

**BOARD ORDER NO. MGB 042/19**

**FILE: AN18/FORT/C-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 Fort Saskatchewan, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Strathcona County.

**BEFORE:**

Members:

S. Boyer, Presiding Officer

J. Jones, Member

D. Nickle, Member

Case Manager:

R. Duncan

Case Manager Advisor:

A. Drost

**SUMMARY**

After examining the submissions from the City of Fort Saskatchewan, Strathcona County, affected landowners, and other interested parties, the Municipal Government Board (MGB) makes the following recommendation for the reasons set out in the MGB report, shown as Schedule 3 of this Board Order.

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

**1** In this Order, “annexed land” means the land described in Schedule 1 and shown on the sketch in Schedule 2.

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**2** Effective January 1, 2020, the land described in Schedule 1 and shown on the sketch in Schedule 2 is separated from Strathcona County and annexed to the City of Fort Saskatchewan.

**3** Any taxes owing to Strathcona County at the end of December 31, 2019 in respect of the annexed land and any assessable improvements to it are transferred to and become payable to the City of Fort Saskatchewan together with any lawful penalties and costs levied in respect of those taxes, and the City of Fort Saskatchewan on collecting those taxes, penalties and costs must pay them to Strathcona County.

**4(1)** For the purpose of taxation in 2020 and in each subsequent year up to and including 2049, the annexed land and the assessable improvements to it

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

**(2)** Where in 2020 or any subsequent taxation year up to and including 2049 a portion of the annexed land

- (a) becomes a new parcel of land created at the request of or on behalf of the landowner
  - (i) as a result of subdivision,
  - (ii) as a result of separation of the title by registered plan of subdivision, or

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(iii) by instrument or any other method,

except where the subdivision of the parcel is from a previously unsubdivided quarter section that is in use for farming purposes at the time of subdivision,

(b) is redesignated, at the request of or on behalf of the landowner, under the City of Fort Saskatchewan Land Use Bylaw to another designation, except where such redesignation is to provide for a development that forms part of the business operation being carried out on the land prior to January 1, 2020, or

(c) is connected, at the request of or on behalf of the landowner, to water or sanitary sewer services provided by the City of Fort Saskatchewan, except for the Point Aux Pins Estates subdivision in Plan 7521001,

subsection (1) ceases to apply at the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.

**(3)** After subsection (1) 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 the same manner as other property of the same assessment class in the City of Fort Saskatchewan is assessed and taxed.

**5** For the purpose of taxation in 2020 and subsequent years, the assessor for the City of Fort Saskatchewan must assess the annexed land and the assessable improvements to it.

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**6** The City of Fort Saskatchewan shall pay to Strathcona County the sum of \$541 000 on or before July 1, 2020.

DATED at the City of Edmonton, in the Province of Alberta, this 3<sup>rd</sup> day of October 2019.

MUNICIPAL GOVERNMENT BOARD

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(SGD) S. Boyer, Presiding Officer

**Schedule 1**

**DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM  
STRATHCONA COUNTY AND ANNEXED TO THE CITY OF FORT  
SASKATCHEWAN**

ALL THAT PORTION OF THE EAST HALF OF SECTION FOURTEEN (14), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-THREE (23), WEST OF THE FOURTH (4) MERIDIAN WHICH LIES TO THE EAST OF THE RIGHT BANK OF THE NORTH SASKATCHEWAN RIVER.

SECTION THIRTEEN (13), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-THREE (23), WEST OF THE FOURTH (4) MERIDIAN INCLUDING PLAN 487 TR, AND INCLUDING THAT PORTION OF THE NORTH-SOUTH ROAD ADJACENT TO THE WEST SIDE OF SAID SECTION LYING NORTH OF THE PROJECTION WEST OF THE SOUTH BOUNDARY OF PLAN 487 TR.

ALL THAT PORTION OF THE SOUTH HALF OF SECTION TWENTY-FOUR (24), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-THREE (23), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE CITY OF FORT SASKATCHEWAN.

SECTION EIGHTEEN (18), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-TWO (22), WEST OF THE FOURTH (4) MERIDIAN.

ALL THAT PORTION OF SECTION SEVENTEEN (17), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-TWO (22), WEST OF THE FOURTH (4) MERIDIAN LYING WEST OF THE WESTERN BOUNDARY OF PIPELINE RIGHT OF WAY PLAN NO. 192 0122 EXCLUDING THAT PORTION OF SAID SECTION LYING EAST OF THE WEST BOUNDARY OF PIPELINE RIGHT OF WAY PLAN NO. 822 1180 AND EXCLUDING ALL THAT PORTION OF THE EAST-WEST ROAD ALLOWANCE ADJACENT TO SOUTH SIDE OF SAID SECTION LYING EAST OF A LINE PROJECTED SOUTH FROM THE INTERSECTION POINT OF THE WESTERN BOUNDARY OF PIPELINE RIGHT OF WAY PLAN NO. 192 0122 AND THE NORTH BOUNDARY OF SAID EAST-WEST ROAD ALLOWANCE.

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ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION SIXTEEN (16), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-TWO (22), WEST OF THE FOURTH (4) MERIDIAN LYING WEST OF THE WESTERN BOUNDARY OF PIPELINE RIGHT OF WAY 792 1434 AND NORTH OF THE NORTH BOUNDARY OF PIPELINE RIGHT OF WAY 822 1180 AND EXCLUDING THAT PORTION OF THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID QUARTER SECTION LYING SOUTH OF THE PROJECTION WEST OF THE NORTH BOUNDARY OF PIPELINE RIGHT OF WAY 822 1180.

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION TWENTY (20), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-TWO (22), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE CITY OF FORT SASKATCHEWAN.

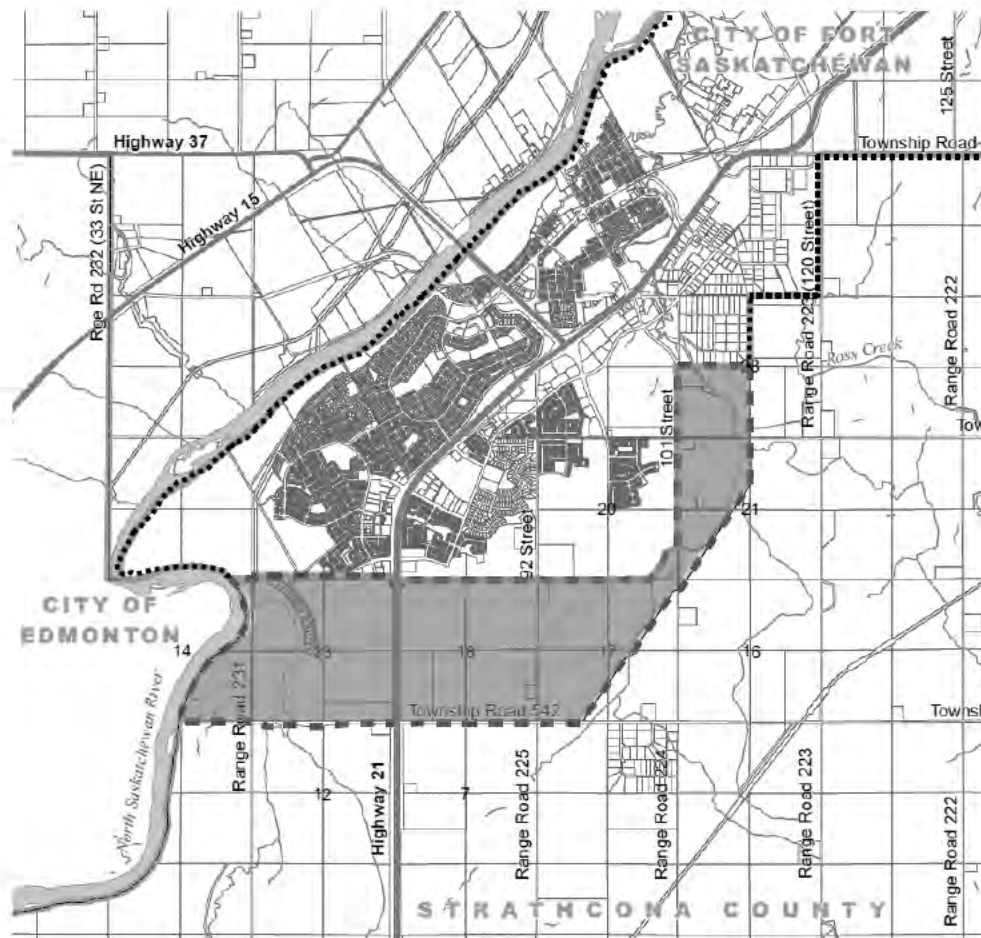
ALL THAT PORTION OF THE WEST HALF OF SECTION TWENTY-ONE (21), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-TWO (22), WEST OF THE FOURTH (4) MERIDIAN LYING WEST OF THE WESTERN BOUNDARY OF PIPELINE RIGHT OF WAY 792 1434.

