1, 2007 or until December 31 of the calendar year following 30 full years after the effective date where that date is after January 1, 2007.

Part VI of the Agreement deals with existing water servicing in the annexation area and provides that existing water cooperatives can continue to provide servicing to lands serviced as at the effective date of annexation. Further, where there is an existing water cooperative providing servicing to certain lots within a subdivision, the City may approve the provision of water servicing by a water cooperative to the remaining lots. The Agreement specifically provides that the annexation will not impact any existing infrastructure owned by any water cooperative or independent water provider.

New development, however, will be required to connect to City utility services, unless the City permits other arrangements.

Part VII, “Compensation Payable to the MD”, states that following lengthy and productive discussions and a thorough review of independent expert analysis pertaining to financial impacts on both municipalities and the compensation to be paid from the City to the MD, the parties have agreed that the City will pay to the MD the following monetary consideration:

\$2,997,500 for the MD’s loss of municipal gross revenues for a five year period,

\$2,997,500 for the MD’s loss of municipal gross revenues for a further five year period,

\$10,318,756 for industrial planned land absorption revenues, and

\$1,050,000 for recently completed road improvements.

The total cash consideration to be paid by the City to the MD is \$17,363,756. It is to be paid as a one time payment within 30 days of the effective date of annexation.

In addition, consideration for lost revenues pursuant to the Community Aggregate Payment Levy Bylaw of \$100,000 per year for 10 years or when gravel depletes, whichever occurs first.

Part VIII of the Agreement, “Planning and Development Transition” deals with the transition of current MD land uses to the City’s jurisdiction. The Annexation Agreement grandfathers in the

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

existing land uses. Notably, lands within the annexation territory will continue to be governed by the MD's Land Use Bylaw as of the effective date of annexation until such time as the City rezones the land.

Further, any lands in the annexation territory will continue to be governed by the existing MD Area Structure Plan or Conceptual Scheme until such time as the City passes an Area Structure Plan or other statutory plan for the area.

The Agreement accommodates expansion of buildings for farming or business uses within applicable bylaws and legislation.

In addition, there is an undertaking to commence an Intermunicipal Development Plan (IDP) review no later than 120 days from the effective date of annexation and to endeavour to have the IDP in draft form and to initiate the respective approval processes within 18 months after the IDP review commences.

The parties further agree not to support or initiate any action to annex lands within its boundaries unless the IDP review process is complete and the parties mutually agree to such further action through the process contained within the IDP as it pertains to annexations.

Part IX deals with future growth. The City and the MD agree that based upon the forecasts and projections of land development, and upon the City's 2005 land supply assessment, this annexation provides the City an estimated:

38 year land supply for residential development,

37 year land supply for industrial development in the southeast industrial area,

60 year land supply for industrial and employment lands in the north industrial corridor.

The City and the MD agree that the annexation should occur for all purposes as soon as possible and that both municipalities shall request the MGB to recommend the annexation be effective as of January 1, 2007.

In furtherance of attaining the objectives contained within the Agreement, both municipalities also agree to request the MGB to recommend to the Lieutenant Governor in Council to include all matters contained in the Agreement within the Annexation Order.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 3 - Description of Parties' Pre-hearing Process

3.1 The Annexation Notices

The City formally initiated the annexation pursuant to the requirements of section 116 of the Act by giving written notice to the MD on October 17, 2002. A copy was sent to the MGB and to all affected local authorities as required by the Act. From 2002 to 2005, annexation negotiations did not result in an agreement.

The City subsequently withdrew that notice and replaced it with a new notice of annexation on November 30, 2005.

3.2 The Consultation and Mediation Process

Reference was included in the new notice to the establishment of a Joint Negotiation / Mediation Committee comprised of representatives from both municipalities to address the requirements of section 117 of the Act.

The Joint Committee was appointed in September 2005 and was comprised of three politicians from each municipality, three staff members from each municipality, and two independent facilitators. The Committee discussions were guided by a primary facilitator selected by the Committee with the assistance of a second facilitator appointed by the Minister of Municipal Affairs and Housing.

The Committee played a key role throughout the annexation process through provision of direction to staff managing the project, participation in the public consultation program, and negotiation of a range of annexation related matters. They met 37 times between September 23, 2005 and October 11, 2006.

The City and the MD undertook an extensive public consultation process with 11 open houses and two public hearings. Notices were sent to landowners and other interested stakeholders advising of the open houses at specific stages in the mediation process, and of the public hearings. As well, all open house series and public hearings were advertised in the urban and rural local newspapers. In total, approximately 1,500 people attended.

The first series of four open houses was hosted by the City in November 2005 to present the annexation proposal to the public for the first time.

The second series of three open houses was hosted by the MD in January 2006 to garner further public input on the annexation proposal to take to mediation and for the MD to present its interests to the public.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

The Committee continued annexation negotiations with an agreement in principle being reached in May 2006, which was subsequently brought forth to both Councils in June 2006 and ultimately accepted by both Councils.

This agreement in principle was released to the public and posted on each municipality's website.

A third series of three open houses was held jointly in July and August of 2006 to present the results of the negotiations to the public and to inform the public of the annexation process to follow.

In addition, a public hearing was held by the Council of each municipality. The MD Council held their public hearing on September 20, 2006 and City Council on September 25, 2006.

Throughout the process, the City and the MD maintained up to date information on their respective website. The MD and City also sent out information mail-outs and received over 200 pieces of correspondence from interested parties during this process.

All written submissions from landowners and interested stakeholders resulting from the open houses and correspondence were made available to the Joint Mediation Committee for review. As the Committee worked through the issues, a position paper was produced. This became the "Annexation Transition Provisions" that addressed issues arising from the public consultation process. This paper was presented at open houses and was written into the Annexation Agreement.

As a result of the respective public hearings, both Councils directed the Joint Mediation Committee to review landowner requests for inclusion and exclusion, as well as other issue related items such as servicing requests and transitional matters. The Committee met and agreed to various changes to the annexation areas and reported back to both Councils.

As a result of these efforts and the mediation process, an Intermunicipal Annexation Agreement was successfully concluded and signed by both municipalities. City Council approved the Annexation Agreement on October 16, 2006 and the MD Council approved the Annexation Agreement on November 7, 2006, with the Mayor and the Reeve signing the Agreement on November 24, 2006.

The Agreement embodies a wide variety of intermunicipal matters important to both municipalities and puts in place a detailed framework of collaborative measures to ensure implementation of the Agreement to the satisfaction of both municipalities and affected landowners.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

3.3 Financial Impact Report

With respect to the financial impact of the annexation, the City and the MD engaged Nichols Applied Management in late 2005 to undertake a complete financial analysis of the impacts of annexation. Their report assesses financial impacts of the annexation on the City and the MD as well as on the annexed properties.

The result of the analysis was intended to assist in the negotiation and mediation process between the City and the MD.

The MD has a population of approximately 36,500 people and covers a total area of approximately 400,000 hectares. The City has a population in excess of 950,000 people and encompasses an area of approximately 75,000 hectares.

The annexation would have the effect of transferring municipal jurisdiction of a total area of approximately 25,000 acres from the MD to the City. This represents between roughly 2% and 3% of the existing municipality.

Each of the MD's expenditure and revenue functions were examined to ascertain the potential impacts that may rise from the annexation. Annexation is expected to reduce the MD's net revenues by an estimated \$299,000 in 2007 and by approximately \$414,000 annually in subsequent years. The analysis indicates that the potential fiscal impacts of annexation on the MD are likely to be modest and that the municipality's financial health is not expected to be seriously affected.

The proposed annexation will increase the City's land area and population as well as its assessment base, while increasing its responsibilities for road maintenance and other municipal services in the annexed area.

The population within the proposed annexation and the assessment base within that area will have a relatively small impact on the City's overall population and assessment base, increasing them roughly 0.08% and 0.22%, respectively. The impact on the City's road network and land area will be most significant, increasing them by 2.1% and 13.74%, respectively.

If the property owners in the MD are assessed and taxed as if they remained in the MD, the proposed annexation is expected to increase the City's net costs by an estimated \$987,000 in 2007 and by \$872,000 annually in subsequent years. The findings suggest that the potential fiscal impact of annexation on the City is negligible.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

3.4 The City's Interests

There are three guiding goals within the City's policy framework for managing growth. First, the City endeavours to maintain a long-term (at least 30 year) land supply through periodic comprehensive annexations.

Second, the City endeavours to maintain a 15 year supply of planned suburban land within policy documents including area structure plans and community plans.

Third, in concert with short-term capital investments in infrastructure, the City maintains a five year land supply of serviced land to respond to the immediate need for housing and related development as well as for industrial growth.

Maintaining a long term supply of land for growth enables the City to comprehensively plan for new development necessitated by growth, facilitating the orderly and economic development of the City. In addition, it provides a sense of stability in the Calgary region helping adjacent municipalities and landowners to plan with more certainty.

The north, southeast, and south are the City's biggest growth corridors.

For residential growth, the City currently has a 21 year supply of land. The annexation lands would add a 13 year supply giving the City a 33 to 35 year supply of land for residential growth.

Annexation ensures that there is healthy and competitive residential marketplace to achieve a measure of housing affordability. Annexation helps provide location and price choice in the housing marketplace. Housing consumers have traditionally preferred single detached homes in new suburban communities where comparative affordability is achieved. The City's suburban residential development, at a mandated seven units per acre reflects an efficient use of the land base. Annexation helps to ensure that new development is a contiguous extension of the urban form and does not extend unconnected throughout the countryside.

In the next 30 years, it is projected that 342,000 new jobs will be added to the City, which is a 66% increase. It is estimated that 25,000 to 35,000 new jobs will locate in the southeast industrial area over that period of time. The southeast industrial area accounts for two-thirds of all industrial land demand in the City.

Currently, there is a 20 year industrial land supply in the southeast. This is based on a demand of 160 acres per year. The annexation area represents a 12 year supply of developable industrial land for a total industrial land supply in the southeast of 32 years.

The City views annexation as an important tool in its approach to growth management. By annexing a long-term supply of raw land, maintaining a medium term supply of conceptually

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

planned suburban lands, and a short term supply of serviced ready to develop lands all contribute to the City's ability to respond to Calgary's significant rate of growth.

In addition, with annexation, all development must connect to piped water and sanitary and storm servicing. This helps mitigate any negative impact to the environment with respect to water quality and groundwater depletion.

In the view of the City, its planning mechanisms promote the protection of agricultural lands by requiring contiguous urban development that is phased in an orderly fashion in concert with the rational expansion of urban infrastructure.

3.5 The MD's Interests

The MD strives to balance the interests of itself, the City, and the public. This is because the annexation not only affects the annexing municipality but also the municipality that is losing the land, and the public. The public is a primary interest group in the annexation.

Throughout the annexation process, the MD focused on balancing the collective interests, with the ultimate goal of reaching a final agreement that achieved a synthesis of these collective interests, met the requirements of Part 4, Division 6 of the Act, addressed future growth needs of both jurisdictions, and provided the foundation for future intermunicipal planning.

In the MD's opinion, the Annexation Agreement meets both Part 4, Division 6 of the Act and the principles of annexation recently set out by the MGB.

The MD's interests can be summed into four key categories. The MD maintains a regional philosophy. The MD's land mass of approximately one million acres either encompasses or adjoins 15 other jurisdictions. As such, the MD necessarily recognizes that how each jurisdiction governs and manages its growth has an influence on the other jurisdiction. The MD is an active regional player and is a committed member of the Calgary Regional Partnership and believes in their philosophy of think regionally, act locally.

Regional considerations such as growth management, transportation, watershed protection, and the delivery of community and utility services formed a primary basis for the MD's interests in the annexation process.

The MD's interest mirrors the principles of the Act and the Provincial Land Use policies. The MD strives 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 within which patterns of human settlement are achieved (s.617 of the Act).

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Financial considerations were a key interest for the MD to have addressed in the Agreement. The two municipalities jointly retained Nichols Applied Management to undertake a financial analysis of the proposed annexation on both the MD and the City. Ultimately, the Report recommended compensation that fairly represents the impact of the annexation on the MD without unduly or unfairly impacting the financial position of the City. The Nichols Report's recommendations are adopted in Part VII of the Agreement.

To the MD, being fairly compensated means that the financial impact is revenue neutral, which was identified as a key interest of the MD at the outset.

To that regard, the MD sought compensation for lost tax revenue, for key commercial and industrial developable lands that would have represented revenue for the MD in future years, and for capital improvements which were incurred over the last five years to the MD road network. This was to ensure that annexation would have little or no impact on the remainder of the taxpayers of the MD.

It was important to the MD that the annexation respected existing land use policy plans and development, as well as established land uses and practices.

The current Intermunicipal Development Plan was approved in 1998 and was due for review in 2003. It was agreed by the City and the MD to delay this review until such time that the annexation process was complete.

One of the MD's fundamental goals was to elevate the need for joint planning along the current and future boundary. From the MD's perspective, the annexation process needed to improve the overall intermunicipal planning relationship and existing process.

These interests of the MD were addressed in the negotiation process and ultimately in the mediated Agreement. The Agreement contemplates cooperation between the MD and the City in implementing the Agreement and in future planning issues.

Furthermore, the annexation complies with the principles of annexation set out in the MD/City Intermunicipal Development Plan as well as with the respective Area Structure Plans for the areas impacted by annexation.

As well, the interests identified by the City at the beginning of the annexation process have been satisfied through the Agreement. Specifically, the annexation accommodates the growth of the City by providing an adequate land supply for residential land and industrial land. It provides for a large contiguous area of land for unfragmented growth.

The public's key interests were communicated to the MD through letters, open houses, public hearings and ongoing discussions throughout the mediation process. From the process, the

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Committee identified the following primary interests from the public: to protect existing communities, ensure land use compatibility after annexation, reasonable tax transition for residents in the annexed area, and to ensure servicing and road maintenance and upgrades are to a certain standard.

These interests were addressed during the annexation process and are addressed in the Agreement.

Communities within the annexation territory continue to be governed by the existing Area Structure Plans until such time as the City adopts a new plan for the area, which would necessarily involve public consultation with the impacted residents under Part 17 of the Act.

Also, lands within the annexation territory will continue to be governed by the MD's Land Use Bylaw as of the effective date of annexation until such time as the City rezones the land.

The Agreement provides that lands and improvements within the annexation territory will be taxed by the City on the same basis as if they remained in the MD for 15 years unless a triggering event occurs. These lands will be assessed on the same basis as the City lands and will be taxed at the MD's tax rates.

Exempt farm property (farm residences and farm buildings) as provided for in the Act and the regulations located within the annexation territory continues to be exempt for as long as such exemptions are prescribed by the Act and, where such exemption is not provided by the Act, essentially for 30 years.

The MD will continue to maintain the roads for which the City is not equipped to maintain, that is the gravel roads. To that regard, the City and the MD are in the process of finalizing a Road Maintenance Agreement.

This is a unique approach to a historical problem whereby annexed roads are not a priority of the City, resulting in neglect. Therefore, this approach to retain existing road maintenance practices of the MD minimizes any impact to the public.

The City acknowledges that it is ill equipped to deal with traditional Agricultural Service Board issues such as weed control and public services such as agricultural consultations and shelterbelt planning. As such, the MD and City are in the process of finalizing an Agricultural Services Agreement whereby the MD's Board would continue to provide these services to the annexation area.

Existing water cooperative connections will continue. Existing water cooperatives can continue to provide servicing to lands serviced as at the effective date of annexation. Further, where there

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

is an existing water cooperative providing servicing to certain lots within a subdivision, the City may approve the provision of water servicing by a water cooperative to the remaining lots.

New development, however, will be required to connect to City utility services, unless the City permits other arrangements.

Regional servicing is not a component of the Annexation Agreement. The MD signed the Agreement with the understanding that servicing for the Hamlet of Shepard would be a matter more efficiently addressed via a parallel process to the Annexation Agreement via a Standing Policy Committee of the City. However, this particular issue is not resolved to date.

On January 3, 2007, the MD sent a letter to the City requesting an update on the status of the City's Water resources – Strategic Services report to Council through the Standing Policy Committee on Utilities and Environment to address the servicing issues and concerns within the Hamlet of Shepard.