THE SOUTHWEST QUARTER OF SECTION TWENTY-EIGHT (28), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-TWO (22), WEST OF THE FOURTH (4) MERIDIAN.

ALL THAT PORTION OF THE SOUTH EAST QUARTER OF SECTION TWENTY NINE (29), TOWNSHIP FIFTY-FOUR (54), RANGE TWENTY-TWO (22), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE CITY OF FORT SASKATCHEWAN.

Schedule 2

**A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS  
SEPARATED FROM STRATHCONA COUNTY AND ANNEXED TO THE  
CITY OF FORT SASKATCHEWAN**



**Legend**

- ..... Existing City of Fort Saskatchewan Boundaries
- Annexation Area

**Schedule 3**

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE  
MINISTER OF MUNICIPAL AFFAIRS  
RESPECTING THE CITY OF FORT SASKATCHEWAN PROPOSED ANNEXATION  
OF TERRITORY FROM STRATHCONA COUNTY**

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**Acronyms/Abbreviations**

Annexation recommendations often include many acronyms and abbreviations. For ease of reference, the following table lists the acronyms and abbreviations used multiple times in this recommendation.

<b>Acronym/Abbreviation</b>	<b>Full Description</b>
<i>Act</i>	<i>Municipal Government Act</i>
Analysis	City of Fort Saskatchewan Expansion Area Financial Impact Assessment Analysis
AT	Alberta Transportation
City	City of Fort Saskatchewan
County	Strathcona County
CRB	Capital Region Board
du/nrha	Dwelling Units per Net Residential Hectare
EMRB	Edmonton Metropolitan Region Board
Growth Study	Fort Saskatchewan Growth Study
IMRC	Intermunicipal Relations Committee
LGC	Lieutenant Governor in Council
LUB	City of Fort Saskatchewan Land Use Bylaw
MGB	Municipal Government Board
Minister	Minister of Municipal Affairs
Notice	Notice of Intent to Annex
PAPE	Pointe aux Pins Estates
River	North Saskatchewan River

## **EXECUTIVE SUMMARY**

[1] On April 17, 2019, the Municipal Government Board (MGB) received an application from the City of Fort Saskatchewan (City) to annex approximately 952.32 hectares (2353.23 acres) of land from Strathcona County (County).

[2] The City's last annexation was in 2002 and was expected to provide it with enough land for 30 years. However, since then the City's growth rate has been significantly higher and it has actually consumed 2.5 times more land than it annexed in 2002. The unanticipated growth and land consumption has depleted the City's future land supply, resulting in this annexation application.

[3] Objections from affected landowners regarding, taxation matters, municipal services, development, and traffic safety required the MGB to conduct a public hearing on June 25, 2019.

## **RECOMMENDATIONS**

[4] After considering the oral and written submissions received from the parties during the proceedings, the MGB recommends the annexation area requested by the City with an effective date of January 1, 2020.

## **MAJOR ISSUES AND CONSIDERATIONS**

[5] When making an annexation recommendation, the MGB considers the annexation principles summarized by MGB Board Order 123/06 as well as the issues identified by the parties. To reduce repetition, these principles and issues have been addressed under the following broad headings: consultation, planning/infrastructure, and financial matters.

### **Consultation**

[6] The consultation process undertaken by the City as well as the negotiations between the two municipalities were satisfactory. The two municipalities were able to negotiate an annexation agreement and there are no outstanding issues. The intermunicipal cooperation between the City and the County demonstrates mutual respect and the agreements between the two municipalities provide long-term collaboration and dispute resolution tools that will benefit the region.

[7] The public and affected landowner consultation undertaken by the City and the County in support of this annexation was appropriate and in keeping with the *Act*. The City used various communication methods (public meetings, stakeholder information sessions, newspaper and radio advertisements, news releases, post cards, municipal electronic sign information, and social media

posts) to ensure the public was informed of the proposed annexation and to facilitate meaningful dialogue with the affected landowners. The County also conducted a number of public meetings to inform the affected landowners of the annexation.

### **Planning/Infrastructure**

[8] The planning and infrastructure considerations examined included the annexation area, servicing, and land uses.

### ***Annexation Area***

[9] The proposed annexation area is logical. The City population projections and annexation time horizon established by the Fort Saskatchewan Growth Study (Growth Study) and the Alliance Exploration Agreement are reasonable. The density levels and number of people per dwelling unit used to calculate the amount of gross land required by the City for the 30-year annexation period are rational. The City's growth is constrained by the industrial areas to the north, the North Saskatchewan River (River) to the west, the Warren Thomas Aerodrome space to the northeast, and a major pipeline corridor in the southeast. Thus, the proposed annexation of the lands to the south reflects a rational direction for the City's expansion. The removal of the Pointe aux Pins Estates or the two quarter sections on the southeast side of the annexation area is not recommended, as they would also cause the removal of other lands needed by the City. The request to stop the County's Bremner development, located approximately 20 kilometers south of the City, and the appeal to mandate the conservation of farmland in the Edmonton area are beyond the scope of an annexation.

### ***Servicing***

[10] Servicing in the annexation area can be accomplished by connecting to existing regional lines, utilizing regional features, and by extending the City's existing infrastructure. The concerns raised respecting Township Road 543 safety improvements will be addressed through an agreement with the County, which will provide the City funds needed to conduct the improvements in a timely manner. The City has already demonstrated a willingness to move forward with this project by proactively considering the required improvements.

### ***Uses***

[11] There are no concerns regarding the current uses within the annexation area. The City stated amendments may be required to the City of Fort Saskatchewan Land Use Bylaw (LUB) to ensure all existing uses are accommodated within its planning documents. Any uses not within the LUB will be grandfathered to ensure smooth transitioning from the County to the City. Moreover,

the *Act* identifies that the County planning bylaws will continue to apply in the annexation area until such time as they are amended or changed by the City. The public consultation required by the *Act* will ensure landowners and residents in the annexation area will be given an opportunity to express their view about any proposed changes to these bylaws.

### **Financial Impact**

[12] The City of Fort Saskatchewan Expansion Area Financial Impact Analysis (Analysis) establishes that the annexation will not substantially challenge the City's economic viability and that its debt limit will not be breached during the 25-year review period. The City used a comprehensive data analysis to develop reasonable growth scenarios and population growth projections. Despite landowner concerns, there are no indications that the annexation is a tax initiative or that the population projections were misleading. The annexation will not generate a substantive monetary amount to warrant cost sharing, nor will it result in a large annual assessment change for either municipality.

[13] The \$541,000 compensation agreed to by the municipalities will offset the County's loss of municipal revenue for five years. This amount was calculated using a five year declining balance approach, where 100% of the municipal tax revenue generated by the annexation area is paid to the County in the first year, 80% in the second year, 60% in the third year, 40% in the fourth year, and 20% in the fifth and final year. However, the County agreed to return this compensation to the City's fund for road improvements on Township Road 543. The agreement was done in good faith and is in keeping with the local autonomy provided to municipalities by the *Municipal Government Act (Act)*. The County will not be negatively affected by the annexation, as it will experience a net gain of \$194,000 due to the loss in expenses shed for the annexation.