On January 31, 2007, the MD received a response from the City indicating that administration is currently reviewing options as to how to provide utility servicing to the Hamlet of Shepard. However, no time line has been set with respect to the next steps.

In conclusion, this Annexation Agreement is much different than the traditional annexation agreements seen in the past. This Agreement not only resolves the immediate issue of annexation, but also provides a basis for future intermunicipal cooperation through the establishment of the Joint Intermunicipal Infrastructure Committee and an agreement by the parties to pursue intermunicipal dispute resolution as detailed in the Intermunicipal Development Plan for any issues not resolved at the Intermunicipal Committee level.

The Agreement anticipates future commitment and good faith from both parties and this was incorporated into the Agreement in a number of locations.

This Agreement is more than a simple annexation agreement, it represents a solution to the City's future growth requirements and it recognizes the need for growth and future growth corridors for the MD setting the foundation for future intermunicipal cooperation and collaboration. The Agreement also recognizes the public interest achieved through a mediated agreement endorsed by the elected representatives of the public.

The MD requests that the MGB respect, uphold, and support the terms of the Agreement as submitted in the application.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 4 – Description of MGB Process

4.1 Determination of Need for Public Hearing

On January 5, 2007, a panel of the MGB held a review of the annexation application filed by the City concerning lands in the MD.

As a result of this review, the MGB determined that it is not satisfied that there is general agreement with the annexation. Although there is a signed agreement between the City and the MD, there are known objections and concerns to the annexation that have been filed by some landowners and other interested parties.

Accordingly, pursuant to section 121 of the Act, the MGB must hold a public hearing with respect to this annexation.

At the same time, the MGB set a procedure in place to accommodate a timely and effective public hearing process and decision process.

March 26, 2007 to March 30, 2007 was set aside as dates for the public hearing.

In order to prepare for the public hearing, the MGB asked any person or group who wished to attend the hearing or to make a submission at the hearing to register directly with the MGB on or before February 16, 2007.

In addition, any person or group wishing to make a submission at the hearing, to submit to the MGB a written one page summary of the submission on or before February 16, 2007.

Lastly, any person who cannot attend the hearing may submit a full written submission to the MGB and the submission will be presented during the hearing.

4.2 Initial Advertising and Registration

On January 17, 2007, the MGB notified over 1,200 landowners and known interested parties by direct mail of the existence of the annexation application, the hearing dates, and the process.

On January 18, 2007, the MGB also had the notice published in the Calgary Herald, the Calgary Sun, and in the Rocky View Weekly.

As a result, approximately 100 people registered with the MGB to make submissions and to attend the public hearing. In addition, approximately 50 written submissions were submitted to the MGB.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

4.3 Advertising of Hearing dates

As required by section 122(1) of the Act, the MGB advertised the public hearing in the Calgary Herald, the Calgary Sun, and the Rocky View Weekly during the weeks of March 6, 2007 and March 12, 2007.

The MGB also provided the same public hearing information by direct mail to those people, groups, companies, and agencies that registered with the MGB.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 5 - Submission From City of Airdrie

During the public hearing, the MGB had to address a preliminary question of whether or not the City of Airdrie could make a submission on the proposed annexation. At the hearing, the MGB ruled that it would take a broad interpretation to the meaning of an affected person and permit the City of Airdrie to make a submission. As a result of the nature of the submission of the City of Airdrie, the MGB has dealt with this individualized matter along with the submission of Fortis Alberta in this part of its report.

5.1 Position of the City of Airdrie

Airdrie does not object to the annexation application, but makes submissions with respect to the impact of the proposed annexation in the area regarding the “Compensation Payable to the MD” generally and, in particular, as referenced in section 7 of the Annexation Agreement between the City and the MD.

Airdrie has concerns regarding the basis for payment of money from one jurisdiction to another to facilitate the transfer of jurisdiction of land. While MGB decisions do not necessarily form precedents, in the absence of any principles, standards, and criteria established under section 76 of the Act, the reasoning of the MGB in previous annexations is used to provide assistance to other municipalities involved in annexations of land. Consequently, the approval or acquiescence of this Annexation Agreement may form the new standard against which all future annexations are compared.

More specifically, Airdrie has concerns about how the numbers agreed upon by the City and the MD were derived. The Annexation Agreement cites the jointly commissioned Nichols Report as the basis for the figures set out in the Annexation Agreement.

However, the Nichols Report does not cite the assumptions upon which several of the calculations are made. To properly assess the financial impact, the assumptions should be specifically listed so that interested parties can assess them in advance of any hearing. Without this express listing, other municipalities may be applying results where the underlying facts or assumptions are different, resulting in the improper application of the decision in this case.

With respect to the loss of revenues, the figures do not appear to be based upon information in the Nichols Report. Again, if the MGB chooses to recommend the compensation as set out in the Annexation Agreement, this may lead to the improper application of that portion of the decision.

Finally, there has been no previous direction, either in the Act, the regulations, or previous decisions under the Act as to the principles behind either revenue sharing (under section 124 of the Act) or compensation (under section 127 of the Act). Without guidelines or some statement

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

of principles as to the limits of the need for revenue sharing or compensation, Airdrie, as well as any other municipality seeking to annex land, will have no idea as to the principles which will govern. The absence of any rules will potentially lead to disagreement, which leads to a longer process, and increased cost to all affected municipalities.

5.2 MD Submission

The City of Airdrie has raised concerns with respect to the agreed upon compensation between the City and the MD as reflected in Part VII of the Annexation Agreement. However, the City of Airdrie has no standing whatsoever to participate in this hearing and the MGB has no jurisdiction to hear from them in this regard.

In accordance with sections 120(3)(b) and 121 of the Act, the MGB must conduct one or more hearings in respect of the annexation and allow any “affected person” to appear before the MGB. The City of Airdrie is not an affected person in the context of this annexation because the City of Airdrie is not impacted by the annexation in any legitimate consideration of the term. As such, the City of Airdrie has no standing to appear at this hearing nor to otherwise make submissions in relation to this annexation.

While there is no particular guidance on the term “affected person” in the context of sections 120 and 121 of the Act, there is judicial consideration of the phrase “affected” in the planning and development context.

In the 1981 Alberta Court of Appeal decision Re Pension Fund Properties Ltd. v. Calgary (City) 127 D.L.R. (3rd) 477, the Court of Appeal considered an appeal from a citizen of Calgary in regard to the issuance of a development permit for a downtown office tower by the Development Appeal Board of the City of Calgary. The appellant’s basis of appeal included the lack of sunshine that would shine upon the mall stroll during the lunch time hours. In evaluating whether or not the individual had standing, the Court addressed the relevant sections of the *Planning Act*. Section 84(1) stated that a person affected by an order, decision or development permit made or issued by a development officer, other than a person having a right of appeal under subsection (3), may appeal to a development appeal board in accordance with this section.

The Court concluded that the appellant was not affected within the scope of the *Planning Act*, stating:

The word “affected” is capable of a very large meaning: (Re Clarendon Development Ltd. (1965), 50 D.L.R. (2d) 521. Like any other word used in a statute, it must take its meaning from the context of the statute in which it is used. As one member of the Board said, “... any resident of Calgary is affected by what happens on the Mall”. This may be so but only in the very broadest sense of the word. Did the Legislature intend a resident of Calgary, living some miles from the

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

mall, and who may occasionally walk there, should have the right to appeal against the grant of a development permit to an owner of property contiguous to the mall, to construct a building thereon? I find nothing in the Act which would so suggest and much to the contrary The line of necessity (separating those people affected from those that are not) may be an arbitrary one decided by the Courts on a pragmatic basis; in using such a broad word the Legislature has made the Act difficult to administer, if not unworkable, if the word is not interpreted in a reasonable manner.

The City of Airdrie cannot be considered to be an affected party within the context of sections 120 and 121 of the Act because the annexation and Annexation Agreement has no impact whatsoever on the City of Airdrie beyond the potential impact that any MGB decision has on every municipality in Alberta.

If the City of Airdrie is considered to be an affected person and permitted to make submissions on the content of this Annexation Agreement on the basis that the City of Airdrie requires “direction”, then there is nothing preventing any other municipality within the Province from making submissions on any annexation agreement that comes before the MGB, which will lead to an unworkable situation whereby municipalities with no connection to the annexation are given free rein to interfere with agreements negotiated in good faith between the initiating and responding municipalities.

With respect to the merits arguments of Airdrie, the MD did not respond. The MD maintained their position that Airdrie did not have standing to make merit arguments before the MGB at this hearing.

5.3 City’s Position

The City did not make a specific submission, either for the issue of whether Airdrie could make submissions at this hearing or for the merit arguments presented by Airdrie. Rather, the City confirmed its support of the MD’s position that Airdrie was not an affected person vis-à-vis this particular annexation and, therefore, should not be allowed to make submissions at this hearing.

5.4 MGB’s Findings

1. The City of Airdrie is a rapidly growing center surrounded by the MD. Airdrie’s southern boundary is located two miles north of the proposed Calgary boundary.
2. The Agreement between the City and the MD does not set a precedent for other municipalities and annexations.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

3. The Act requires the MGB to hear from a wide group of affected persons and to investigate, analyze and make finds about the annexation.
4. In order to fulfill its mandate, the MGB applies the term “affected person” broadly and the MGB’s historical practice is to hear all people that wish to be heard at an annexation hearing.
5. The City of Airdrie is an “affected person” with respect to the proposed annexation.

5.5 MGB Decision

The MGB decided to hear from the City of Airdrie.

5.6 MGB’s Reasons

The MGB does not accept the argument of the MD that the City of Airdrie has no standing on this annexation and cannot make a submission. The MGB prefers the view that the public interest is best served by providing a broad meaning to affected persons and not excluding persons from making submissions on an important matter like this annexation. The MGB finds the referenced Pension Fund Properties v. City of Calgary, 1981 to be applicable to a narrow planning circumstance and not as relevant as Leduc (County, No. 25) v. Alberta (Local Authorities Board) (Alta.C.A.) where the courts directed a broader participation in annexation proceedings. Under the Act, the City of Airdrie represents a considerable number of persons who live in close proximity to the proposed annexation area. Their interests should be heard. Indeed, the MGB finds it impossible to determine whether or not a person is affected until it hears the detailed nature of the objection or concern brought forward.

Notwithstanding the ability of the City of Airdrie to make a presentation on this annexation, the MGB cannot accept the proposition of Airdrie that this annexation agreement sets a precedent for Airdrie or other like centres.

The amounts payable from the City to the MD are a result of interest based negotiation between the two municipalities. It is specific to the circumstances and land in this annexation application.

Future annexation applications between municipalities will not have the same characteristics or circumstances and the two municipalities will have to negotiate between themselves based on their specific factors. In fact, the MGB recently heard the St. Albert proposed annexation whereby the primary focus of the hearing referenced matters related to compensation and revenue sharing. The facts were specific to the municipalities involved. If, in future, the City of Airdrie or any other municipality proposing annexation cannot resolve the issue of compensation, the matter would come before the MGB as a contested annexation. The MGB would be obligated to evaluate the situation based on the general principles of fairness expressed in the St. Albert report but the MGB would require the municipalities to provide detailed

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

financial evidence of those specific municipalities. In the Calgary/Rocky View situation, the amount of compensation was determined and agreed by the two municipalities through mediation. Because the municipalities signed confidentiality protocols for the mediation, all the details are not available to the MGB or the general public. The MGB places high importance on signed annexation agreements and as a result accepts the financial arrangement as a settlement between the two municipalities. Furthermore, this annexation does not have a detrimental financial impact on either the City or the MD, which is a fundamental principle for any annexation.

5.7 Recommendation

The Minister may wish to study and monitor the compensation and revenue sharing arrangements in various annexation agreements to determine if suitable Ministerial criteria should be established pursuant to section 76 of the Act.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 6 - Submission from Fortis Alberta

Due to the nature of the submission of Fortis Alberta, the MGB's report deals with the matters raised in this separate part of the report.

6.1 Position of Fortis Alberta

Fortis Alberta is the electricity distribution service for people in the MD, and as such is affected by the City's annexation application. If the annexation proceeds and Fortis Alberta is required to surrender parts of its service area established under the provisions of the *Hydro and Electric Act* (RSA 2000, c. H-16), (HEE Act), its customers will be negatively impacted.

The annexation plan has not dealt with issues of avoiding adverse impacts on customers arising from changes to the provider of electricity distribution services. Additional costs incurred by both utilities to reconfigure the distribution system to allow for the transfer of facilities from one service provider to another become the burden of all ratepayers.

In addition to the added costs, Fortis Alberta's lost revenue from these customers also becomes the burden of the remaining customers through upward pressure on rates. It is Fortis Alberta's submission that these costs are unnecessary and a forced transfer of assets under section 29 of the HEE Act is uneconomic and inefficient.

It should not be taken as a given that forcing customers to switch electric service providers because of an annexation is appropriate. Fortis Alberta currently provides electrical distribution service to various customers within the City and Enmax serves customers in the MD. In these situations, both utilities have worked together to provide the most economic and efficient solution for electricity distribution and this concept should prevail through the annexation process regardless of the municipal boundary.

Fortis Alberta accordingly asks that any report made by the MGB in this matter include comments that it is the view of the MGB that nothing in the report should be taken to suggest or conclude that a change in electric service area boundaries should be assumed to be in the public interest.

6.2 City's Position

The City took no position.

6.3 MD's Position

The MD took no position.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

6.4 MGB's Findings

1. The service area for an electric service company and the details of rates and other marketing issues are matters dealt with under the *Hydro Electric and Energy Act* administered by the Alberta Energy and Utilities Board.
2. There were no requests to modify an utility agreement within the annexation area.

6.4 MGB's Recommendation & Reasons

Section 127.1 of the Act provides authority for an annexation order to modify the provision of a public service within an annexed area.

127.1 (1) In this section, "utility agreement" means an agreement approved by the Public Utilities Board in which a municipality grants a right to a person to provide a public utility in all or part of the municipality.

(2) An annexation of land does not affect any right under a utility agreement to provide a public utility on the annexed land unless the annexation order provides otherwise.

(3) This section does not apply to a right to provide a natural gas service if the right is subject to section 23 of the Gas Distribution Act.

The MGB heard no requests to change the rights under any existing utility agreement for the lands in the annexation agreement. The submission by Fortis Alberta requested that the annexation order not change any existing arrangements. Having not received any substantive requests and arguments to instruct a change through the annexation order the MGB recommends that there is no need in the annexation to direct any change pursuant to section 127.1 (2) of the Act.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 7 - Opposition to Annexation in General

During the MGB hearing, the MGB heard from parties who either objected or raised concerns regarding all of the annexation or who objected to small portions of the annexation or who had isolated concerns. In order to effectively deal with these matters the MGB has organized Part 7 to deal with those who raised concerns with the total annexation and Part 8 deals with the more individualized concerns by area.

At the public hearing, the presentations were broken down into three areas, the west annexation area, the north annexation area and the east annexation area. In some instances, issues overlap from one area to the other.

7.1.0 Springbank Community Planning Association (SCPA)

Springbank forms part of the MD and the Springbank Community Planning Association is presenting on behalf of its members, who are residents of the Springbank community.

The SCPA opposes the Annexation Application and the accompanying Annexation Agreement.

The citizens are concerned about the future of their community. Irrespective of which side of the municipal boundary they live on, the future of the region encompassed by the City and the MD should be carefully and thoughtfully planned rather than in haste so that the City can take advantage of the current political situation, or because the City has always done annexations that way. This is particularly important in light of the number of land uses, development, servicing, and environmental issues now facing the region.

Springbank residents are impacted by development. Some live adjacent to the proposed annexation areas and would be subject to the development processes and the nature of development proposed by the City and the subsequent impacts.

The SCPA is opposed to the annexation for four reasons.

(1) The first reason is that the process was fundamentally flawed and the public consultation process did not provide for due process.

The annexation justification presented with the annexation application is an after the fact justification of the application. The Initial Justification found in Appendix F of the report is the most forthright justification in which the annexation is related to such things as achieving the annexation before changes occur in provincial policy.

The public consultation process does not appear to meet the expectations of the MGB. The SCPA believes that the integrity of the public hearing and public review processes was severely

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

compromised by the fact that a draft of the actual Annexation Agreement was not presented prior to the public hearings.