[14] The recommended assessment and taxation transition period is 30 years. The transition period for a property will terminate earlier if the land is subdivided, redesignated using the City's LUB or connects to water or wastewater.

### **CONCLUSION**

[15] The MGB finds that the proposed annexation complies with the *Act* and addresses the MGB's 15 annexation principles. The two municipalities demonstrated a great level of intermunicipal collaboration and cooperation. The annexation area is logical and the amount of land is acceptable. The City participated in significant public consultation and notification to mitigate concerns of affected landowners. The conditions of annexation, are certain, unambiguous, enforceable, and time specific. Thus, the MGB recommends the annexation.

## **PART I INTRODUCTION**

[16] The City of Fort Saskatchewan (City) is located approximately 25 kilometers northeast of Edmonton. The community serves as a major regional service hub, plays a significant role in the oil and gas industry, and provides easy access for employees working in the Alberta Industrial Heartland. The City's last annexation in 2002 was developed based on the -0.8% to 1.6% growth rate experienced by the municipality between 1986 and 2001. However, the actual growth rate since that time has been significantly higher. The City's population increased 2.7% between 2001 and 2006 and nearly doubled to 5% between 2006 and 2011. Since 2001, the City has consumed 654.7 hectares (1,616 acres) of land to accommodate growth, which is about 2.5 times more than the 264 hectares (652 acres) of land annexed in 2002. This unanticipated growth and land consumption has depleted much of the City's existing land supply, resulting in the need for it to annex land to plan and accommodate future growth.

[17] On April 17, 2019, the Municipal Government Board (MGB) received an application from the City to annex approximately 952.32 hectares (2,353.23 acres) of land from Strathcona County (County). The annexation will provide the City with land for residential, commercial, and institutional uses. Although the City and the County went through an elaborate negotiation process to reach an annexation agreement, objections were received from affected landowners. In accordance with s. 121 of the *Municipal Government Act (Act)*, the MGB held a public hearing on June 25, 2019 to receive oral and written submissions from the affected parties about the proposed annexation.

[18] This report describes the role of the MGB and the Lieutenant Governor in Council, summarizes the public hearing process and the submissions received by the MGB during the proceedings, and provides the MGB's recommendations and reasons. This report fulfills the MGB's responsibility under the *Act* regarding this annexation.

## **PART II ROLE OF THE MGB, THE MINISTER, AND THE LIEUTENANT GOVERNOR IN COUNCIL**

[19] The MGB is an independent and impartial quasi-judicial board established under the *Act* to make decisions about land-use planning and assessment matters. S. 488(1)(f) of the *Act* gives the MGB the authority to "deal with annexations". S. 523 of the *Act* allows the MGB to "establish rules regulating its procedures". The MGB Annexation Procedure Rules have been adopted to provide information about annexation proceedings, facilitate a fair and open process, and increase the efficiency and timeliness of the hearing process.

[20] Pursuant to s. 116 of the *Act*, a municipality seeking an annexation initiates the process by sending a Notice of Intent to Annex (Notice) to the municipal authority from which the land is to

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be annexed, the Minister of Municipal Affairs (Minister), the MGB, and all other local authorities having jurisdiction to operate or provide services in the initiating municipality or in the municipality from which the land is to be annexed. The Notice must describe the land proposed for annexation, set out the reasons for the proposed annexation, and include proposals for consulting with the public and meeting with the affected landowners. Once the Notice has been filed, the municipalities involved with the proposed annexation are required to meet and negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve any outstanding matters.

[21] At the conclusion of the intermunicipal negotiations and the consultation process, the initiating municipality is required to prepare a negotiation report. In accordance with s. 118 of the *Act*, this report must include a list of issues that have been agreed to by the municipalities and identify any matters the municipalities have not been able to agree upon. If the municipalities were unable to negotiate an annexation agreement, the report must state what mediation attempts were undertaken or, if there was no mediation, give reasons why. The report is also required to include a description of the public and landowner consultation process, as well as provide a summary of the views expressed during this process. The report is then signed by both municipalities. Should one of the municipalities not wish to sign the report, it has the option of including its rationale for not signing the report.

[22] The report is then submitted to the MGB. If the initiating municipality requests the MGB to proceed, pursuant to s. 119 of the *Act*, the report becomes the annexation application. If the MGB is satisfied that the affected municipalities and public are generally in agreement, the MGB may notify the parties of its findings and unless objections are filed by a specific date, the MGB makes its recommendation to the Minister without holding a public hearing. If an objection is filed or if the MGB is not satisfied all parties are in agreement with the proposed annexation, the MGB must conduct one or more public hearings. If the MGB is required to conduct a hearing, s. 122(1) of the *Act* specifies the MGB must publish a notice of hearing at least once a week for two consecutive weeks in a newspaper or other publication circulating in the affected area, the second notice being not less than six days before the hearing.

[23] The MGB has the authority to investigate, analyze, and make findings of fact about the annexation, including the probable effect on local authorities and on the residents of an area. If a public hearing is held, the MGB must allow any affected person to appear and make a submission. After reviewing the evidence and submissions from the parties, the MGB is to prepare a written report of its findings and recommendations and send it to the Minister. The Minister has the authority to accept in whole or in part or completely reject the findings and recommendations made by the MGB. The Minister may bring a recommendation forward for consideration to the Lieutenant Governor in Council (LGC). After considering the recommendation, the LGC may order the annexation.

### **PART III ANNEXATION PROCEEDINGS**

[24] Part III of this report outlines the MGB's annexation proceedings. An overview of the process is followed by a summary of the oral and written submissions received by the MGB.

#### **Process Overview**

[25] On October 1, 2018, the MGB received a Notice from the City. The Notice identified the future land uses of the proposed annexation lands, specified the annexation area, and outlined a proposed stakeholder consultation process. It also explained that the City had experienced major growth and that the proposed annexation would allow it to replenish its available land supply inventory. The documentation clarified that a copy of the Notice was sent to Sturgeon County, City of Edmonton, Capital Region Northeast Water Services Commission, Capital Region Wastewater Services Commission, Capital Region Assessment Services Commission, Elk Island Public School Board, Elk Island Catholic School Board, Alberta Health Services Edmonton Zone, Alberta Transportation (North Central), Direct Energy, Fortis Alberta Inc., EPCOR, ATCO Gas, ATCO Pipelines, Shaw Communications, Telus, TransAlta, Estate Pointe aux Pins Water Co-op Ltd., Josephburg Water Co-op Ltd, and Battle River Rural Electrification Association.

[26] On April 17, 2019, the MGB received an annexation negotiation report from the City along with a request for the MGB to proceed with the annexation. The application identifies that the City and the County were able to negotiate an annexation agreement. However, landowner concerns were not fully addressed and objections to the proposed annexation were contained in the annexation application. In consultation with the municipalities and in accordance with the *Act*, the MGB scheduled a public hearing for June 25, 2019.

[27] The MGB published hearing notifications in the local newspapers – **Ft. Saskatchewan Record**, **Sherwood Park News**, and **The Strathcona Bugle** – during the weeks of June 3, June 10, and June 17, 2019. On May 17, 2019, the MGB mailed hearing notifications to the municipalities, the affected landowners, and the other interested parties identified by the City. Both the newspaper and letter hearing notifications requested that anyone wishing to attend the hearing and/or wanting to make an oral submission during the proceedings should notify the MGB by June 17, 2019. Furthermore, any written presentations were to be received by the MGB by 2:00pm on June 17, 2019. The notifications stated that the public hearing would commence at 10:00am on June 25, 2019 and be held at the Dow Centennial Centre in Fort Saskatchewan.