From the perspective of public consultation, the MGB, in previous Orders, noted that the best interests of local authorities, landowners, and the general public will be fully explored, and that the MGB should determine if the annexation is logical and beneficial and determine the probable effect on local authorities and the residents of the area.

The SCPA does not believe that these criteria have been addressed in any reasonable form. The general public (who are landowners in the MD) were excluded from the process primarily through a lack of information. As such, the applicant has not explored the best interests of the community.

(2) The second reason is that the Annexation Application is premature. In its haste to outrun any potential changes to provincial policy or legislation, the City has ignored its own planning processes, has not allowed the MD to complete its planning studies, and has not waited for the outcome of significant regional servicing studies and the review of provincial land use policy.

There are no less than six important planning and servicing studies underway and close to completion that would most certainly impact the outcome of this Annexation Application, including the Calgary Municipal Development Plan and the Regional Water / Waste water study.

In addition, the Intermunicipal Development Plan review for the City and the MD, which was to have started in 2002, and which would have informed this process, was set aside until this Annexation Agreement was complete.

(3) The third reason is that the negative financial impacts imposed on the taxpayers of the MD are not properly accounted for or compensated for in the Annexation Agreement. The public has not had an opportunity to discuss with the authors of the Nichols report the financial analysis.

The SCPA members have attempted to calculate the financial impact to the MD using some simple and conservative assumptions on land values and taxation rates in order to get a sense of the magnitude of losses to the MD as a result of this annexation. Using very conservative assumptions, it appears that the tax revenue lost by the MD would be in the order of \$44 million annually in exchange for the \$1.8 million annual subsidy from the City. On the other hand, the City ultimately stands to gain tax revenue of over \$215 million annually.

(4) The fourth reason is the inadequate implementation process proposed in the Annexation Agreement. For instance, the Joint Planning Area approach referenced in the Agreement has been attempted in the MD without success, and the growth corridors clearly plant the seeds for the next annexation application.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

The SCPA believes that there is time to do it right and proposes that the Annexation Application be tabled until all of the above studies and planning processes are complete. At that time, the City could consider whether or not an Annexation Application was still appropriate. If the City decided to proceed, it could do so, with an Annexation Application that reflected new planning, servicing, and land use policies that have been prepared with the future in mind, and with input from communities that have had an opportunity to consider a common vision for the future in the context of long term provincial and municipal objectives and policies.

7.1.1 City's Position

The City relies on its original rationale and annexation report.

7.1.2 MD's Position

The MD relies on its original rationale and took no specific position.

7.1.3 MGB's Findings

1. The City and the MD conducted 11 open houses and two public hearings as part of the public consultation process.
2. The City and the MD maintained websites and provided updates on the annexation proceedings throughout the negotiation and mediation phases.
3. The Annexation Agreement provides for the establishment of a Joint Intermunicipal Infrastructure Committee to be formed within 30 days of the date the annexation Order in Council is signed.
4. The Annexation Agreement provides for the ongoing application of MD Area Structure Plans and Concept Plans until such time as the City passes new plans.
5. The Annexation Agreement obliges both municipalities to undertake a review of the Intermunicipal Development Plan within 120 days of the annexation Order in Council is being signed.
6. The municipalities agree that the annexation does not impose a financial burden on either municipality.
7. The Annexation Agreement provides for future joint planning initiatives in a number of locations throughout the annexation areas.
8. The Annexation Agreement identifies the anticipated future growth areas for both municipalities.
9. The submission of the SCPA has not convinced the MGB that the annexation should be denied.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

7.1.4 Reasons

The Annexation Process

The City and the MD undertook an extensive public consultation process with 11 open houses and two public hearings. Notices were sent to landowners and other interested stakeholders advising of the open houses at specific stages in the mediation process, and of the public hearings. As well, all open house series and public hearings were advertised in the urban and rural local newspapers. In total, approximately 1,500 people attended.

The public consultation undertaken by the municipalities was exhaustive. The Act requires that the municipalities undertake a public consultation process. The Act does not specify the nature of that process nor does it require that the municipalities conduct public hearings.

In this case, the MGB is of the opinion that the municipalities met and exceeded their obligations to consult with the public, for the following reasons:

1. The City and the MD formed a Joint Negotiation/Mediation Committee comprised of representatives from both municipalities to address the requirements of section 117 of the Act. The Committee met 37 times between September 23, 2005 and October 11, 2006.
2. Throughout the process, the City and the MD maintained up-to-date information on their respective websites. The MD and City also sent out information mail-outs and received over 200 pieces of correspondence from interested parties during this process.
3. All written submissions from landowners and interested stakeholders resulting from the open houses and correspondence were made available to the Joint Mediation Committee for review. As the Committee worked through the issues, a position paper was produced. This became the “Annexation Transition Provisions” that addressed issues arising from the public consultation process. This paper was presented at open houses and was written into the Annexation Agreement.
4. As a result of these efforts and the mediation process, an Intermunicipal Annexation Agreement was successfully concluded and signed by both municipalities.

The SCPA stated that the draft of the Annexation Agreement was not made available prior to the public hearings held by the municipalities. The draft Annexation Agreement was made available during the municipal hearings and the MGB is satisfied that the satisfactory procedures prior to the annexation application were followed. The MGB recognizes the sensitive nature of mediation. The MGB’s policy and the provincial direction is that cooperation and reaching agreement in annexation matters has the highest of priorities in municipal interactions.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Annexation Not Premature

The MGB considered the assertion by the SCPA that the annexation is premature due to a number of ongoing planning studies by the MD, regional servicing studies and the review of provincial land use planning policies. While this is a serious consideration, the MGB notes that both the City and the MD stated that their respective interests respecting future plans and servicing are met through the provisions of the annexation agreement. In the MGB's opinion, ongoing planning studies and servicing studies will take place no matter the municipal jurisdiction. In fact, approval of the annexation will allow those studies to go forward with a known boundary and better predictability of future growth and infrastructure needs.

The MGB understands the SCPA concern about future provincial land use policy changes; however, the MGB is not willing to recommend refusal of the proposed annexation based on provincial land use policy currently under review.

The City policy of having a 30 to 35 year land supply is reasonable considering the size of the City and its current rapid growth. For this reason, the MGB does not conclude that this annexation is premature.

Financial Impact

The MGB accepts the Nichols Report as an expert document prepared by professionals in the field and finds that the public consultation with respect to the whole annexation was exhaustive.

The SCPA is of the opinion that the negative financial impacts imposed on the taxpayers of the MD are not properly accounted for or compensated for in the Annexation Agreement. The MGB notes that the City and the MD hired the Nichols Group to undertake a thorough financial study to determine the appropriate financial payment from the City to the MD. They examined the factors and came up with the amounts as stated in the agreement. Further, the report concludes that neither municipality will suffer unreasonable negative financial impacts as the result of this annexation.

The SCPA presented a financial analysis suggesting projected revenues from the annexed lands of \$215 million per year, compared to the approximately \$17 million as compensation in the Annexation Agreement. The problem with this analysis is that it only examined the revenue side of the equation. The SCPA did not address and account for the cost side of generating that revenue, that is, the costs associated with generating that revenue or even if the same kind of revenue could be expected if the land stayed in the MD. The SCPA only dealt with gross revenues and not net amounts. As a result, the MGB finds that the analysis is incomplete and, therefore, the figures derived by the SCPA are not reliable for determining whether or not the compensation was sufficient.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

The MGB accepts that this annexation does not have a detrimental financial impact on either the City or the MD, which is a fundamental principle for any annexation. Further, the compensation amounts were determined and agreed by the negotiating committee and ultimately sanctioned by the duly elected representative of both municipal Councils.

Implementation of the Agreement

The SCPA alleges that the implementation process envisaged in the Annexation Agreement is inadequate for the establishment of joint planning areas and growth corridors. The SCPA is of the opinion that growth corridors may plant the seeds for future annexation.

The MGB sees the establishment of joint planning areas and growth corridors to be one of the more positive provisions in the annexation agreement. Generally identifying these areas gives stability to the future growth areas and identifies for landowners and neighbours the type of development expected to occur over the next 30 or more years.

7.2 Action for Agriculture

Action for Agriculture (AA) is a concerned citizens group promoting the preservation of agricultural lands and “smart growth” which reduces the pressures for utilization of agricultural lands for non-agricultural interests. AA was formed in 1990 in the MD of Rocky View to respond to issues of urbanization.

7.2.1 Position of Action for Agriculture

AA submits that it is inappropriate for the City to continue to expand outwards at its current rate of development and at the current densities at the expense of agricultural lands. This type of urban sprawl is unsustainable.

Farmland must be protected. Only 5% of Canada’s land base is capable of producing food. Alberta has 52 million acres or 30.9% that land base. In the last 50 years, the United States has lost 200,000 acres to sprawl. That is far more than all of Canada’s food producing land base of 168,000 acres.

Other municipalities across North America are pursuing more intensified development, encouraging more downtown housing and redeveloping existing suburbs. These strategies should be used in this annexation reducing the economic liability to the City and the MD.

The City of Calgary has the same geographic area as the City of New York with one tenth the population illustrating the need for significant changes to the approach to urban development in Calgary. Changes must be made to protect and conserve precious agricultural lands through a variety of innovative initiatives.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

7.2.2 City's Position

The City preserves agricultural land until needed for urban development and phases urban development in. Furthermore, the situation of the City and New York City vary so greatly that it cannot be compared. The City has historically been increasing development densities and has been handling the transition from rural to urban in an orderly fashion.

7.2.3 MD's Position

The MD relied on its original submission in support of the annexation and took no specific position on the AA submission.

7.2.4 MGB's Findings

1. The planning mechanisms used by the City provide for an orderly transition from agricultural activities to urban activities.
2. The proposed annexation conforms to the agricultural provisions in the provincial Land Use Policies.
3. The Annexation Agreement recognizes agricultural land and includes provisions that encourage farmers to continue farming until urban style development is imminent.
4. Development densities within the City of Calgary have been consistently increasing.
5. The submission of Action for Agriculture has not convinced the MGB that the annexation should be denied.

7.2.5 Reasons

The City is centered in an agricultural setting and the municipalities, in their plans, have identified the annexation as a primary area for urban development. In the MGB's opinion, the Annexation Agreement and the City's planning practices will accommodate the transition of agricultural land in an orderly fashion and reduce any premature loss of agricultural lands.

Municipalities and the MGB are bound by the provincial Land Use Policies, Order in Council 522/96. These land use policies provide for an orderly transition of agricultural lands to urban development. Policy 6.1 provides for the identification of areas where agricultural should be the primary land use and encourages the use of planning mechanisms to limit the premature conversion of agricultural lands.

This annexation complies with this policy. As the proposed annexation includes agricultural lands, the MGB was satisfied that the planning mechanism used by the City results in an orderly transition and limits premature conversion.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

In addition, the Annexation Agreement facilitates continued agricultural operations through taxation conditions beneficial to farming, by considering expansions, and by contracting the MD Agricultural Services Board to address agricultural service needs.

The MGB observes that City policy has resulted in overall density increasing from four units per acre in the early 1960s to seven units per acre on current residential development. In addition, City policy encourages high density infill developments in inner City developments. The MGB is satisfied that the City is undertaking significant measures to increase densities within current accepted social and economic norms within Alberta.

In the opinion of the MGB, the presentation by Action for Agriculture was intended to address broader agricultural policies in the province as a whole, and it is inappropriate to address or develop new provincial policy in this specific annexation. These matters of agricultural land consumptions and urban densities are best addressed in the context of the current review of the provincial land use policies.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

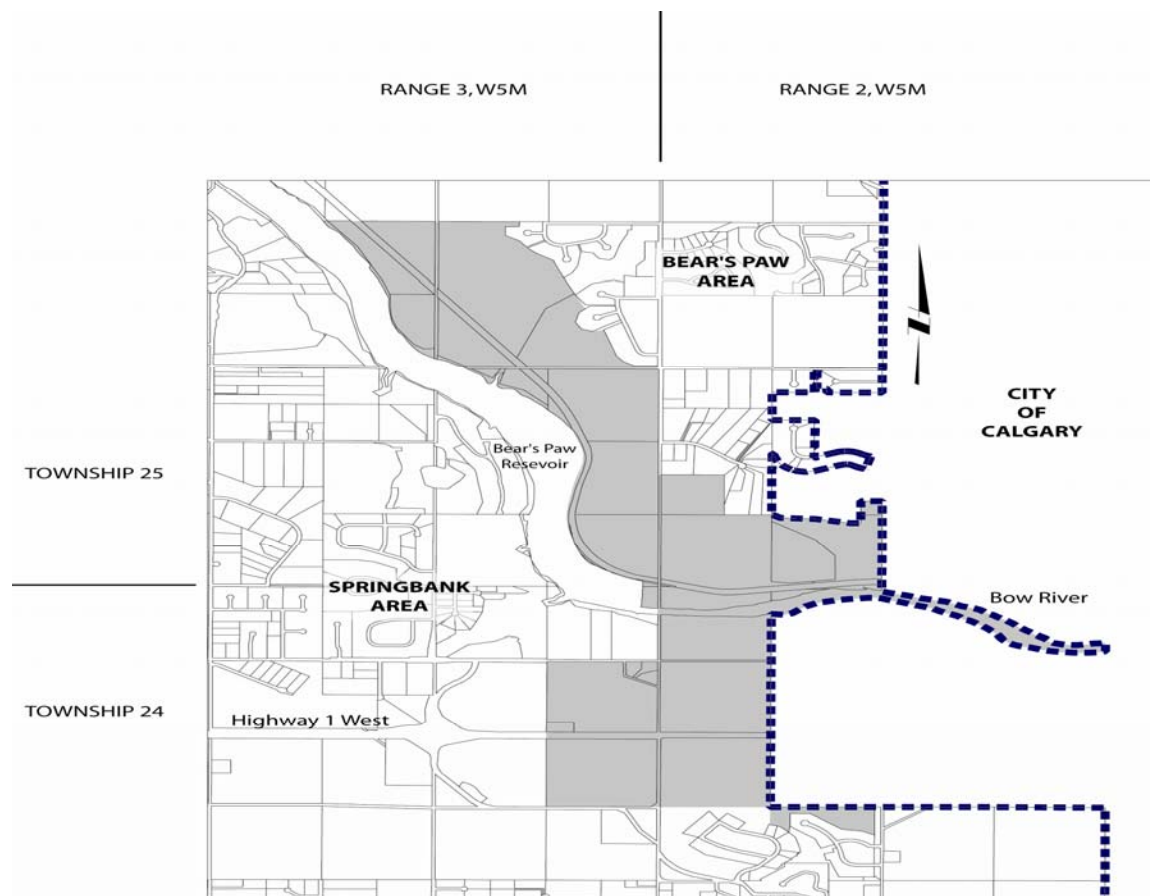
Part 8 - Submissions/Findings/Reasons by Specific Area

8.0 Submissions by Specific Area

The following submissions are broken down into three geographical areas, the west, the east, and the north. This part does not include the requests for lands to be included in the annexation where those lands were not part of the annexation application. Nor does it include the submissions of those opposed to such requests for inclusion. These submissions are shown in attachment A of this report for the Minister's information. The reason for separating these submissions in attachment A is explained in Part 9 of this report.

8.1 West Annexation Area

The west annexation area is primarily made up of two communities – Springbank (south of the Bow River) and Bearspaw (north of the Bow River).



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

8.1.1 Springbank

A number of residents in the Springbank Area adjacent to the proposed westerly annexation area were opposed to the annexed lands. The Springbank area is largely made up of acreage and country residential development. The residents wish to preserve this low density rural life style and are of the view that the annexed area will be developed to urban development standards and will negatively impact their rural life style and sense of community. In the view of the residents, these higher densities will bring increased traffic to the area where the transportation infrastructure is inadequate.

Residents worked hard on an Area Structure Plan to guide the future development in Springbank and to provide some protection for the lifestyle they desired when they chose to live in the MD and not in the City. Likewise, other areas have adopted their own plans. All are concerned that if the City annexes these areas, these area structure plans will be discarded with little or no consideration of the wishes of the area residents. The City in the past has not negotiated in good faith as evidenced to what occurred in their annexation of lands in East Springbank.