#### **Summary of Submissions**

[28] The MGB received written and oral submissions from A. and B. MacDonald, P. Turanich, B. Spence and D. Ellet on behalf of the majority of the Pointe aux Pins Estate landowners, J.

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Armstrong, L. Royer on behalf of Yellowhead Aggregates, R. Frose, Alberta Transportation, the Capital Region Assessment Services Commission, the City, and the County. A summary of their positions are provided below.

**A. and B. MacDonald**

[29] The written submission from A. and B. MacDonald identified that they live in the Pointe aux Pins Estates (PAPE), a subdivision located in the southwestern portion of the annexation area. Their written submission expressed concerns about future development negatively impacting their property value and peaceful way of life, the changes made to the annexation agreement by the two municipalities, the revised golf course development, the compatibility of future development, the conversion of farmland to institutional and/or commercial development, and taxes.

[30] During the public hearing, B. MacDonald indicated that she was impressed with the agreement between the two municipalities. She also urged the parties to protect her peaceful way of life by ensuring they carefully address the details of the annexation agreement.

**P. Turanich**

[31] P. Turanich is an affected landowner within the PAPE. The three major concerns of her written and oral submissions have been summarized below.

[32] First, the annexation is based on misleading and false economic information and is a tax initiative by the City. Alberta's economy has been in a severe downturn for three years and is projected to continue this decline for years to come. In June 2019, Alberta's unemployment rate rose to 7.3%, the highest rate in Canada. Alberta's key industry is the export and production of petrochemicals and the 24% drop of Alberta's petroleum workforce since 2014 should be used as a benchmark for projecting growth rates. Moreover, Alberta is experiencing a historic high in vacant new homes and a 10-year low in housing starts, which has reduced the size of the housing construction workforce by 5 to 10%. The accuracy of the City's growth projections was questioned in light of these high unemployment rates. The weakening in the oilpatch has plummeted the value of Calgary's core non-residential properties by more than \$12 billion and has increased its office vacancy rate to 26.5%. As of June 2019, there are approximately 8,550 vacant residential properties in the Edmonton, Strathcona County, and City market. This high number of vacancies brings into question the City's information. A newspaper article in December 2018 confirms that in response to the difficult financial conditions the City increased its 2019 taxes by 2.64%. It was submitted that since cities have to rely on their tax base instead of a growing economy to support government spending during this recession, this annexation is a tax initiative.



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[33] Secondly, there was a commitment between the municipalities to honor Strathcona County's Larger Agricultural Project – now retitled to Boundary Accord – that would have prevented the City from annexing the lands until 2035. The proposed annexation encompasses the area east of the PAPE. Ms. Turanich identified that she has lived in the PAPE for the past 35 years and is concerned that the City is taking away her rights and privileges. She suggested that if the annexation is approved, the City should be required to post a performance or contract bond to ensure it is accountable for every development within the annexation area. She identified that there is favoritism to allow the City to develop the land but not others that intended to develop the area, which were denied due to the Strathcona County's Larger Agricultural Project.

[34] Finally, the City did not follow the provisions of the *Act*, which states that a municipality must consult with the public about a proposed annexation and keep them informed about the negotiations. Although the municipalities had been in discussions for over six years Ms. Turanich stated that she was not informed about the negotiations and did not know she was an affected landowner until September 13, 2018. Moreover, the public meeting on September 14, 2018 was not to seek input, but to tell the affected landowners their property was to be annexed by the City. She contends that the municipalities failed to provide effective public consultation and does not agree with the annexation proposal.

[35] In conclusion, Ms. Turanich advised that she did not support the annexation by the City.

**B. Spence and D. Ellet**

[36] Correspondence from B. Spence identified that he and D. Ellet represent most of the residents of the PAPE. During the public hearing, D. Ellet expressed satisfaction with the consultation process undertaken by the City and stated that PAPE residents were included in the annexation process from the beginning. He indicated that the majority of PAPE residents are not opposed to the annexation as they understand that they cannot prevent growth within the area. However, the residents do want to ensure they are included in the development process.

[37] It was explained that the PAPE residents would like the triangular shaped parcel to the east of the PAPE developed into a green space and the preservation and/or enlargement of the wetlands in the area. Furthermore, they would prefer that any future residential development adjacent to PAPE be in the form of single family homes and asked that the City refrain from allowing the green wooden fences used in other subdivisions in this area. PAPE residents were also concerned about construction noise, dust, and debris from new development adjacent to PAPE and requested that development around the PAPE be delayed as long as possible.

[38] One of the major concerns for PAPE residents is traffic safety. Township Road 543, to the north of the PAPE, has been a major concern for PAPE residents for many years. It was explained

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that the Dow Centennial Fields and dog park located along this road generate a large amount of traffic, which creates safety issues for pedestrians. PAPE residents have seen numerous near misses resulting from the current condition of Township Road 543. Lighting, grade adjustments, trails and intersection enhancements would improve this road. The residents have no concern about the impact of the annexation if road improvements happen in 2020; however, delaying construction until 2023 is problematic and raises many safety concerns. PAPE residents would like to maintain the north-south road in front of their homes as a dead end or restrict the possibility of through traffic.

[39] It was explained that the properties in the PAPE use septic tanks and fields for sewer services. The landowners were concerned about having to connect to City servicing and the financial impact of these services. With respect to water services, most of the PAPE properties are part of a co-op that purchases water from the County and distributes it to the PAPE properties using a trickle system. The landowners questioned whether the co-op would be able to continue to provide services to the PAPE and the costs associated with connecting to City services.

[40] Other issues of concern to the PAPE residents include the impact the annexation would have on their taxes as well as the possibility the annexation would limit landowner activities and/or affect caveats on the use of their properties.

[41] During his presentation, Mr. Ellet identified he was the President of the PAPE water co-op. He did not identify any concerns on behalf of the water co-op.

**J. Armstrong**

[42] J. Armstrong, a landowner on the southeastern side of the proposed annexation area, provided a written submission and made a brief oral presentation during the proceedings. His concerns are the destruction of good agricultural soil, the use of the pipeline right of way as a boundary, assessment and taxation, and municipal services.

[43] Mr. Armstrong explained that his family has been farming this property since 1904. He is opposed to the proposed annexation as it will lead to the destruction of good soil and growing conditions that may be needed for future food production. Maintaining good quality soil is needed to ensure the sustainability of the large number of human beings in the world. Although farmland is cheap to buy and build upon, there is not an endless supply. He commented there are more urban than rural residents in the County and that local land developers have influenced the elected municipal officials to allow development north of Highway 16. He also suggested that the City and the County could share recreation facilities and other municipal services in order to reduce urban growth.

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[44] Mr. Armstrong stated that he was a retired accountant and indicated that in the past the City's growth had been influenced by such things as interest rates, real estate prices, and high oil prices. He identified having done a number of forecasts to determine the profitability of the annexation over a 1 to 5 year period, but indicated that results of these projections can vary depending on the assumptions and economic variables.

[45] Mr. Armstrong objected to the use of the pipeline right of way as the boundary for the proposed annexation and questioned the zoning of his property. The e-mail submitted by Mr. Armstrong reports that a property that is within two municipal jurisdictions does not need to be subdivided. However, Mr. Armstrong suggested that to make real estate matters less complicated, he would need to have the approval of both municipalities to subdivide his property.

[46] In regard to assessment and taxes, the written submission from Mr. Armstrong reported that he could accept the Dow Centennial Centre and Heartland requisitions, but was concerned about the Vacant Residential Land assessment that may be applied to his property in the future. The sample assessment and taxation notices supplied indicate that if water and sewer services were constructed adjacent to his property, three acres of his property would be assessed as vacant residential land rather than farm land. This would increase his taxes by about \$1,700 per year. He also expressed concerns about other charges that may impact his property.

[47] The written submission from Mr. Armstrong identifies concerns about having to obtain burning permits from both municipalities and suggests it would be difficult for him to determine which municipality to call regarding garbage, and police services. Although there is no detail, he also asked about the Yorkville Drainage Ditch and if the City had weed inspection services.

[48] Mr. Armstrong requested that the MGB refuse the City's annexation request, stop the County's Bremner development, review cost savings of combining the City and the County, mandate the conservation of farmland in the Edmonton area, remove his property from the annexation area, and remove the pipeline as the boundary. He also submitted that it was not fair for his property to be in two municipalities.

**L. Royer – Yellowhead Aggregates**

[49] L. Royer did not provide a written submission; however, she did make an oral presentation during the public hearing. Ms. Royer identified that she represented Yellowhead Aggregates, a gravel extraction company located within the southwest annexation area. The City currently has no provisions within their bylaws for gravel and resource extraction. The company is concerned about obtaining the permits and/or for it to continue operating and whether the company will be able to continue after the annexation. She also identified that Yellowhead Aggregates would like to be consulted by the municipalities as development moves forward.

**R. Froese**

[50] R. Froese is a resident within the PAPE. He expressed frustration about the timeline for development and stated that Township Road 543 is a hazard and needs to be addressed.

**Alberta Transportation**

[51] Correspondence from Alberta Transportation (AT) confirms it has no objections to the proposed annexation, and supports the request to have additional portions of Highway 21 located within City limits. However, AT submitted that future capacity concerns on Highway 21 in this area should be considered early in the City of Fort Saskatchewan Land Use Bylaw (LUB) amendment and area structure plan development process. AT suggested that its regional transportation model be consulted for determining any impacts to the provincial highway network and to model potential mitigation measures.

[52] When the northeast river crossing study was conducted, an interchange was proposed immediately south of the proposed annexation limits. While the north-east river crossing is not currently part of AT's future plans, the City should be aware that changes could occur in the future. AT recommends consultation prior to any detailed planning at the south limit of the annexation.

**Capital Region Assessment Services Commission**

[53] Correspondence received from the Capital Region Assessment Services Commission states that it has no questions or objections to the proposed annexation.

**Other Affected Parties**

[54] The MGB did not received correspondence from any of the local authorities, utility companies, or provincial departments that were sent hearing notifications.

**The City**

[55] The following section summarizes the written and oral submissions provided by the City in relation to the annexation area, growth and development, intermunicipal collaboration, financial analysis, public consultation, and landowner concerns.

***Annexation Area***

[56] The annexation area was determined in collaboration with the County, with input from affected landowners and the public.

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[57] The City's last annexation was in 2002. The 264 hectares (652 acres) annexed by the City was primarily for residential development. The amount of land annexed was based on the City's population increases from 1986-2001, which varied from between -0.8% and 1.6%. However, since 2003, the City's annual population increase has been between 2.7% and 6.8%. As a result, the City consumed 2.5 times more land than it annexed in 2002. The unanticipated growth and land consumption depleted the City's future land supply, resulting in the need for this annexation.

[58] The annexation negotiations between the two municipalities started in 2013 and were finalized in 2018. This proposed annexation provides the City with land for future residential, commercial, and institutional uses. To support this annexation application, the City commissioned the Fort Saskatchewan Growth Study (Growth Study) in 2014, which considered population projections, infrastructure requirements, development constraints, and the amount of land needed to accommodate growth for the next 50 years.

[59] Using previous census data and post-census population estimates, the Growth Study's historical analysis identified that for the 50 year period from 1964 to 2014, the City's average annual growth rate was 3.7%. Based on this information, the Growth Study created three different population growth scenarios – low (1.6% growth rate), medium (2.2% growth rate), and high (2.9% growth rate). The City's municipal census indicated that its population grew by 41% from 2007 to 2011, or an average of 952 persons per year. Using census data for Census Division (CD) No. 11 in Alberta, the Alberta Treasury extrapolated the data using an average annual population gain of 28,342. This results in the population of the CD increasing to 2,833,993 by 2066. While the City averaged 2.74% of the CD No. 11 annual population growth between 2007 and 2014, it is assumed that with the projected growth, the City will contribute to 3.18% of the CD No.11 population growth from 2014 to 2066. Furthermore, with an expected \$375 million investment into Alberta Industrial Heartland projects, additional jobs will be created which are projected to increase the City's population by an additional 500 people.

[60] The Growth Study does not recommend the 1.6% low scenario growth rate as it is highly unlikely that the City will take 40 years to double its population. The 2.9% high growth rate scenario is also not recommended as this would only be appropriate if there were no downturns in the economy. The 2.2% medium growth rate scenario, resulting in a population of 51,371 in 2044 and 71,016 in 2066, is more realistic as it is conservative and is slightly less than the midpoint of the population projections established by the Capital Region Board for the City. Using the medium scenario growth rate, the Growth Study calculates the City's inventory of residential land will be depleted by 2027, commercial land will be exhausted by 2021, and industrial land will be consumed by 2074.

[61] An analysis determined that the current “as-built” residential density across the City is 20.1 dwelling units per net residential hectare (du/nrha) and that the lands within the City governed by area structure plans have higher “as-built” densities (28 du/nrha). Although these are not the targets of the Capital Region Growth Plan (CRGP)<sup>1</sup>, the City stated that it is working towards meeting the 35 du/nrha, established for this area. The City accepted the average household size of 2.55 persons per occupied dwelling specified under the medium case scenario of the population projections.

[62] The Growth Study considered the net developable overheads, which are lands required to support the municipal services needed for residential, commercial, industrial, and institutional development. The *Act* allows a maximum of 40% for these overheads – comprising of 10% municipal reserves and 30% public utilities and circulation. The City assumed a 35% gross developable land requirement to accommodate these overheads.

[63] The Growth Study also incorporated assumptions for new development and residential redevelopment allowances. The City has undertaken a number of redevelopment projects to allow higher densities in existing residential areas. This increase of the existing land base density without the need for the City to obtain additional land. The Growth Study assumed that 10% of the City’s gross residential land requirement can be accommodated through redevelopment; however, it does acknowledge that not all lands will develop within the annexation time horizon due to fair market competition and end users affordability conditions. Therefore, a 10% market allowance has been applied to the gross residential land requirement.

[64] For the purpose of quarter section sizing, the Growth Study assumed an average quarter section size of 63.785 hectares (157.6 acres) instead of the actual quarter section size of approximately 64.75 hectares (160 acres), as municipalities acquire road allowance widening from these quarter sections over time at subdivision stage. Considering these land development factors, the Growth Study recommended a 50-year planning horizon, which would have required the City to annex approximately 1,164 hectares (2,877 acres) of additional land.

[65] In light of the Growth Study information and in accordance with the Growth Planning Framework of the Alliance Exploration Agreement, the Intermunicipal Relations Committee (IMRC) met from 2015-2018 to examine and discuss a possible annexation by the City.

[66] The IMRC established that the City should maintain a minimum 15-year land supply. At that time the City had a gross available land supply of 965 hectares (2,384 acres) within its boundary. This consisted of 18.6 hectares (46 acres) of commercial, 572 hectares (1,413 acres) of industrial, 87 hectares (215 acres) of overheads, and 287 hectares (709 acres) of residential land. After removing lands needed for roads, reserves, public utilities, and institutional uses, the net

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<sup>1</sup> The Capital Region Growth Plan (CRGP) is now the Edmonton Metropolitan Regional Growth Plan (EMRGP).

amount of available residential land was 166 hectares. Using a density of 28 dwelling units per net residential hectare, a 7-year growth rate of 2.57, and 2.55 people per unit it was calculated that the estimated 10-year land supply within the City's boundary would only accommodate an additional 11,889 people at full buildout. The IMRC projected that in 30 years the City's population would increase by 28,496 people. Using the density target and people per unit number identified above with a 35 du/nrha density for future development, and including allowances for other types of land uses, the IMRC concluded the City would need an additional 952 hectares (2,353 acres) of land to attain its 30-year optimal land inventory. As a result, the annexation area requested by the City was reduced to 952 hectares (2,353 acres). The negotiations between the two municipalities eliminated the annexation of industrial land within the Alberta Industrial Heartland, and protected additional agricultural land from development. Moreover, the negotiated boundaries and new time horizon also reduced the number of County residents impacted by proposed annexation.