If the proposed annexation does take place, it is requested that the Order in Council contain provisions stating that the existing area structure plans must stand until modified by the residents immediately affected and not by the wishes of the rest of the City. The Order in Council must also contain provisions guaranteeing that whatever agreements are made prior to the annexation must be adhered to by all the parties, again unless modifications are accepted by the residents in the affected area. In addition, the City should be required to properly maintain adjoining roads and facilitate a water conservation program; particularly where the MD properties abut the City and water access is readily available.

8.1.2 The Existing Artist View Development in Springbank

Artist View development is located immediately south of the west annexation area. The Artist View development in Springbank is a country residential estate subdivision with large open areas between various clusters of residential development. The proposed annexation includes some of these larger open areas but leaves the existing clusters of development in the MD.

Crestmont Developments Inc. owns the land proposed to be annexed. The residents of Artist View Development in Springbank have negotiated a transition plan with Crestmont Developments Inc. The Plan calls for staged lot sizes in the Crestmont Development interfacing with the Artist View development. A transition plan was requested by the City and the MD.

The Plan was approved by the MD, but since that time, the Crestmont lands are part of the proposed annexation into the City. It is further the understanding that Crestmont intends to develop the balance of their subdivision in accordance with the plan notwithstanding that the lands in the MD will be annexed by the City.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

If the annexation of this piece of land is approved, the annexation should be specifically subject to the development proceeding as agreed in the transition plan, such as lot sizes, buffering, density, etc.

8.1.3 Bears paw

The Bears paw Annexation Committee (BAC) requests that the Bears paw lands (located in the northerly portion of the west annexation area) be removed from the City's annexation. The lands total 1384.37 acres and are located adjacent to the north side of the Bow River and the Bears paw Reservoir.

A large portion of the area are the donated lands which are being envisioned for a park. The BAC wants to ensure that the park vision and that appropriate residual land development is achieved. Therefore, the Intermunicipal Development Plan should be amended with the inclusion of a Special Area Municipal Development Plan first and annexation should follow.

In the view of these Bears paw residents, the best alternative is to remove the Bears paw lands from the annexation application. The annexation is premature and should wait until a Special Area Municipal Development Plan is developed.

If the lands remain in the annexation application, it is requested that the MGB include in the Order in Council a condition indicating that the Bears paw lands may only be developed as a municipal park and that land use and development densities of residual lands must be compliant with the amended Intermunicipal Development Plan's new Special Area Municipal Development Plan; otherwise, the lands would revert back to the MD, prior to any development application review. Further, the lands must be governed by the Bears paw Area Structure Plan until replaced by an approved Municipal Development Plan.

8.1.4 The MD's Position

The MD took no specific position on these submissions and relies on their overall submission for justification of the annexation.

8.1.5 The City's Position

The City took no specific position on these submissions and relies on their overall submission for justification of the annexation.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

8.1.6 Support for the Western Annexation Area as Proposed

Lehigh Cement is supportive of the annexation as it affects their lands which are located in the Bearspaw area of the west annexation along the north side of the Bow River. Due to the history of gravel extraction and processing on the site, these lands can most easily be redeveloped to urban standards under the City. Further, the lands form an important link in the City's proposed open space system along the Bow River.

8.1.7 Findings

1. All matters raised in this part by residents of Springbank, Bearspaw, and Artist View are very localized planning issues.
2. Pursuant to the Act, local planning issues are, and/or, should be dealt within local planning documents by the City or the MD.
3. It is not appropriate for annexation conditions to limit the discretion given to local authorities in their statutory planning bylaws under the Act.
4. Any of the impacts on the issues identified may be mitigated through local planning bylaws.
5. These lands are comprised of a significant park for the Calgary region and located adjacent to the major water source for the City, as well as future residential lands and are a logical extension of the urban open space and residential system.
6. The submissions offered do not convince the MGB that the annexation should be denied or altered.

8.1.8 Reasons

The MGB understands the concerns of the residents of Springbank and Bearspaw with respect to future land uses in the annexation area. While these are valid concerns, the MGB finds that these are matters of local planning concern and it is inappropriate for conditions of annexation to limit the discretion provided by the Act to local authorities in their bylaws. The Annexation Agreement recognizes that existing area structure plans and other plans will continue to operate and will not change without the benefit of due process. The MGB appreciates that there will be impacts because of the nearby urban expansion and, more importantly, there are significant ongoing negotiations with respect to park development. The MGB accepts this as a logical extension of the urban open space system.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

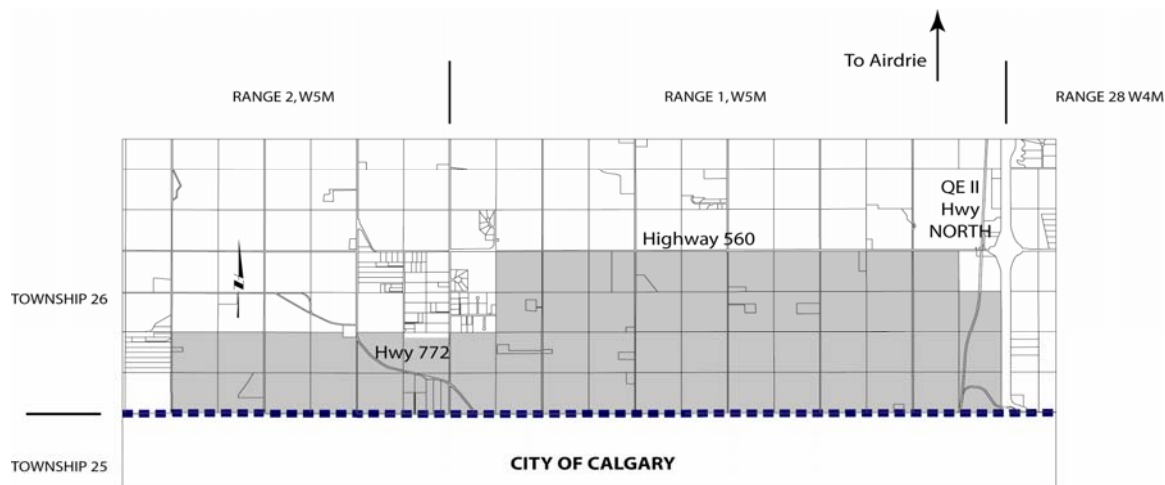
The MGB also understands that the City has plans to continue with the large parkland proposals adjacent to the Bearspaw reservoir. Indeed it is in the City's best interest to keep this area development free as the reservoir is one of the main drinking water supply sources for the City.

The MGB does not concur with the concern that the annexation is premature in these areas without amendments to the intermunicipal development plan or other planning documents presently in effect. The cooperation and obligations expressed by both municipalities in the Annexation Agreement underline a commitment to be sensitive to any future development in this area and to proceed promptly to addressing them as stated in clause 2.12 of the Annexation Agreement.

The Parties specifically acknowledge that the mutually agreed upon five (5) year review of the November, 1998 MD of Rocky View/City of Calgary Intermunicipal Development Plan (the "IDP") was delayed as a result of the Annexation process. The parties agree that no later than 120 days after the Effective Date of Annexation, the parties will commence a review of the IDP, which review will specifically deal with the matters outlined in Schedule "D" attached hereto. The parties agree that they shall use reasonable efforts to finalize the IDP review, have the IDP in draft form and initiate respective approval processes within 18 (eighteen) months after the IDP review commences.

In this western annexation area, the MGB accepts that the City and the MD have agreed and will take action to respect the rural character of the area and recognize the special environmental features of the region including those identified for major park use.

8.2 – North Area



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

8.2.1 Landowners' Submissions

Willetts

The Willetts oppose the annexation of their lands because of the effect it will have. Their property lies in the path of the planned interchange between 144 Avenue NW and the Shaganappi Trail. If this annexation is approved, this land will become part of the City and the City will have the right to expropriate it to accommodate the City's transportation future plans. The collective behaviours of the City and the MD to date have done nothing to suggest that they will be dealt with fairly post annexation. In the view of the Willetts, this annexation should be denied until such time as the process allows affected landowners to be dealt with in an integrated, informed, fair and equitable manner.

Miller

Jeff and Laurie Miller's lands are located in an area which the City and the MD show as a future residential growth corridor and are requesting that this designation be removed. It is their contention that this designation is unnecessary.

In the view of the Millers, historically, the mechanism used by a city to reserve tracts of land has been annexation. Now the City and the MD have agreed to this new and confusing designation of residential corridor. The reason for a residential corridor has been explained as a planning tool that brings greater stability to the long range planning process. While this may be true for the municipalities, it does not acknowledge the rights of a landowner.

Charette

Mr. Charette owns a 20 acre parcel at the northwest edge of the north annexation area outside of the annexation area. The original annexation boundary was further east of his property and now the proposed boundary is immediately east. Mr Charette would like to see the annexation boundary moved to its original location further east of his property. Mr. Charette is of the view the annexation area in the northwest is inappropriate since it will be adjacent to three gravel pits and, therefore, in his view cannot be developed. It is approximately eight to ten miles from any City development. Further, there is no infrastructure in place and no pressure to develop this area.

8.2.2 The MD's Position

The MD took no specific position on these submissions and relies on their overall submission for justification of the annexation.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

8.2.3 The City's Position

The City took no specific position on these submissions and relies on their overall submission for justification of the annexation.

8.2.4 Support for the North Annexation Area as Proposed

Centron and Homburg LP (Irwin Torry)

The Centron Group of Companies, together with Homburg LP, own approximately 320 acres in the proposed annexation area along the northern boundary of the City. They support the annexation of the approximately 9,000 acres in the north.

The inclusion of these lands ensures the City has a sufficient long-term supply of residential, commercial, and industrial property to supply anticipated levels of growth and employment. In addition, it allows property owners and the City to commence long term planning and ultimately development in a coordinated fashion.

North Stoney Landowner Group (Brown and Associates)

The North Stoney Landowner Group owns approximately 7,500 acres of land within the northern lands proposed for annexation. The Group fully supports the annexation of their lands into the City.

8.2.5 Findings

1. Any concerns regarding expropriation are best dealt with through discussions with the City or, if required, settled by due process required pursuant to the *Expropriation Act*.
2. The identification of residential growth corridors does not prohibit existing agricultural activities. The Annexation Agreement facilitates the continuation and expansion of existing agricultural activities until the use changes.
3. The existence of gravel pits in the area does not prohibit long term urban development.
4. The submissions offered do not convince the MGB that the annexation of the north area should be denied or modified.

8.2.6 Reasons

The concerns of the Willets regarding possible expropriation cannot be resolved through conditions of annexation, modification of the annexation area or denial of the annexation.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Indeed, if the Willets property was excluded from annexation and the City determines that it requires all or a part of the property for the proposed 144 Avenue roadway intersection, the Act provides that it may acquire such land with the consent of the MD. Should these lands become the subject of an expropriation, there is an established process that a municipality must go through in order to expropriate land. Part of that process is the ability of the landowner to have the Land Compensation Board determine the reasonable and appropriate compensation payable to the landowner by the municipality for the land.

Similarly, land designations are not something that can or should be fixed in a condition of annexation. Land use planning is a continuous process to be undertaken by local municipalities according to the public processes required under the Act. It would be inappropriate to limit the discretion of a local municipality in an annexation order to affect reasonable change after all public processes required in the Act have been adhered to.

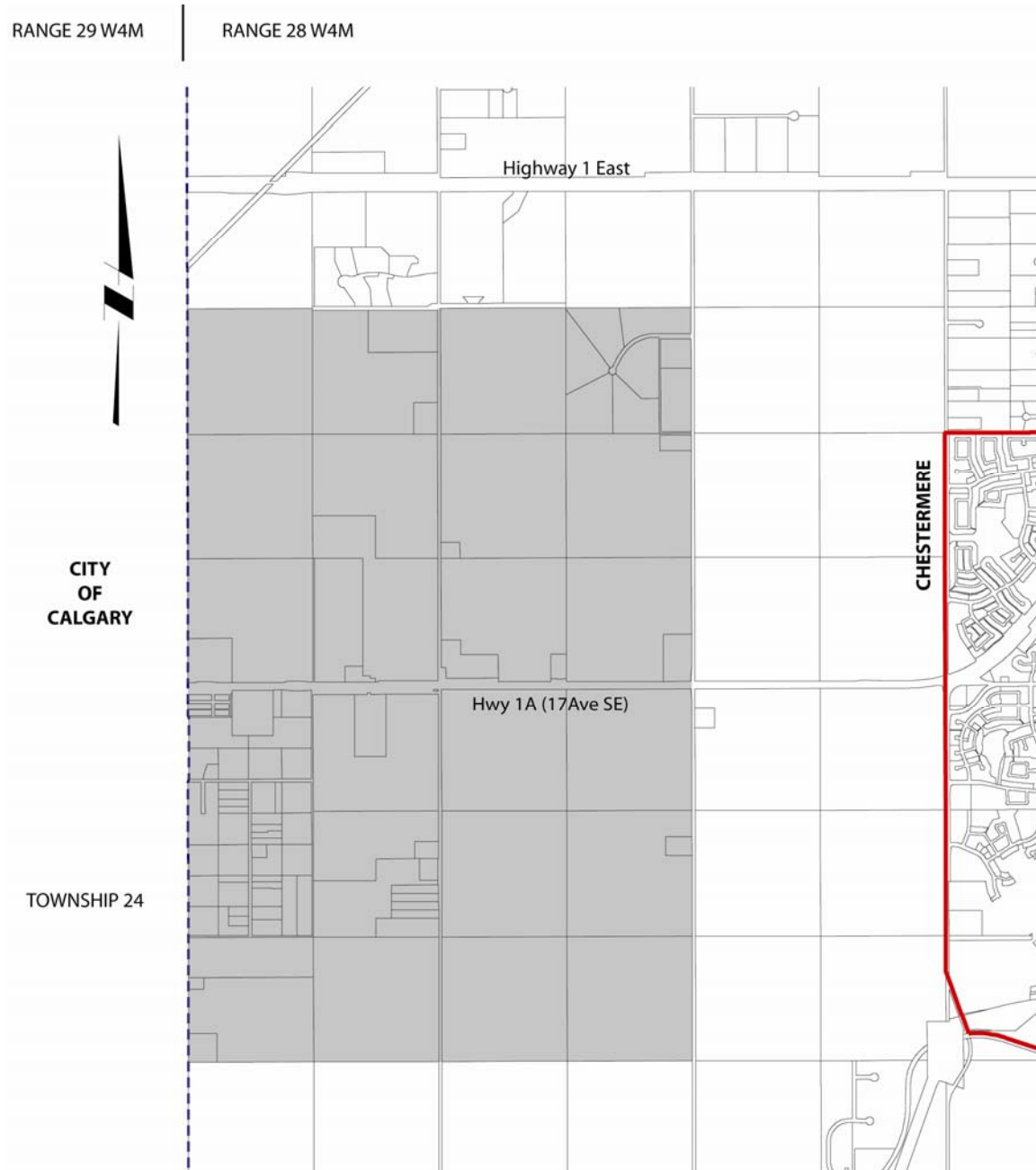
The MGB does not accept that the gravel pits in the northwest are an obstacle to long term growth in the northwest direction. After utilization gravel pits can be and have been incorporated into urban development. This annexation provides for a 30 to 35 year land supply and as a result in the long-term planning horizon appropriate adjacent land uses can be planned adjacent to the gravel pits or the gravel pits can be incorporated into the land uses suited to the area. This is a matter of long-term local planning.