### ***Growth and Development***

[67] The Growth Study considered the suitability of the lands around the City to determine the best direction for expansion.

[68] The River serves as a major physical constraint to the annexation of the lands lying northwest of the City. Access to these lands is limited to the existing two-lane Highway 15 river crossing. If the City expands across the River, it may be partly or wholly responsible for twinning the existing bridge crossing if it takes over the jurisdiction of Highway 15 or the increased traffic generated necessitates twinning earlier than anticipated by AT. The lands in this area are somewhat fragmented due to the location of the Hamlet of Lamoureux and other developments. Also, while there are some visibility advantages resulting from its proximity to Highways 15, 37, and 825, AT may restrict access from these roads. The railways in this area may also create transportation and access problems for development in this area.

[69] The land on the east side of the River and north of the City is primarily industrial. A private company has banked 61 hectares (150 Acres) of land in the northeast study area and wishes to consolidate this parcel with the property it already owns in the City to make it easier for future development. This property is adjacent and is zoned as heavy industrial. The Warren Thomas (Josephburg) Aerodrome space and its take off/approach and transitional surfaces penetrate the northeast portion of the City. Although development may benefit from the existing road infrastructure system, the development of land in the direction of the Aerodrome would be constrained by the Airport Vicinity Protection Overlay.

[70] A major pipeline corridor located in the southeast study area conveys various contents between Alberta's Industrial Heartland to and from Refinery Row. The number of lines in this corridor varies from 12 in the northeast to 15 in the southwest. The Regional Energy Corridors

Master Plan is intended to establish policies and criteria for accommodating regional pipeline and power transmission corridors in the Edmonton region in a manner that is consistent with the principles and policies of the Capital Region Growth Board<sup>2</sup>. The two municipalities agree that expansion over the pipeline corridor is not ideal due to costs and possible complications.

[71] The Growth Study recommends the annexation of lands south of the City's current boundary and west of the pipeline corridor. Except for the PAPE, these lands are generally unfragmented and municipal services can easily be extended into the area. The City acknowledges that wetlands within this area that may restrict development somewhat and that detailed wetland studies and environmental assessment may be needed. During the hearing, the City also indicated that it would work with Alberta Environment and Parks to ensure future development does not infringe upon these key environmental features.

### ***Intermunicipal Collaboration***

[72] Having been through a number of annexations over the years, the City is aware of the contentious nature of the annexation process. Therefore, the City and County have developed agreements and committees to help guide intermunicipal collaboration.

[73] After the 2001 annexation, the municipalities entered into the Boundary Accord Agreement, prohibiting any annexation or amalgamation until 2031, unless mutually agreed upon by both parties. In 2012, the City and the County entered into a Common Bonds Agreement to strengthen intermunicipal relationships and allow the municipalities to explore a range and options for governance, growth management, and service delivery. This agreement ensures the creation of protocols to guide planning and address intermunicipal issues in a collaborative manner. It also identifies indicators, triggers and processes that are used to maintain the City's land supply at an agreed upon level. The two municipalities created the Intermunicipal Relations Committee (IMRC) in 2016 to address the City's request for annexation in relation to the triggers established by the Common Bonds Agreement. These formal collaboration tools allowed both municipalities to negotiate their annexation agreement. In addition to this, the proposed annexation complies with the applicable municipal statutory plans.

[74] The negotiations between the two municipalities reduced the 50-year planning horizon suggested by the Growth Study and decreased the annexation area from 1,164 hectares (2,877 acres) to the 952 hectares (2,352 acres). The annexation agreement eliminated the industrial land from the annexation area, protected valuable agricultural land, and allowed the municipalities to map new boundaries that would accommodate the City's future residential and commercial growth areas.

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<sup>2</sup> The Capital Region Board (CRB) is now the Edmonton Regional Metropolitan Board (ERMB)



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[75] The two municipalities also agreed the City would pay the County \$541,000 for the loss of municipal taxation revenue. Compensation is based on the following 2018 County municipal tax revenue breakdown:

2018 Municipal Tax Levy	\$93,106
2018 Municipal Linear Tax Levy	\$87,360
2018 Total Municipal Taxes	\$180,466

The compensation amount was calculated using a five year declining balance with the County to receive 100% of the municipal tax revenue generated by the annexation area in the first year, 80% in the second year, 60% in the third, 40% in the fourth year, and 20% in the fifth and final year. Table 1 shows the calculations.

Table 1: Compensation Calculation

Year	Tax Compensation (%)	Compensation (\$)
1	100	180,466.0
2	80	144,372.8
3	60	108,279.6
4	40	72,186.4
5	20	36,093.2
<b>Total (to nearest 1000)</b>	<b>\$541,000</b>	

[76] During the proceedings, the City identified that it would make the payment in one lump sum on or before July 1, 2020.

[77] The City and the County agreed that the compensation amount will be returned to the City to pay for improvements to Township Road 543 and access to the PAPE subdivision. This will occur via intermunicipal agreement rather than the request to have it included within the Order in Council. The municipalities will continue collaboration in good faith to ensure adequate steps are taken to provide for the proposed road improvements.

***Financial Analysis***

[78] The City commissioned the City of Fort Saskatchewan Expansion Area Financial Impact Analysis (Analysis) in 2015 to assess the fiscal viability of the annexation. The Analysis considered the costs, recoveries, assessment, and tax implications of the proposed annexation on the City, the County, and the affected landowners. The Analysis was updated in 2018 to assess the negotiated changes made to the annexation area.

[79] The Analysis uses a 25-year time frame to demonstrate the City will remain financially viability after the annexation. This shorter time frame provides greater capital and operating plan certainty by ensuring the infrastructure requirements remain within the current technological base. The Analysis determined that the City would require \$395.5 million (current dollars) to support the projected growth over the 25-year review period.

[80] The City's net operating costs are expected to increase from \$44.9 million in 2017 to \$100.9 million in 2041. The City will also require \$593.9 million over a 25-year period to meet its capital planning requirements and has earmarked \$80.7 million in debenture funding to finance various capital expenditures within the 25-year period. An additional \$73.7 million will be obtained from tax levy funding, \$168.3 million will be acquired through offsite levy and development charges, and 271.2 million will be secured through grants to pay for future capital expenditures. Tax increases are predicted to stay below the 3% sustainability threshold established by the City throughout the 25-year period. The City's debt is anticipated to peak in 2025 at 63% due to recreation facility expansion and decrease to 11% by the end of the 25 years. Neither the debt limit nor the debt service limit specified by the *Act* will be breached during the review period. The Analysis concludes the City can afford the costs resulting from the annexation.

[81] Regional water and wastewater lines servicing the City already exist in the annexation area. Water is provided through EPCOR and purchased through the Capital Region Northeast Water Services Commission. Water capital investments include a new reservoir, water mains, and pumping stations. Wastewater treatment continues to be provided by Alberta Capital Region Wastewater Commission. Stormwater discharge can be accommodated via the River and area creeks. New stormwater management infrastructure will facilitate stormwater management through a drainage parkway and storm trunks.

[82] The Analysis determined that the financial impact on the County is a net gain of approximately \$194,000 per year due to a reduction in its operational expenses. Furthermore, residents within the expansion area are not impacted by the annexation, assuming the 30-year tax protection is granted.

### ***Public Consultation***

[83] The consultation process undertaken by the City was completed in two stages – Stage 1 in 2015 and Stage 2 in 2018. Stage 1 included news releases, web page information, paid advertisement via newspaper and radio, stakeholder information sessions, post card distribution and meetings with PAPE residents.