With respect the northern annexation area, the MGB is not convinced that it should recommend an alteration to any of the annexation area in the north. The boundary is a result of extensive negotiation and mediation between the City and the MD. Subsequently, the municipalities entered into an annexation agreement creating the boundary. The MGB places considerable weight on this agreement.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

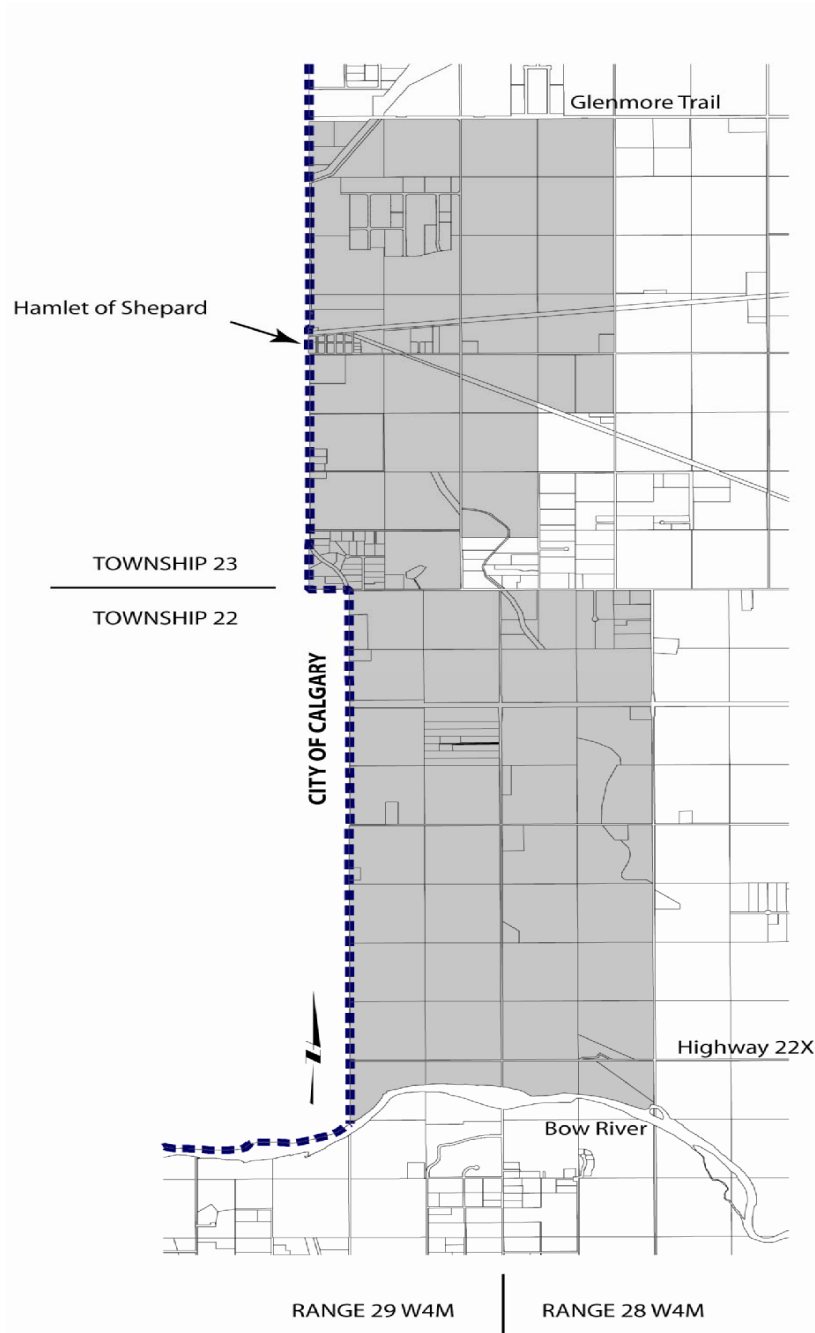
8.3 East Area



Northern Portion of East Area

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01



Southern Portion of East Area

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

8.3.1 Support for the Annexation Application as Proposed

Several landowners support the annexation boundaries as proposed. In particular, the Belvedere Landowner Group, which owns approximately 1,120 acres, supports both the annexation of their lands into the City and the annexation of the approximately 4,000 acres in the east annexation area.

The landowners that support the annexation area are concerned that the Springbank Community Planning Association (SCPA) may be viewed as speaking for everyone in the annexation area. It is their collective opinion that the proposed annexation is a logical expansion of the City's boundaries.

8.3.2 Submissions Opposing the Annexation of some of the Lands in the Eastern Area

A few landowners (Humenuk, Kutynk, and Yewchuk) in the south portion of the eastern annexation area oppose the annexation of their lands. These lands involve a very small portion of the southeast annexation area.

These landowners are of the view that the subject lands should remain in agricultural use. This property has been in continuous agricultural use with no intention to change its use by the landowners. The City's long range plan is not agricultural use; therefore, there is no benefit to the City by annexing these lands.

These properties do not utilize the City's utilities or services and do not need these services. In addition, the City's expansion negatively impacts these properties through increased traffic congestion and associated driving risks, vandalism, pollution, and diminishment of peaceful enjoyment.

These landowners are of the view that the City is facilitating urban sprawl through the annexation plan. The annexation area is extreme and contrary to placing emphasis on sustainable development. The City has been unable to adequately address its existing infrastructure requirements. It is illogical to expect that the responsibility for additional lands would do anything but exacerbate the existing problems and issues unless the newly acquired lands are subsidizing lands within the previous boundaries.

There are inequities forced upon the landowners by this annexation. Ideally, the annexation should be denied. But if the annexation proceeds despite landowner opposition, specific measures would minimize the adverse consequences to existing landowners.

The basis for property taxation equivalent to the current MD agricultural assessment and tax rate must be grandfathered, as well as the existing property uses, and water and waste treatment infrastructure.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Further, the properties should be exempt from any current and future assessments for utilities and infrastructure. And lastly, the landowners should be compensated for their legal and professional representatives.

8.3.3 Gleneagles Investments, Louson Investments, and A & H Holdings

Gleneagles Investments, Louson Investments, and A & H Holdings own 880 acres east of the City on either side of 50 Avenue (Township Road 240), comprising the majority of section 5 and the northeast quarter of section 33. The north half of section 5 is included in the proposed annexation and the remaining lands are affected by proposed joint planning areas and by the Peigan Trail extension.

The groups' particular interest is in the reference to the Peigan Trail Extension, Part 5 of Schedule D, Intermunicipal Development Plan and Principles, contained in the Intermunicipal Agreement on Annexation, which states that the roadway will establish the interface between industrial (MD) and residential (City) development in this area.

On September 25, 2006, City Council adopted a motion stating that the administration ensure that the future alignment of Peigan Trail/43 Avenue east of the Transportation Utility Corridor does not unnecessarily bisect private property and allows for optimum land use as part of joint planning in this area. This may require a municipal boundary adjustment once the alignment is fixed to ensure all developable lands are in the City. The motion further states that both municipalities agree that the land use north of the extension will be residential for the City and south of the extension will be industrial for the MD.

These developer landowners are seeking further assurances, ideally through the Annexation Order, that when the alignment of Peigan Trail/43 Avenue is resolved, the municipal boundary adjustment referred to will be automatically initiated through a simplified annexation process.

8.3.4 City's Position

The City relied on their overall submission and the annexation agreement for the justification of the annexation of these areas.

8.3.5 MD's Position

The MD relied on their overall submission and the annexation agreement for the justification of the annexation of these areas.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

8.3.6 Findings

1. The growth of the City in an easterly direction is a logical extension of existing land use patterns and servicing.
2. These lands are essential to achieving the goal of a 30 to 35 year land supply for the City.
3. The annexation agreement provides tax relief to landowners in the annexation area until the year 2021. These properties will be taxed on the same basis as if they remained in the MD. The annexation agreement also provides for continued tax exemption for farm properties (farm residences and farm buildings) as provided for currently in the Act and regulations until the year 2036 or latter period if the Act continues to provide for such an exemption.
4. Conditions in an Annexation Order in Council must be specific and unambiguous, especially the description of lands included.
5. The MGB did not receive exact legal descriptions required to identify portions of land isolated or bisected due to the future alignment of Peigan Trail.

8.3.7 Reasons

The eastern annexation area provides for reasonable options to accommodate residential and non-residential growth. The City has largely fully developed all lands near the existing eastern City boundary. As well, considerable lands within the existing City boundaries have been utilized for the eastern transportation corridor, thus, the annexation of the lands in the eastern area is logical and must be of sufficient size to facilitate reasonable economies of scale.

As well, the eastern annexation area recognizes the constraints of sour gas installations northeast of the current City boundaries, thus, making the annexation of lands in the southeast areas more necessary. With respect to the request for tax conditions the Annexation Agreement has provided for appropriate conditions which mitigates the impact on those properties included in the annexation area.

The MGB understands the concerns raised by the objectors, but finds the greater public interest is better served by including these areas in the annexation at this time. The City has plans to better use its existing infrastructure through more intense urbanization in the annexation areas with higher densities, smaller lot sizes and the creation of employment centres and town centres in the suburban areas. The MGB believes this to be the best solution in a situation where unprecedented urban growth is demanding space and services.

With respect to the concerns of the Peigan Trail alignment, the MGB was not satisfied that it had received a sufficient detailed description of the alignment to recommend a specific description in

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

this annexation order. In the absence of a precise alignment, the annexation boundary could not be described with any certainty. If and when the alignment becomes certain, an application for boundary change could be processed expeditiously at a later date with the support of the two municipalities and the landowners.

8.4 Servicing of the Hamlet of Shepard

The Hamlet of Shepard is located east of 84 Street SE and south of 114 Avenue on the eastern edge of the City. Residents of the hamlet and surrounding area are opposed to the proposed mediated annexation of their land as long as the annexation does not include the City servicing the area with water and sewer in the near future.

On September 20, 2006, a petition was signed by 120 residents citing no benefit to being annexed by the City. The petition was presented at both the City and the MD public hearings. The area residents are concerned that there is nothing within the annexation agreement that includes servicing the Shepard area. The City has since shown a willingness to look into water and sewer servicing but is not prepared to provide or commit to any defined period of time in which to extend such services. It is the position of the area residents that servicing Shepard is a key issue to annexing this area.

The City is constructing the Shepard Wetland Project in the immediate area. This is a joint venture between the City and the Province. The residents of Shepard are of the view that the wetlands project will result in contamination of their private water wells thus servicing is vital for area residents in order to prevent contamination of the residents' water wells and debilitate their septic fields.

In the view of the residents, a signed agreement prior to annexation to service the hamlet should be required; otherwise, it will fall on the residents to pay for the cost of servicing. The costs should not fall on the residents because the servicing is required to alleviate the potential problems caused by the wetland project. The municipal and provincial government need to be proactive in preserving health to the community of Shepard by providing finances for the servicing before any storm water flows into the projected Shepard Wetland.

The residents argue that the hamlet can be serviced through the servicing extensions of a nearby industrial park located to the north of Shepard. It is currently in the MD, but there are discussions of it being serviced by the City in the near future. Services will have to run directly past the hamlet to get to this industrial park.

The hamlet residents dispute the remarks of the City that there will be only minor leakage from the wetland to the wells and that it would take 80 to 100 years for any impact to occur. Although, the City did indicate that the hamlet would receive servicing before this time period, the residents were of the view that they should not have to wait that long for services.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

It was requested that the MGB examine the intentions of the City with respect to providing water and sewer services to the Hamlet of Shepard and surrounding area and to include strict timelines for implementation.

8.4.1 Response by the City to the Shepard Servicing Issue

The Shepard Wetland Project is a cost shared project between the City and the Province. The City is currently studying the options to service the hamlet. At present, servicing of the 50 homes in the hamlet is financially prohibitive. The hamlet is located in a major industrial growth corridor so it is anticipated that servicing will probably occur within five years. The servicing can be accommodated through the logical extension of the southeast servicing and may be extended past the hamlet. The City will bear the cost and these costs will be recovered in the rates.

8.4.2 Findings

1. The City indicated that servicing will be provided to the hamlet as industrial development grows in the area.
2. Servicing of the hamlet should occur well in advance of any potential impact of the Wetlands Project on the hamlet's groundwater supply.

Reasons

The MGB is satisfied by the submission of the City that the hamlet will be serviced along with the growth expected in the area. Although this may not be immediate because of the financial viability of extending services, the MGB is satisfied it will occur well within the time horizon of the annexation. The solution to the servicing problems of the hamlet can be best resolved through the annexation of the lands into the City as surrounding lands are absorbed for urban growth. This will mitigate any of the associated or anticipated problems related to the Wetlands Project.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 9 - Legal Argument

9.0 Jurisdiction of the MGB to Consider and Recommend Inclusion of Additional Lands

Most of the submissions relating to the subject annexation were to include additional lands in the annexation. However, before dealing with these requests the MGB must address the ability of it to consider recommending the addition of other lands, as well as, the authority of the Minister and the Lieutenant Governor to do so.

9.1 Landowners Submissions on Jurisdiction

Background

A group of landowners namely, Melcor Developments Ltd., Qualico Communities, Crestmont Developments, Joan Synder and Carburn Aggregates, are requesting additional lands to be included in the annexation.

These additional lands were all included in the City's October 2002 and October 2005 notices of intent to annex. These lands were also included in a motion of City Council in September 2006 to ask the intermunicipal committee to investigate these lands. Subsequently, certain lands owned by these landowners were included in the annexation application, whereas other lands owned by the same landowner were not included in the annexation application filed with the MGB.

These lands are almost entirely contiguous with the existing City boundaries or other lands in the annexation application. In total, these lands comprise 2,064 acres in total of which 1,220 acres were excluded from the Annexation Agreement by the Annexation Mediation Committee. In particular, the mediated agreement provides for the exclusion of all the Snyder and Burnswest lands, although the Burnswest lands were identified in the Agreement as a joint planning area. Only portions of the Melcor and Qualico lands were included. Specifically, of Melcor's approximately 519 acres, 391 acres were proposed for annexation and 1,287 acres were proposed to remain in the MD. Similarly, in terms of Qualico's lands, of their total holdings of 541 acres, 333 acres were proposed for inclusion in the annexation and 120 acres were excluded.

Land Owner Submission on Jurisdiction

It was argued by the representative of the landowners that the MGB has jurisdiction to consider private landowners' requests to have their lands included in the annexed lands. There is a sound planning rationale justifying the MGB's deviation from the mediated agreement.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

It is submitted that the MGB is empowered to deviate from the mediated agreement. In the MGB's Airdrie annexation Order (MGB 070/03), the MGB commented at page 20 that the Act is silent on the status of a mediated settlement relative to a recommendation for annexation. The MGB goes on and states that 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.

Further, in the MGB's Order in the Red Deer annexation matter (MGB 058/04) the MGB points out at page 29, that the emphasis on an agreement between municipalities is not the point of being the sole or determinative factor in a proposal. And further at page 43, the MGB states that it is clear to the MGB and the parties to the annexation proceedings, that neither the MGB, the Minister nor the Cabinet are bound to an annexation agreement.

Annexation agreements between municipalities have carried considerable weight before the MGB and as further stated in the Airdrie Order at page 20, 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. The MGB in that annexation varied the terms of that particular mediated agreement and added certain lands and deleted other lands in its recommendation to the Minister.

The landowners are of the view that the City had no planning rationale for leaving these lands out of the annexation. Further, the City described the excluded lands as being in the very desirable residential growth corridor on the west side. Subsequently, the City compensated by going to the north area in substitution. There is difficulty with the sound planning rationale behind compensating by substituting with lands in the north, particularly when the land lost is in the otherwise very desirable residential growth area.

The question now before the MGB can be characterized as one of weighing the validity of what is a political agreement to sound planning rationale. If there is not sound rationale for excluding parcels of land which the annexing municipality had originally sought to include on the basis of good planning, then the mediated agreement should not dictate the result. For example, with respect to the Qualico and Melcor lands, parcels of land owned by one owner that are otherwise indistinguishable are cut into pieces, one part in the City and the other part outside the City. On the strength of the MGB's Airdrie and Red Deer Board Orders, the MGB clearly has the authority, in a proper case, to deviate from an annexation agreement to add in a parcel of land.

Section 119(2) of the Act specifically provides that the report on negotiations becomes the initiating municipality's application for annexation. In the Airdrie Board Order (MGB 070/03) the MGB addressed what constituted the application for annexation. This involved a situation in which the MD argued before the MGB, as it is doing in the present annexation, that if a landowner's land was not included in the mediated agreement, then that land could not be

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

included in the report that formed the basis of the application, despite being part of the initiating municipality's notice to the MGB.

At page 19 of that Board Order, the MGB stated:

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.

It was argued that the Melcor, Qualico and Snyder lands were part of the "application". These lands were all included in the City's October 2002 notice of intent to annex. They were also included within the City's October 2005 notice to the MGB of lands sought to annex with the exception of a small portion. They were also included in a motion by City Council dated September 2006 to have the mediated agreement reviewed as to their inclusion as originally proposed.