[84] Stage 2 consisted of news releases, web page information, County open houses (September 14 and October 1, 2018), City open houses (October 2 and 4, 2018), electronic sign information, letters to affected parties, paid advertisement via newspaper and radio, and meetings with PAPE residents.

***Landowner Concerns***

[85] During public consultation, four main landowner concerns were identified: taxes, municipal services, surrounding development, and traffic.

**Taxes**

[86] The City has proposed a 30-year (2020-2049) assessment and taxation transition period for the lands in the expansion area. During this period, the properties in the annexation area will be assessed as if they were still in the County and taxed using the lower of the two municipal tax rates for up to 30 years. The City originally proposed that the assessment and tax protection be terminated early if the land is subdivided (except if the subdivision is from an previously unsubdivided quarter section in use for farming purposes), is redesignated using the City's LUB, or the property is subject to a local improvement bylaw funded by the City that results in the connection to water or sewer services. The City also requested the inclusion of instructions for the funding of Township Road 543 upgrades. However, during the proceedings the City requested the local improvement termination clause be changed to "connects to City water and/or wastewater services (except for the properties of the PAPE)" and removed the reference to the Township Road 543 improvements. The City stated the two municipalities were in agreement with the formula used to compensated the County for the lost tax revenue. The annexation agreement between the two municipalities addresses the Township Road 543 upgrades and specifies that the County will return the entire \$541,000 compensation amount to the City for improvements to Township Road 543.

[87] The City acknowledges that PAPE residents have their own water supply system and are part of a water co-op that allows sufficient water supply. Since the PAPE subdivision is an established residential area, the City agreed to an exception for the PAPE landowners, which will allow them to connect to City water and sewer services without losing their assessment and taxation protection.

[88] The City identified that land used for farming operations is assessed at the regulated agricultural use value rate and not at the market rate. This rate does not change regardless of whether the land is in a rural or urban municipality. However, both types of municipalities will assess the land at the market value rate if there have been improvements to prepare the land for development. Moreover, farmland that is adjacent to municipal water and sewer may have a 3 acre portion assessed at market value, with the remaining balance assessed as farmland.

**Municipal Services**

[89] The City will ensure municipal services in the annexation area are maintained at the same levels as in the County, with the additional requirement of solid waste pick-up by the City. Residents in the annexation area will not be forced to connect to City sewer or water services; however if the landowners wish, the City will help them explore possible options. Connection cost would be borne by the residents.

[90] The City made a comparison between its bylaws and those of the County for key areas. The annexation would not impact bylaws regulating the operation of off highway vehicles and the requirements for connecting to municipal water and/or sewer services. The discharge of firearms falls under the Criminal Code of Canada and the *Fire Arms Act*, so the officers of both municipalities apply the test of “carelessness” when assessing these types of complaints. Similar to the County, the City’s Municipal Enforcement investigates weed issues in accordance with the *Weed Control Act*. The City will review the County’s bylaws regarding cats, dogs, and other animals to determine the appropriate changes needed to its Animal Control Bylaw. The County does not require a business license, so the City will notify businesses in the annexation area of its license requirement in advance of the annexation approval.

**Surrounding Development**

[91] To allow the continuation of existing land uses, the City stated it will amend its LUB to ensure properties in the annexation area are able to maintain similar uses as in the County. In response to the concerns raised on behalf of Yellowhead Aggregates’, the City identified it intends to grandfather the land uses that are not currently part of their LUB to facilitate the smooth transition between the municipalities. The City is unaware of any caveats on existing properties that could be impacted by the annexation. Further investigation would be needed to determine whether the caveats are registered on title as municipal restrictions or as civil caveats imposed by the residents themselves.

[92] In addressing concerns regarding development of agricultural land, the Edmonton Metropolitan Regional Board (EMRB) has a taskforce for the creation of an agricultural preservation master plan. The City is watching the process closely and is expecting a specific set of rules and guidelines to guide the preservation of agricultural land within the region. Any proposed future development will be considered respecting the provisions of such a master plan.

[93] Currently, there are no detailed plans for the development of the annexation area, so the City cannot comment on the greenspace within the PAPE subdivision, the road going through the PAPE, the style of adjacent development, or the size of any future improvements. However, the City will consult with landowners when making changes to its planning and technical/statutory documents that will guide future development in the annexation area. It was emphasized that the

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City's planning processes are very transparent and that public consultation is a requirement of the *Act* for the creation and adoption of these documents.

[94] In response to concerns about noise, debris, and dust caused by new construction, the City's development agreement process outlines how contractors are to manage their worksites when construction commences next to existing developments. In the past, the City's Municipal Enforcement Service has been diligent in enforcing these conditions.

**Traffic**

[95] In regard to the traffic and safety concerns of Township Road 543, the City will provide relief through upgrading of the road. The municipalities have agreed that the County will return the annexation compensation to the City to fund improvements of Township Road 543 that will improve traffic safety. There is no concrete timeline for this project as the annexation needs to be granted before the City can begin; however, the City intends to begin improvements in the spring of 2020. Should delays beyond the control of the City occur, improvements will commence in 2023. The design of the road, pedestrian walkways, and/or bike paths will be undertaken by an engineer and in consultation with the public.

**The County**

[96] The County confirmed that the municipalities have an amicable relationship and have worked closely to reach a satisfactory annexation agreement. The County agrees that annexations can be very contentious and can damage intermunicipal relations. However, the two municipalities are the founding partners of Alberta's Industrial Heartland and have a history of collaborating on different projects. Although the positions of the County and the City were different at the start of the annexation process, the compromises made during their good faith negotiations allowed them to reach common ground. The revised annexation area reduces the number of County residents being impacted, provides more farmland protection, and allows the City to achieve the long-term planning it needs.

[97] The County held six open houses to consult with stakeholders and obtain input about the proposed annexation. It was confirmed that to support the residents of the PAPE and the traveling public, the County will return the entire \$541,000 intermunicipal compensation amount to the City to help fund upgrades to Township Road 543.

[98] The County understands that the annexation will eventually result in the development of agricultural land, which raises concerns for farmers in the area. However, the EMRB will provide an agriculture master plan that will ensure the long term sustainability of the agricultural sector in this region.

**PART IV MGB RECOMMENDATION**

[99] The MGB recommends approval of the annexation area as well as the assessment and taxation provisions requested by the City. The recommended effective date is January 1, 2020.

**PART V REASONS**

[100] When making an annexation recommendation, the MGB considers the annexation principles summarized by MGB Board Order 123/06 as well as the issues identified by the parties. To reduce repetition, these principles and issues have been addressed under the following broad headings: consultation, planning/infrastructure, and financial matters.

**Consultation**

[101] The intermunicipal negotiations and public/landowner consultation process were reasonable.

[102] The *Act* requires the municipalities involved in an annexation to meet and negotiate in good faith. The intermunicipal negotiation process used by the City and the County included multiple meetings and involved the development of communication tools and intergovernmental collaboration initiatives, such as the Common Bounds Agreement and the IMRC. The processes helped the municipalities negotiate in a manner that demonstrates mutual respect and facilitates intermunicipal collaboration. As founding members of Alberta's Industrial Heartland, it is clear the two municipalities have strong economic ties and a long-history of working together in a way that benefits the entire region.

[103] Both municipalities participated in the public consultation process by conducting open houses that allowed affected landowners and members of the public to share their concerns and discuss the annexation proposal. Additionally, the City engaged in stakeholder information sessions, purchased newspaper and radio advertisements, issued news releases, distributed post cards, and placed information on its municipal electronic sign and social media sites to create awareness of the annexation. During the public hearing, an individual representing the majority of the PAPE landowners stated that the residents of this area were involved in consultations with the City and the County from the start of the process. It is also evident that the County advocated on behalf of its residents to ensure their concerns were addressed by the City. Therefore, the MGB is satisfied that the City met the *Act*'s requirements for public participation, and openly communicated with affected landowners.