There is a slight distinction with respect to the Burnswest lands. While included within the 2002 notice, they disappeared in the 2005 notice. But it is submitted that they are clearly in the broadly defined term "application". The Burnswest lands were the subject of consideration and discussion throughout the annexation process. They were involved from the beginning. Most importantly, the mediation committee and both Councils specifically identified the Burnswest lands as a joint planning area within the mediated agreement map.

The Act provides that notice under section 116 initiates the annexation process and obligates the subject municipalities to commence public consultation and good faith negotiations in relation to such notice. By using the 2002 notice which included the Burnswest lands, the City started this process.

The City and MD maintain that formal mediated negotiations began in September 2005. The landowners disagree. By November 2005 when the second notice was issued, the annexation was already well underway. This annexation was commenced in 2002 and the 2005 notice effectively represents an amended or enlarged request by the City.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Perhaps the most important indication of the City's desire to have these lands included in its annexation is evidenced in the September 25, 2006 minutes of City Council where after hearing all the cogent planning arguments, the City referred these lands back to the Joint Annexation Committee to review the specific inclusion of lands including the Burnswest lands. It is very significant that this direction of Council was made in September 2006, after the annexation map was produced in June 2006 and it clearly indicates that even after the City's initial 2005 notice of intent and the June 2006 draft mediated annexation maps, the City had requested the Annexation Committee to include the Burnswest lands.

There can be little question that the Burnswest lands formed part of the "application" as the MGB has defined the term. Under the Act, the section 118 report on negotiations becomes the section 118 application for annexation. In addition, the MGB had made a clear statement in the Airdrie Annexation Order at page 19, that in the MGB's opinion, the word "report" must be given a broad meaning when expressed in the context of section 118 and 119.

In the view of the landowners, the annexation hearing is clearly not a rubber stamp of a political agreement and should, under section 122 of the Act, be a proper hearing on the principles, standards and criteria for annexation. The fundamental question as it affects these landowners that want to be included in the annexation boundary is whether or not the annexation agreement has provided a sound rationale to overcome the sound planning rationale to include these lands.

9.2 MD Submission on the MGB's Jurisdiction to Consider and Recommend Additional Lands

The MD submits that the MGB does not have any jurisdiction to hear any request by landowners to have lands which are not currently in the annexation application to be included in the annexed lands because to do so would be permitting a private landowner to initiate annexation, which is contrary to the provisions of the Act and the overall public interest. These particular landowners are attempting to do indirectly what the legislature does not authorize nor permit them to do directly by asking the MGB to expand the boundaries of the annexation to include their respective private lands.

The annexation process is governed by Part 4, Division 6 of the Act, which specifically does not provide private landowners with the ability to make annexation applications. Section 116 clearly states that a municipal authority initiates the annexation of land.

In 1981, the previous legislation was amended to specifically take away the ability of private landowners to initiate annexation applications. The government of the day made it very clear that the ability of private landowners to bring annexation applications before the Local Authorities Board was taken away as a deliberate policy decision. The rationale provided was that

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

landowners were misusing the provision as a tool for land speculation and financial gain that was never the intent of the legislation.

The MGB considered the issue of whether private landowners have any right to bring an annexation application before the Board in the Airdrie decision. The MGB stated at page 17:

The legislation specifically states that only a municipality can put forward an annexation proposal. There is no ability for an individual or group of land owners, 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 the ability is not provided for in the Act.

And further, at page 18 of the decision, the MGB states:

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 the 2004 decision City of Red Deer/County of Red Deer (Board Order: MGB 058/04), the MGB considered a private landowner's request to be included in the annexation. The MGB ultimately concluded that the MGB did not have authority to recommend that these lands be included. In making its determination, the MGB stated at page 42:

The MGB accepts that it must give meaning to this deliberate legislative action that parties who wish land to be annexed must first convince the local municipality that the lands should be included in the municipality's application for annexation. The local municipality must at first instance be satisfied that the lands are needed, are a logical extension of land use patterns and existing servicing, that any financial, environmental, corporate impacts are fully considered and that the responding municipality is reasonably satisfied with the change in boundaries and with the various impacts. The change in boundaries can have significant impacts and the legislation as amended envisages a thorough review will happen first at the local level before an annexation is submitted for provincial approval. This further enhances the theme of local autonomy developed throughout the various sections of the new 1995 *Municipal Government Act*.

Although the MGB accepts that when objections are filed it can investigate, analyze, and make findings of fact, consider the greater public good and must hold a hearing to allow affected persons to provide input into the annexation, all

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

this is done within the context of evaluation of lands included in the annexation application filed under Section 119 by the initiating municipality. If various land areas are not included in the annexation application then there is nothing to evaluate, analyze, or make findings about or to determine what is the greater public good. The MGB's report, completed pursuant to Section 123 of the Act, is in regards to the public hearing about lands included within the annexation application filed by the initiating municipality under section 119, and is not in regards to other lands. The MGB concludes that this approach best meets the deliberate intent of the legislation to eliminate the ability of a landowner to make an application for annexation. In addition, there is no specific authority in the Act, which states that there is an appeal to the MGB from a municipality not including lands within an annexation application.

In the present hearing, if the MGB were to conclude that it had jurisdiction to recommend that lands that were not part of the annexation application should be annexed to the City, this would have the effect of creating a right for a private landowner to make its own annexation application, which would run counter to the legislative intention and the resulting legislation.

Further, section 120(3) of the Act provides that the MGB may investigate, analyze and make findings of fact about the annexation. The question is what is the annexation? Logically, it can only be the annexation that the City has applied for, which in this case did not include the additional private lands. Neither the MGB nor a private landowner is provided any authority to increase the annexed area of the initiating authority's annexation application. There is no language in the Act which would allow the MGB to include lands which had not formed any part of the annexation application from being included.

9.3 City's Position on the MGB's Jurisdiction to Recommend Additional Lands

The City supported the submission by the MD that the MGB has no jurisdiction to recommend including landowners in the annexation area that are not part of the mediated annexation.

9.4 MGB Findings

1. The City submitted a notice of annexation dated October 17, 2002 and, in a letter dated November 30, 2005, jointly withdrew that notice and submitted a new notice, thereafter proceeding to negotiations and mediation resulting in an agreement with the MD resulting in a filed application dated November 28, 2006.
2. The 2006 annexation application contained a precise map of the lands to be included with precise legal descriptions.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

3. Certain lands were excluded in the annexation application from the lands in the notice. A clear rationale for the exclusion was provided.
4. The Calgary notice of intent to annex dated November 30, 2005 is a preliminary step toward an annexation application pursuant to section 116 of the Act.
5. Upon the filing of the November 28, 2006 annexation application pursuant to section 119 of the Act, the notice of intent became a background historical document.

9.5 Reasons

The MGB accepts that the annexation application by the City to annex lands did not include the disputed lands. The City confirmed that its application is limited to the lands shown in Schedule A-2 page 26 and described in Schedule A-1 of the City's November 28, 2006 Annexation Report. It is clear to the MGB that the disputed lands are not included.

The MGB accepts the arguments of the MD on this issue and reiterates its position as plainly stated in the Red Deer report (MGB 058/04). It is clear to the MGB that the legislature intended that municipal autonomy in annexation matters be recognized especially when the municipalities have cooperated and signed an agreement stating which lands are being requested for annexation, and importantly there is no confusion on what lands are to be included. The MGB was convinced by the City and the MD that there is a clear rationale for annexation being limited to the described lands unlike the Airdrie annexation. Further, the City clarified that the lands included in the annexation met its requirements for a 30 to 35 year land supply and both municipalities adequately justified their planning initiatives with respect to the lands not included at this time.

The proponents of including additional land argue that the 2005 annexation notice is part of the annexation application because it is included as part of the other supporting information sent to the MGB with the annexation agreement. The MGB accepts that studies and reports submitted with the agreement form part of the application for reasons of clarification and justification of the proposal. However, a notice of annexation does not serve the same function and is submitted pursuant to section 116 of the Act. The notice of annexation is only a starting point for negotiation and mediation for the municipalities, landowners, other affected persons and authorities. The report is submitted as part of the requirements of section 119 whereas the notice of annexation is submitted as part of the requirements of section 116 of the Act. The MGB is not engaged in the process until an application is received pursuant to Section 119 of the Act. Under section 116 of the Act, the notice serves an initial function to sort out all the issues and sets the stage for the establishment of the proposed boundaries prior to the submission of an official application.

As found in the MGB's Report on the Red Deer Annexation in 2004, the intent of the legislators was that individual landowners could not make an annexation application. The reasoning for this

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

conclusion is fully outlined in (MGB 058/04). In this annexation application, Calgary clearly reinforced its position that the excluded lands were not part of its annexation application.

As the landowners relied on the Airdrie Annexation Report (MGB 070/03), the MGB distinguishes that case from the annexation matter currently before it. In Airdrie, the mediated agreement occurred after the annexation application was filed and no rationale was provided for exclusion of the lands identified in the annexation application. In this annexation, the City of Calgary filed its annexation application after mediation and clearly stated the rationale for the lands being excluded.

The MGB did not receive convincing argument to vary from its previous practices on this issue. Even if the MGB had authority to recommend inclusion of such land, it would not do so in this case because the City and the MD have properly demonstrated the highest principle of cooperation by reaching the annexation agreement. The City clearly stated that its interests were met and any additional lands are not required to meet the City's growth objectives of a 30 to 35 year land supply. Furthermore, the MGB observes that this annexation territory is subject of a considerable financial arrangement between the municipalities. Accordingly, the MGB is reluctant to recommend additions of land that would arbitrarily upset these considerations. The financial impact analysis was based on the considerations of the lands applied for and not any additional lands.

As time passes, the municipalities will be able to assess the status of the 30 to 35 year land supply and determine if another annexation application should be made to include additional lands. Depending on the growth rates in the short term planning horizon, the City and MD may jointly see the need to replenish the supply of land required by the City at an earlier point in time. The landowners who have lands that were not included at this time have every opportunity to approach the two municipalities as the current demands become better defined to convince the municipalities that these lands should be considered in another application.

Having stated this, it is important to point out that the Minister and Cabinet are not restricted by the MGB's recommendation. In the event the Minister may wish to consider the requests for inclusion of additional lands, he may do so pursuant to section 126 of the Act. The details of the requests are provided in the attachment to this report so that an informed decision can be made.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Part 10 - Summary of Annexation Proposal

10.1 MGB Summary Statement

After considering the submissions of the City of Calgary, MD of Rocky View, all the affected landowners, persons and authorities, the MGB is satisfied that the annexation as applied by the City in its application dated November 28, 2006 should be recommended to the Minister and Cabinet for approval.

This annexation proposal has been the subject of exhaustive negotiation, mediation and public consultation since 2002. The City of Calgary is a major urban centre experiencing rapid growth and the MGB is satisfied that it is reasonable for the annexation to target a 30 to 35 year land supply to ensure long range planning and coordination of services. The economic, financial, population, land use projections and servicing proposals submitted by the City supported this target.

The “Annexation Agreement” reached between the City of Calgary and the MD of Rocky View exemplifies efforts of intermunicipal cooperation between a major urban centre and its neighbour and establishes many mitigative measures to address the concerns raised by landowners and parties at the MGB hearing and throughout the annexation process. These cooperative efforts and the support of the MD received considerable weight and consideration by the MGB.

The general findings of the MGB are documented in the following.

10.2 - General Findings

Stated below are the MGB Annexation Criteria as identified in Section 1.3 of this report, followed by the general finding.

- 1. Annexations that provide for intermunicipal cooperation will be given considerable weight. Cooperative intermunicipal policies in an intermunicipal development plan will be given careful consideration, weight and support so long as they do not conflict with Provincial policies or interests.*

Finding: The City and the MD have demonstrated considerable cooperation in reaching the Annexation Agreement. The agreement provides for the preparation of joint planning areas and identifies future growth corridors for both municipalities. The agreement also calls for a review and update of the existing intermunicipal development plan within 120 days of the date the Order in Council is signed.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

2. *Accommodation of growth by all municipalities (urban or rural) must be accomplished without encumbering the initiating municipality and the responding municipality's ability to achieve rational growth directions, cost effective utilization of resources, fiscal accountability and the attainment of the purposes of a municipality described in the Act.*

Finding: The Annexation Agreement meets the interests of both municipalities, facilitates the expected rapid growth of Calgary and does not encumber the growth of Calgary or the MD. The Annexation Agreement identifies future growth corridors for both municipalities.

3. *An annexation or annexation conditions should not infringe on the local autonomy given to municipalities in the Act unless provisions of the Act have been breached or the public interest and individual rights have been unnecessarily impacted.*

Finding: The Annexation Agreement respects the provisions of the Act and takes into account and strives to balance the public interests as represented by the respective Councils and the concerns of the landowners and individual rights. The "Annexation Agreement" contains numerous mitigative measures to minimize the impacts on affected landowners.

4. *An annexation must be supported by growth projections, availability of lands within current boundaries, consideration of reasonable development densities, accommodation of a variety of land uses and reasonable growth options within each municipality (initiating and responding municipality).*

Finding: The City has completed extensive research through its growth studies regarding the expected population levels and the associated land needs. The historical practice of the City to maintain a 30 to 35 year land supply is reasonable considering the size of the City and its current rapid growth. The City has also adopted a policy to increase population densities in future new residential areas.

5. *An annexation must achieve a logical extension of growth patterns, transportation and infrastructure servicing for the affected municipalities.*

Finding: The City and the MD have worked together to identify future growth corridors for industrial and residential land uses in both municipalities. These growth corridors were developed based on existing and proposed transportation routes and existing and proposed infrastructure extensions.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

6. *Each annexation must illustrate a cost effective, efficient and coordinated approach to the administration of services.*

Finding: The proposed annexation facilitates cost effective, coordinated and efficient utility servicing for the expected expansion of the City's residential and industrial subdivisions into the west, north and east annexation areas.

7. *Annexations that demonstrate sensitivity and respect for key environmental and natural features will be regarded as meeting provincial land use policies.*

Finding: The City intends to create and preserve park areas in the annexation area such as those lands adjacent to the Bearspaw Reservoir through a variety of provincial programs, individual initiatives and its own planning and funding mechanisms.

Historical patterns of development within the City illustrate an orderly transition of agricultural lands to urban development. As well, planning mechanisms are in place to ensure the orderly transition of agricultural lands will occur at increased densities.

8. *Coordination and cost effective use of resources will be demonstrated when annexations are aligned with and supported by intermunicipal development plans, municipal development plans, economic development plans, transportation and utility servicing plans and other related infrastructure plans.*

Finding: While negotiating the annexation agreement, both municipalities identified the need to update the intermunicipal development plan and are obliged to do so within 120 days of the signing of the Order in Council. Both municipalities maintain detailed economic development plans, transportation and utility servicing plans. The Annexation Agreement illustrates that the municipalities are working together and updating plans when there are mutual interests to be addressed.

9. *Annexation proposals must fully consider the financial impact on the initiating and responding municipality.*

Finding: A financial impact analysis has been completed and supported by both municipalities. This analysis illustrates that the proposed annexation and the related annexation conditions will have minimal impact on the City and the MD.

10. *Inter-agency consultation, coordination and cooperation is demonstrated when annexation proposals fully consider the impacts on other institutions providing services to the area.*

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Finding: Through the public consultation process and notification of the annexation proposal to institutions in the region, the City and the MD provided an opportunity for such institutions to have input. No institutions or municipal authorities operating in either of the municipalities raised any concern regarding the impacts of the proposed annexation.

- 11. Annexation proposals that develop reasonable solutions to impacts on property owners and citizens with certainty and specific time horizons will be given careful consideration and weight.*

Finding: The Annexation Agreement provides solutions for potential impacts on property owners in the annexation areas. Until 2021, all non-farm properties and businesses in the annexation areas will be taxed on the basis that those properties remained in the MD unless certain events occur in the meantime, such as a rezoning of the property at the landowners request. The Annexation Agreement also states that all exempt farm property (farm buildings and farm residences) as provided for in the Act and regulations will remain exempt.

- 12. Annexation proposals must be based on effective public consultation both prior to and during any annexation hearing or proceedings.*

Finding: The annexation proposal was the subject of extensive open house meetings and two public hearings. Approximately 1,500 persons attended these events prior to attending the MGB public hearing. Public consultation resulted in a number of changes to the City's original proposal including the exclusion of lands that were originally sought by the City.

- 13. Revenue sharing may be warranted when the annexation proposal involves existing or future special properties that generate substantive and unique costs to the impacted municipality(s) as part of the annexation or as an alternative to annexation.*

Finding: Revenue sharing is not an issue in this annexation proposal. The annexation agreement provides for an immediate one time compensation payment to the MD based, in part, on the loss of revenue from the current taxation of property in the annexation area and in part on the expected taxation of industrial properties on lands in the north and east annexation areas as previously approved for imminent development by the MD.

- 14. Annexation proposals must not simply be a tax initiative. Each annexation proposal must have consideration of the full scope of costs and revenues related to the affected municipalities. The financial status of the initiating or the responding municipality(s) cannot be affected to such an extent that one or the other is unable to reasonably achieve the purposes of a municipality as outlined in section 3 of the Act. The financial impact should be reasonable and be able to be mitigated through reasonable conditions of annexation.*

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Finding: The municipalities have completed a study of the financial impact of annexation and have mutually agreed that the compensation package as reflected in the Annexation Agreement will have a minimum impact on the City and a revenue neutral impact on the MD.

15. Conditions of annexation must be certain, unambiguous, enforceable and be time specific.

Finding: The conditions of annexation recommended by the MGB for inclusion in the Order in Council generally reflect the historical practice within Alberta regarding tax relief for landowners and payments to the municipality losing the territory. All these conditions are certain and time specific.

10.3 Recommendation

The MGB recommends to the Minister of Municipal Affairs and Housing the following:

1. The annexation boundaries be approved in accordance with the annexation application (Schedule A-2 page 26 and described in Schedule A-1 of the City's Annexation Report).
2. That the annexation be approved subject to those conditions outlined in the recommended Order in Council.

10.4 Reasons

In regard to intermunicipal land use concerns and annexation issues affecting adjacent municipalities, the MGB notes that Alberta, through the new Act and various announcements, have clearly signalled all municipalities that cooperation and coordination is the desired goal and outcome. Since 1995, the vast majority of annexations have been approved as a result of such cooperation. Considering the scope of this annexation proposal and the extensive detailed provisions of the annexation agreement, the MGB sees this document and its undertakings as a positive example of compromise and cooperation. The MGB finds that the City and the MD clearly demonstrated that the Annexation Agreement fully meets the interests of both municipalities while also satisfying the MGB's annexation principles applicable to this annexation. The City and the MD have clearly and positively demonstrated cooperation and the MGB can find no reason to recommend a different boundary or conditions of annexation not contemplated in the agreement.

The Annexation Agreement represents not only an agreement to deal with the immediate annexation issues but also provides a framework for the City and the MD to expand their intermunicipal relationship in the future with the Agreement provisions dealing with Agreement implementation, transition, future intermunicipal planning and conflict resolution. The Agreement satisfies the requirements of Part 4, Division 6 of the Act and the established

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

principles of annexation. To that regard, the City and the MD engaged in an extensive mediation process and an extensive public consultation process. The purpose of interest based mediation is to resolve annexation through agreement that acknowledges the equal and legitimate interests of each municipality.

The MGB was satisfied that the proposed annexation was based on extensive consultation. The City and the MD held a number of public consultation meetings over the course of several years. Some of the first public consultation meetings were held after the initial 2002 notice was submitted. These meetings raised the annexation issue in the public mind even though a new proposal was brought forward in late November of 2005. As a result of the new proposal, a number of public consultation meetings occurred before and after the Annexation Agreement was signed by the City and the MD. To the MGB, this demonstrates that both municipalities made extraordinary efforts to inform the public and the affected landowners of the proposal and the issues.

One of the primary concerns in any annexation is the financial impact on both municipalities. In this regard, the City and the MD commissioned and accepted a financial impact analysis prepared by a qualified independent consultant. This financial report provided valuable information for the municipalities in regard to negotiations related to satisfying the MD's revenue neutral position. The financial report concludes that this particular annexation will not impose a detrimental impact on either municipality. The MGB accepts this conclusion.

In the MGB's opinion, the Annexation Agreement adequately addresses future growth directions, land use patterns, the provision of infrastructure and the development goals of both municipalities. The Annexation Agreement has been well crafted because it recognizes that the MD also has achievable development goals.

The objections by the Springbank Community Planning Association and Action for Agriculture were insufficient to convince the MGB that this annexation should not be recommended for approval. As stated earlier in this report, the concerns raised by these two groups are more appropriately dealt with in the current review of the Provincial Land Use Policies. As well, the objections of the few landowners in the various specific areas of the annexation were insufficient and the majority of the concerns are mitigated through reasonable, appropriate and time specific conditions of annexation.

As stated in Part (9), the MGB has concluded it does not have jurisdiction to recommend the inclusion of additional lands in the annexation. Even if the MGB is wrong on this jurisdictional matter, the MGB is not prepared to recommend the inclusion of the additional lands as a result of the positions of the two municipalities, the fact that the included lands already meet the objective of a 30 to 35 year land supply and that any change in the included lands would have an arbitrary impact on the significant financial arrangements agreed to by the two municipalities. Furthermore, if growth trends surpass those anticipated in this annexation, the landowners who

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

still wish to have there lands included within the City can approach both municipalities to seek an appropriate solution. The initiative for annexation under the current legislation rests with the initiating municipality and depends on the cooperation of the adjoining municipality.

The City of Calgary and the MD of Rocky View requested that the Order in Council implementing the annexation encompass the complete agreement between the two municipalities. The MGB has recommended that only the critical parts of the agreement, which are required by the Act to implement the annexation, be included in the Order in Council such as the financial compensation, the assessment and tax conditions and any actions needed to provide for an orderly transition from one governing authority to another. Many parts of the agreement involve what would be described as day to day actions of each municipality. Any changes to these actions would require an amendment to the agreement and correspondingly an amendment to an Order in Council. It is inappropriate for the Lieutenant Governor in Council to be required to change an Order in Council every time a change would be made to the agreement or the actions of the Municipalities on their day-to-day intermunicipal relationships.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Attachment A

**Summary of the Submissions of Landowners to Include
Lands Not Included in the City's Annexation Application**

Introduction

At the MGB's public hearing, several landowners made submissions requesting that the MGB recommend including their land in the annexation. These requests are related to the west annexation area, the north annexation area and a location in the Northern Bearspaw area between the west and the north annexation areas. This attachment also includes a summary from those landowners opposed to the requests for inclusion from certain landowners in the Bearspaw area and the Northern Bearspaw area.

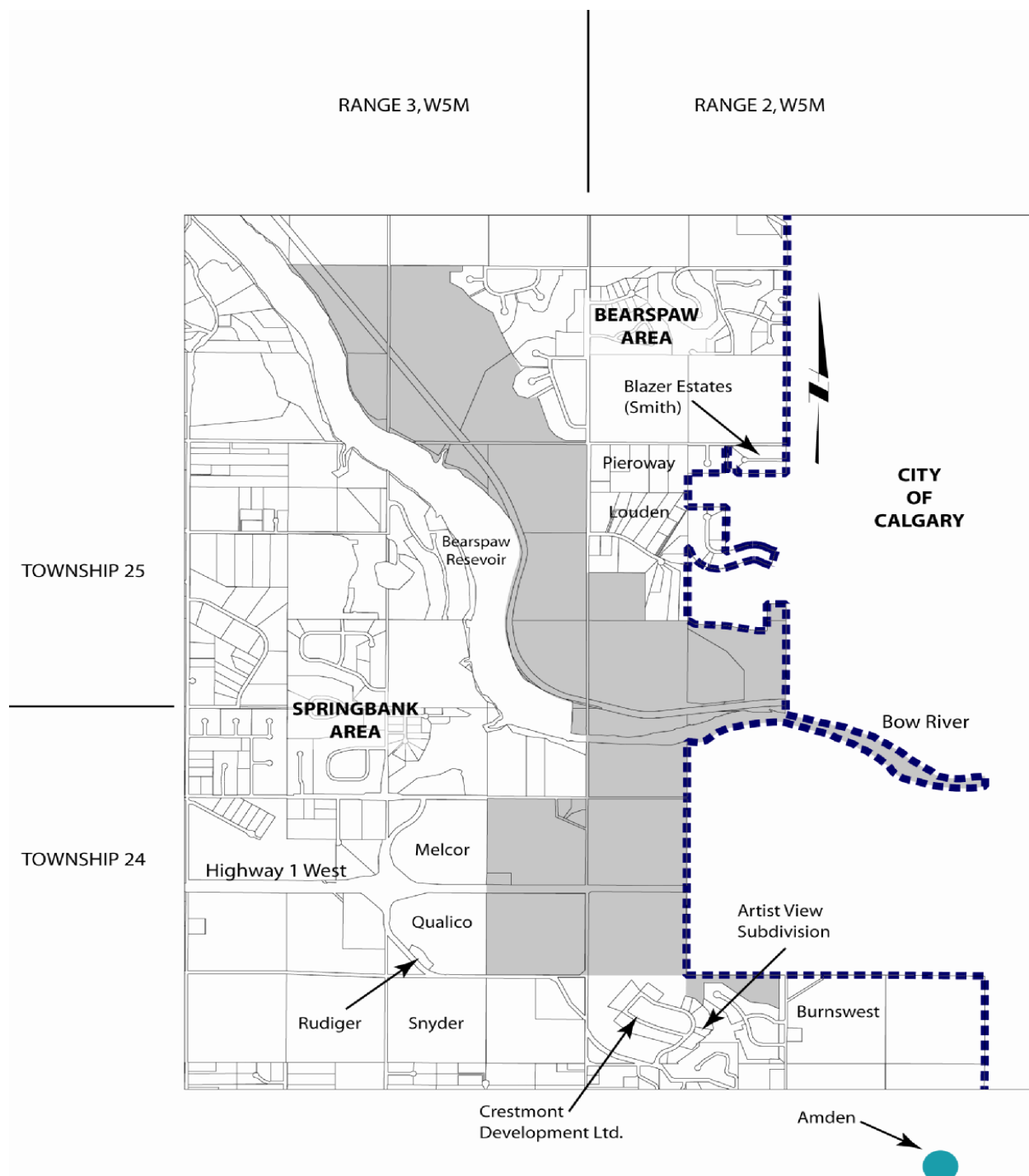
The MGB holds, consistent with previous annexation reports to the Minister, that it cannot recommend the inclusion of any lands not part of the annexation application. However, this attachment provides a brief summary of these requests because the Minister, Cabinet and the Lieutenant Governor in Council have the authority to approve the additional lands even though such lands are not part of the annexation application.

Requests Related to the West Annexation Area

The west annexation area is generally described as Springbank, being those lands south of the Bow River and Bearspaw being those lands north of the Bow River. This area is distinguished from other requests made at the hearing related to the Northern Bearspaw area because the location of the northern Bearspaw area is approximately one and one-half miles northeast of the west annexation area as identified on the map

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Springbank Area

Melcor, Qualico, Snyder, Burnswest, Crestmont

Representatives for Melcor Development Co., Qualico Developments, J.C. Snyder, Burnswest Corporation and Crestmont Development Co. submitted a request for the inclusion of approximately 1,300 acres of land in the Springbank area. These lands are adjacent to the proposed annexation areas and/or the existing City boundary.

The majority of these lands were included in the City's original annexation notice and the representative claims that City Council has, on several occasions, reiterated its desire to have these lands included as part of the annexation.

In argument for the inclusion, the representative stated that the boundaries arrived at by the municipal Negotiation/Mediation Committee for the west area ignores the fundamental principles used by the City to define and arrive at a logical extension of boundaries. The boundaries selected by the City were drawn along roads wherever appropriate, sought not to sever lands owned by the same landowner and included logical, appropriately sized development cells. However, the Negotiation/Mediation Committee's boundaries ignored these principles. Inclusion of the lands removed would restore the logical basis for boundary definition originally used by the City in this area.

According to the representative, the mediated boundary severs a significant portion of the Melcor and Qualico lands and leaves them under the jurisdiction of the MD. Similarly, the removal of the Burnswest property from the annexation prevents it from being consolidated with an adjacent 68 acre parcel immediately to the east which is already in the City and under the same controlling interest.

The representative submits that these lands provide additional lands for residential development and employment uses in the TransCanada Highway West corridor, thus, making a significant contribution to the City's strategic planning and growth management policies concerned with maintaining a healthy housing market in the City and with improving the relationship between where people live and where they work. Given that the present supply of land for future development in this area is all but exhausted, the exclusion of a significant portion of this area from the annexation would compromise the achievement of these policies.

The representative claims that these lands meet all the physical criteria necessary to ensure that the lands to be annexed are capable of accommodating urban development. Specifically, the lands remain, for the most part, not fragmented by country residential development. This area is one of the few areas west of the City still capable of accommodating comprehensive urban development. The gently sloping topography is well suited for urban density uses. The subject lands are of relatively poor agricultural quality compared to other lands proposed for annexation

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

to the north and east of the City. There are no environmental constraints that would preclude the area for annexation.

In the representative's opinion, the highest and best use of this land is urban density development and annexation is necessary if this is to be achieved. The present rural density of 64 dwelling units per quarter section stands in stark contrast to a density of 1,280 units per quarter that would be achieved under the City's policies. This is consistent with the Provincial Land Use policies that promote the efficient use of land. In contrast, if annexation were not to occur, this area would be developed under the jurisdiction of the MD. This would mean two acre country residential development to a maximum density of 64 dwelling units per acre. This would result in an inefficient use of land, the introduction of rural sprawl into an area which is presently not fragmented by acreage development, and which would ultimately frustrate the City's ability to expand to the west in the future.

The representative claims that water and sanitary servicing is the priority issue for the development of this area and the City's water and sanitary sewers that already exist within the City limits to the east have been sized to service development outside the City to the west. City policies do not permit the extension of these services to rural areas.

In summary, the representative maintains that the City is the appropriate municipal government to facilitate and govern the development of this area in order to achieve the orderly, economical and beneficial use of land in accordance with the Act. When urban development is to take place adjacent to an urban municipality, the proper authority to govern that development is the urban municipality. The last comprehensive annexation done by the City for lands in the MD was 18 years ago. It is conceivable that this current annexation application will be the last one for some time. In the meantime, the subject lands would succumb to rural density standards.

John R. Rudiger

Mr. Rudiger owns a 4.6 acre parcel adjacent to the larger Qualico parcel at the intersection of Highway 1 and the Old Banff Coach Road. Mr. Rudiger stated that in order to be able to upgrade the existing home and to include separate lots for family members, his lot must be annexed to the City for municipal servicing reasons.

1181814 Alberta Ltd. (Amden Developments)

This property is approximately 169 acres in size, adjacent to the western City boundary and on the south side of Old Banff Coach Road. According to Amden's representative, inclusion of this parcel was supported by City Council until last minute negotiation resulted in the parcel's removal from the Annexation Agreement.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

The representative explained that this land is developable land and is one of the last unfragmented pieces of land in the area. If annexed it would provide for residential and business center development to meet market demands on the west boundary next to an important transportation junction.

The representative stated that this site is designated for two acre country residential development (76 units) within the MD. Using good planning principles, urban density for this land approaches 500 to 800 units and can provide a transitional edge condition to integrate the contact of rural and urban living. If annexed, this land will contribute to sustainable urban density and avoid rural sprawl. The MD servicing options are limited to this land. If developed in the City, a major water trunk line exists at Old Banff Coach Road and sewer service is easily available through Cougar Ridge to the east.

Bearspaw Area

Hopeton and Lona Loudens

The Loudens own an eight acre parcel on Bearspaw Village Road as shown on the map.

The Loudens claim that the present Annexation Agreement in this area leaves a haphazard boundary between the two municipalities. As a result, the subject land and immediate neighbours own property that forms a panhandle shape of land that jutting into the City. As MD residents there will be no input into any matters that occur on City land which will surround the neighbourhood on three sides. For example, the continuation of the single entrance and exit to this neighbourhood is a concern, especially for emergency planning. Annexation of this neighbourhood will provide an opportunity to remedy the access situation.

The Loudens state that the water supply for this area is from wells and landowners cannot tap into any of the water coops in the area because of the provincial moratorium on water licenses from the Bow River. If approval of resubdivision in this neighbourhood occurs a rural standards, there would be a plethora of wells and septic fields creating potentially dangerous contamination issues. Again, this annexation provides an opportunity for sensible regional planning respecting water and sewage. Further, it is imperative that the supply of water and sewage by the City to the MD be part of this agreement.

Margo Salter Pieroway

Ms. Pieroway owns approximately 17 acres in the same neighbourhood as Mr. and Mrs. Loudens. A portion of Ms. Pieroway's parcel backs onto the Lynx Ridge golf course which is now in the City. Ms. Pieroway raises the same issues and concerns as the Loudens and is especially concerned over access of City traffic coming through the neighbourhood from the east, through the MD, in order to gain access to City land to the west.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Susan and Gordon Smith

The Smiths are country residential lot owners in Blazer Estates, which is a subdivision adjacent to the City, in a pocket surrounded on the west and south by lands in the present annexation and to the east partially by the recently annexed Lynx Ridge golf course. The Smiths request all of Blazer Estates because the moratorium issued by Alberta Environment effective August 30, 2006, that they will no longer accept new water licence applications for the Bow River has raised a problem for Blazer Estates. Existing water wells and contamination from septic fields is always a major concern. The adjacent water coops presumably do not have extra capacity for hook ups beyond their area and any other land that borders Blazer Estates either has already been annexed by the City or is part of the current annexation application.

The Smiths feel that they have no other options but to be annexed if there are ground water problems. In the Smith's opinion, it would seem that this area should be under the control of the City due to the proximity of Blazer Estates to the Bearspaw dam and the Bow River

Landowners Opposed to the Requests for Inclusion in the Bearspaw Area

Mr. Al Sacuta submits that he speaks for 40 landowners in the Bearspaw area that are opposed to the requests that land be included that was not part of the City's annexation application. Mr. Sacuta pointed out that prior rulings of the MGB have shown that the legislature changed the law regarding annexation and only municipalities have the ability to make an application. This has been underlined in recent MGB reports about other annexations and the Minister has accepted those reports.

Mr. Sacuta reviewed the status of a number of statutory plans that affect the Bearspaw area and pointed out that section 8.1, the Bearspaw Area Structure Plan, specifies policies for country residential includes a requirement that parcel size should not be less than four acres. If the City honours their commitment that previously adopted area structure plans will prevail and the stability of existing communities will be protected from ad hoc proposals to increase densities, then the City must comply with the Bearspaw Area Structure Plan. Therefore, Bearspaw can only be developed to country residential densities. At these densities, the City cannot economically service or support the area, and the area cannot provide any meaningful accommodation for the City's rising population. Under such conditions, Bearspaw should remain in the MD, and any additions to the City's annexation application should be denied.

Mr. Sacuta ponders that if the City repudiates its commitments and does not comply with the Bearspaw Area Structure Plan, they will likely develop the area consistent with their policy of six to eight units per acre. This would completely change the character of existing neighbourhoods such as Bearspaw Village, Blueridge Estates, Bearspaw Meadows and Blazer Estates, which constitute and surround the proposed annexation area. It would ignore the wishes

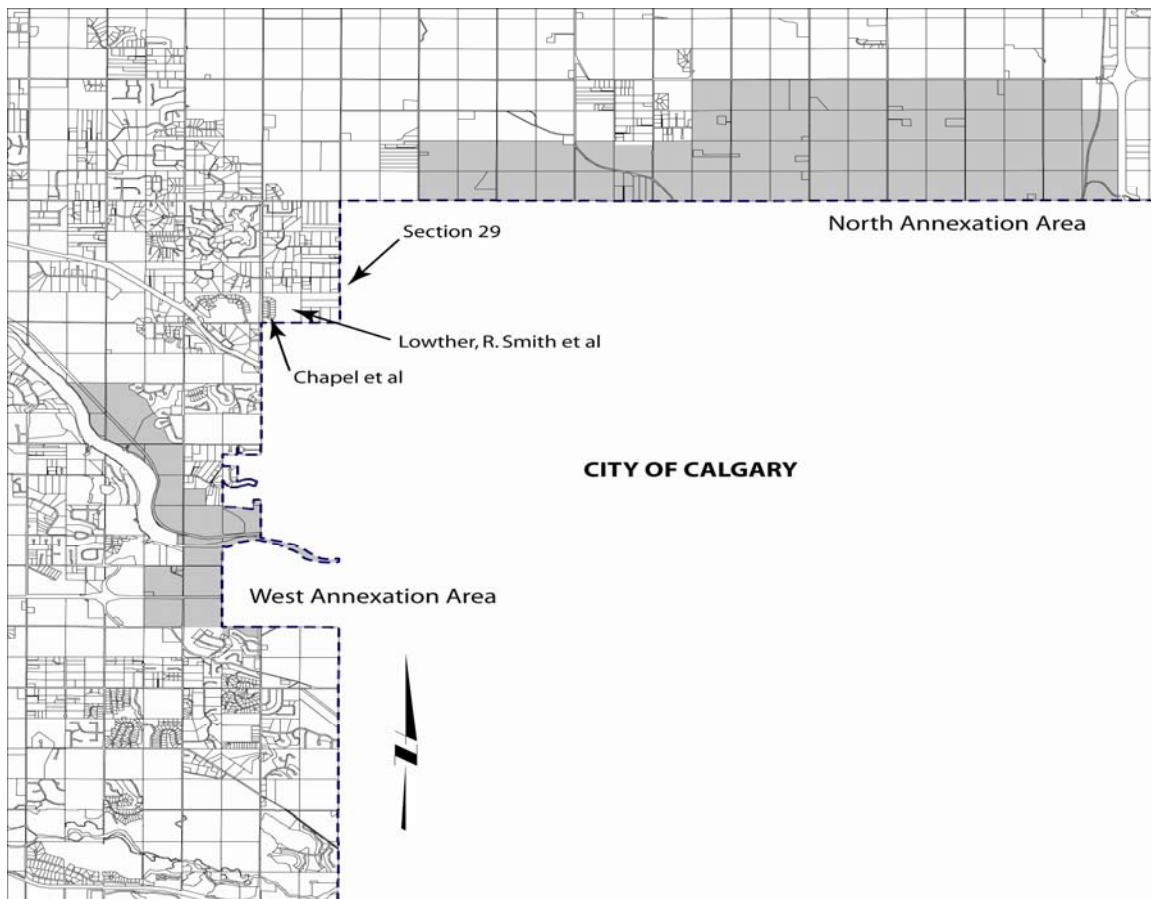
BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

of Bearspaw residents as expressed in the plan that these citizens helped create. The annexation would not only violate the Bearspaw Area Structure Plan, but would also violate the letter and intent of the Act and the Alberta Land Use Policies. To prevent such violations, Bearspaw should remain in the MD, and any additions to the City's annexation application should be denied

Northern Bearspaw Area - also known as Section 29-25-2-5 (Section 29)

Section 29 is considered to be part of the Bearspaw area but it located approximately two miles northeast of the proposed west annexation area. It is also located approximately two miles southwest of the north annexation area. This section of land is also adjacent to the existing northwestern boundary of the City of Calgary. This particular neighbourhood has a number of country residential parcels approximately two acres in size, and the balance land has been broken down into a larger remainder parcel and a number of other parcels up to 20 acres in size.



BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Eric Lowther, Mike Verbitski et al

Mr. Lowther and Mr. Verbitski represent a group of 16 landowners in Section 29 requesting that this section be included in the City annexation. This section was originally included in the annexation notice; however, after negotiation and mediation the area was excluded.

Mr. Lowther maintains that the annexation planning documents refer to the need for transitional development zones and that they are a priority in the planning process. These properties are surrounded by City roads on three sides and immediately adjacent is a high density condominium development and a four lane major thoroughfare. The current boundary ends with developed high density condominiums immediately adjacent to Section 29. Mr. Lowther concludes that annexation of Section 29 would allow for a transition zone between urban density and rural residential densities.

Mr. Lowther points out that oversized sanitation and water services were installed over a year ago on the south boundary of Section 29 in anticipation of annexation.

Dr. Rosina Smith

Dr. Smith and her family own two 20-acre parcels in Section 29 and are requesting inclusion into the City annexation. Dr. Smith contends that the MD never gave any explanation as to why these lands were excluded from the original proposal.

Dr. Smith explained that she does not trust the joint planning initiatives envisioned in the annexation agreement because the interests of two very different municipalities are naturally different. Indeed, Dr. Smith is of the opinion that the agreement was not created in the best interests of orderly and economical development of land in the west corridor or in the greater public interest. Therefore, it is preferable that Section 29 be annexed in order to provide adequate levels of municipal services.

Mr. and Mrs. Chapel and other landowners opposed to the request by Eric Lowther and others to include Section 29 in the Calgary annexation.

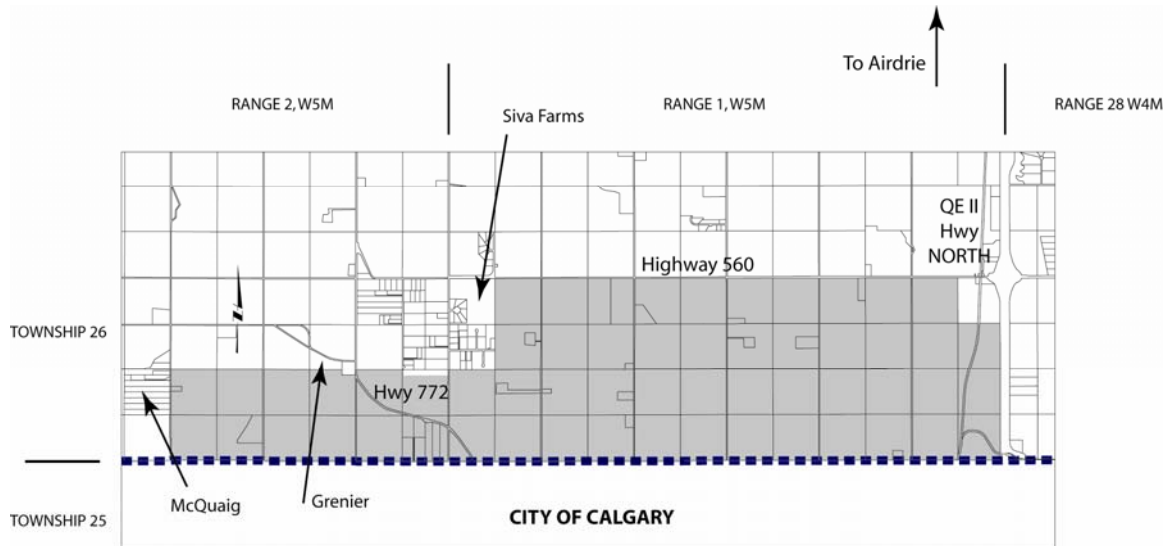
Mr. and Mrs. Chapel own a two acre parcel in Bearspaw Ridge Estates located on the west side of Section 29 and adjacent to the larger balance parcel in Section 29. Mrs. Chapel and other neighbours registered their opposition to the annexation of any portion of Section 29 stating the importance of maintaining a rural atmosphere for the area. This subdivision of 15 exclusive homes does not object to development in the area at rural densities but finds urban densities would represent a land use conflict.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

North Annexation Area

The MGB received two requests for land adjacent to the proposed North Annexation Area to be included in the Calgary annexation.



Siva Farms Ltd.

Siva Farms owns approximately 127.5 acres on the south side of Highway 566 approximately five miles west of the QE 2 Highway.

The representative for Siva Farms explained that the Siva Farm property was included in the original annexation notice but was excluded for unknown reasons after mediation occurred between the City and the MD. The representative submits that the property is accessible from two major traffic arteries, namely Mountain View Road and Highway 566 and is located in the City Growth Corridor. The Siva Farm is well positioned to be serviced by existing major infrastructure and servicing.

Leo and Susan Grenier

Mr. and Mrs. Grenier own approximately 50 acres, in two titles, located on Highway 772 near the western end of the proposed annexation area. The proposed annexation boundary runs along the south side of the Grenier property. Mr. and Mrs. Grenier request that their property be included in the annexation.

The Greniers submit that their property was included in the original annexation notice but was excluded for unknown reasons after negotiation and mediation occurred between the City and the

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

MD. The Greniers argue that there is no logic in moving the annexation boundaries in an irregular pattern to the south of their property.

The Greniers point out that their land is encumbered by a growth corridor shown on the mediated annexation map which places severe limitations on the options available to land owners in these areas. The Greniers suggest that they are being put in the position of having to gain support from both the City and the MD for any development initiatives.

Irene McQuaig

Mrs. McQuaig owns a 20-acre parcel immediately adjacent to the west edge of the north annexation area.

Mrs. McQuaig requests inclusion of her property into the Calgary annexation for financial reasons.

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

Attachment B

Submissions Made and/or Appearances, By Area

- **Municipal Authorities**

City of Calgary

Tim Creelman, Planner
Brand Inlow, City Solicitor
Rob Sparkman, City Infrastructure Planning

Municipal District of Rocky View

Joanne Klauer, Solicitor
Barry Sjolie, Solicitor
Lori Pesowski, MD Director of Planning and Development
Drew Hyndman, MD Planner

- **Other Local or Regional Authorities and Service Providers**

City of Airdrie, Mayor Linda Bruce
City of Airdrie, George Keen, City Manager
Fortis Alberta Submission, Ron Litzenberger

- **West Annexation Area Submissions**

Springbank Community Planning Association

Tom Fletcher, Gloria Wilkinson, Ena Spalding

Action for Agriculture

Harvey J. Buckley, Eliz Breakey

Affected Landowners Adjacent or Within West Annexation Area

Chris Bailey

Greg and Dana Hanlon

Clint Smith

Breanna Sikorski

Donald J. Lucky

Greg Jones

Qualico for Crestmont Developments Inc.

Karin Finley

Carburn Aggregates

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

James F. Burns
Don Brownie and Associates for Joan Snyder
J. Patrick Peacock, Q.C. for Artist View Development
John Merrett and Ted Brown for Melcor, Qualico, Snyder, Burnswest and Crestmont
Developments
Melcor Developments Ltd.
Ralph B. Young
John R. Rudiger
Chris Lennon
Ryan Atkins for 1181814 Alberta Ltd. (Amden Investments)
Qualico for Coach Creek Developments Inc.
Karin Finley
Eric Lowther
Robert and Audrey Guedo
Michael and Jeannine Verbisky
Raymond and Dr. Rosina Smith
John and Serafina Di Georgio
Hopeton and Lona Loudon
Margo Salter Pieroway
Susan and Gordon Smith
The Staddon Family
Al Sacuta on behalf of certain Bearspaw residents
F.F. and R.M. Lang
G.D. and C.E. Chapel
Brown and Associates on behalf of Leheigh Cement
Greg Brown
George Trutina

• **North Annexation Area Submissions**

Affected Landowners Adjacent or Within the North Annexation Area

Irwin Torry on behalf of Centron and Homburg LP
Brown and Associates on behalf of the North Stoney Landowner Group
Paul Mercer
Catherine Agar on behalf of Walton International Group
Niels F. Molbak, Robin Himes and Ian Denison, Evelyn Bevel and Bernd Schuld, Romona
and Jim Salvador
Verena Zumbuhl on behalf of Siva Farm Ltd.
Leo and Susan Grenier
Jeff and Laurie Miller, Walter and Trish Savill
David B. McQuaig for Irene McQuaig

BOARD ORDER: MGB 079/07

FILE: AN05/CALG/01

James Charette

- **East Annexation Area Submissions**

Affected Landowners Adjacent or Within the Eastern Annexation Areas

William Gaskarth

John and Sherryl Egely

Brown and Associates for the Belvedere Landowner Group

Paul Mercer

Brown and Associates for Gleneagles Investments, Louson Investments and A&H Holdings

Greg Brown

Jean-Claude Prefontaine and Bryan Bunz

Helen Thomson

Stan Humenuk, Olga Yewchuk, Anastasia Kutryk, Terrance Kutryk