[104] It is possible that a small number of affected landowners were not aware of the proposed annexation prior to the MGB's public hearing notice. However, the number of consultation

activities used by both the City and the County provided numerous opportunities for affected landowners and the public to express their opinions. Moreover, the person representing the majority of the PAPE residents indicated the City consulted with them right from the start. There is no evidence to suggest the City and the County did not consider altering the annexation area or changing their annexation agreement after they presented their negotiated boundaries at the public meetings. Even if an individual was unaware of the proposed annexation, all parties were given the opportunity to voice their concerns at the June 25, 2019 public hearing. Therefore, the MGB finds the consultation process was inclusive and provided ample opportunity for participation.

[105] Respecting concerns about the 2001 agreement between the Town and the County, the MGB finds that this was an agreement between the municipalities. As such, it can be amended by the municipalities at any given time. In this case, the MGB concludes that the amendment of the 2001 agreement was done in good faith, as it was agreed to and approved by the elected Councils of both municipalities.

### **Planning/Infrastructure**

#### **Annexation Area**

[106] The population projections, time horizon, density, development constraints, and lands requested support the City's annexation application.

#### **Population Projections**

[107] The 2.2% medium growth rate used as the foundation of the Growth Study projects that the City will reach a population of 51,371 in 2044 and 71,016 in 2066. These projections were developed using the historical census data and demographic information from 1964 to 2014, a 50-year period. The 2.57% growth rate used by the Alliance Exploration Agreement considers a 7-year average and predicts the City's population will be 54,029 in 30 years. Although the Alliance Exploration Agreement growth rate is slightly higher than that of the Growth Study, the difference between the two calculations over the 30-year period is only 2,658 or approximately 5%. Regardless, both these calculations are quantifiable, are substantially lower than the City's current 3.7% growth rate, and are within the range of the population projections identified by the CRB.

[108] During the proceedings, it was suggested that the City's population projections were inflated and did not reflect the current downturn in the oil and gas industry. It was stressed that the economic downturn has increased unemployment rates in Alberta, elevated office vacancy rates in major Alberta cities, and negatively impacted the housing market in the region. It was also suggested that interest rate changes, oil price fluctuations, and other federal/global factors that have affected the economy in the past will continue to impact the City's growth in the future. While this information is interesting, the quantifiable statistics provided by the Growth Study and the

Alliance Exploration Agreement are more convincing. The Growth Study's analysis of data using statistical information for a 50-year period already incorporates the impact of a number of previous economic fluctuations. The difference between the growth rates cited by these two documents and their resulting population projections over the full time horizon of the annexation is minimal at best. Despite having to increase its taxes in 2019, the City is insulated to some degree from the economic downturn by its proximity to the Alberta's Industrial Heartland and the major capital investment being planned for this area.

### **Time Horizon**

[109] Although the Growth Study suggested the City annex enough land for 50 years (1,164 hectares/2,877 acres), the excellent relationship between the two municipalities allowed it to reduce its annexation time horizon and shrink the annexation area (952 hectares / 2,353 acres) by 212 hectares (523 acres) or about 18%. This decreased the number of County landowners affected by the annexation and, in the short term, will minimize development pressure on the agricultural operations that remain in the County. The shorter annexation time horizon improves the accuracy of the population projections, which will help the City to create plans that will facilitate more targeted staged development. The ability of the municipalities to collaborate combined with the dispute resolution processes contained in their intermunicipal plans and agreements will allow the City to annex additional land in the future if growth projections are surpassed.

### **Density**

[110] The density targets for the annexation area (28 du/nrha) are higher than the "as build" densities (21 du/nrha) of the existing developed areas of the City. This combined with the City's efforts to encourage redevelopment and infill in the existing developed areas of the municipality will help it move towards the density target (35 du/nrha) established by the Capital Region Board (CRB). This may reduce the amount of land the City needs to annex in the future

### **Land Requirement**

[111] The calculations provided by the Alliance Exploration Agreement identifies that the City has a 10-year supply of land within its boundary. This Agreement also specifies that the City should maintain a minimum of 15-year land inventory to ensure proper planning. Although the annexation is primarily for residential growth, it is logical to expect that a portion of the area will be for the commercial and institutional development needed to serve the new neighbourhoods. Moreover, the annexation area must include land for roads, municipal/environmental reserves, and public utilities as well as account for the already developed areas. Given the population projections, time horizon, and density levels, it is reasonable to accept the City will need to annex 952 hectares (2,353 acres) to obtain the land supply required for it to properly plan and develop. The suggestion the City's annexation application be refused is unreasonable and would only lead to piecemeal development in the County that would fragment agricultural land and contribute to development sprawl.



[112] It is evident that the City's growth is constrained by the River to the west, the industrial areas to the north, the aerodrome space to the east, and the pipeline corridor to the southeast. Expansion to the west of the River was contemplated by the Growth Study. However, it is logical to accept the annexation of these lands would require a considerable infrastructure investment to connect these lands with the rest of the City. Limited access would hamper the City's ability to provide water, wastewater, and emergency services to this area and severely limit future development. Locating new residential development adjacent to the existing industrial facilities in the north would be both impractical and inefficient as it would create land use conflicts that would require a large portion of the limited amount of land in this area for buffering and nuisance mitigation. The Airport Vicinity Protection Overlay regulates the type development allowed along the flightpaths around aerodromes and limits development to the northeast. The major pipeline corridor to the southeast constrains future development as adequate setbacks are required for safety purposes. Setback requirements would be required on both sides of the corridor, requiring the City to annex a significant amount of land on the east side of the pipeline corridor in order to efficiently provide the water, wastewater, and other municipal services required for urban style development. Given these constraints, the only logical direction for growth is south of City's current boundary and west of the pipeline corridor.

[113] Although the majority of the PAPE residents are not opposed to the proposed annexation, one of the landowners from this area objected to the annexation of her property. The *Act* requires the municipal boundaries to be contiguous. The removal of the PAPE from the annexation area would necessitate the exclusion of the quarter section directly south of the PAPE. The resulting irregular boundary would make it difficult and inefficient for the City to develop and/or provide municipal services to the annexation area lying to the west.

[114] During the proceedings, concerns were expressed about the Bremner Townsite development and the conservation of farmland in the annexation area. It was noted that the Bremner Townsite is a proposed development within the County located east of the Highway 16 and 21 intersection, approximately 20 kilometers south of the southern boundary of the annexation area. As stated previously, the *Act* requires municipal boundaries to be contiguous. As the Bremner Townsite is not located adjacent to the City or the annexation area, this request is beyond the scope of these annexation proceedings. The two municipalities understand the importance of agricultural land. Reductions in the annexation time horizon combined with increased development density levels have reduced the size of the annexation area requested by the City. This increases the amount of farmland that remains in the County, which can reduce the amount of pressure on agricultural landowners to sell their property to developers. Moreover, given its mandate to oversee development in the Capital region, it is more appropriate for the EMRB to establish policies for the conservation of farmland in the Edmonton area.

[115] During the proceedings, a landowner on the south-east side of the annexation area stated that he wished to continue to farm his land, identified that it would be unfair for his land to be split between two municipalities, and requested the removal of his property from the annexation area. S. 135(1)(b) of the *Act* states that the “bylaws and resolutions of the old municipal authority that apply specifically to the area of land continue to apply to it until repealed or others are made in their place by the new municipal authority.” This will allow the landowner to continue to farm his property as he has in the past. Moreover, the City has committed to changing its LUB districts to allow the continuation of agricultural operations. The use of the pipeline corridor that cuts through one of the landowner’s two quarter sections as the eastern boundary for the City is logical. The City will not be able to extend municipal services to the land excluded from the annexation and the land on the east side of the pipeline corridor has significant development constraints. Although there is no need for the landowner to separate his property to continue his agricultural operation, it is reasonable that if he wishes to subdivide for real estate purposes that he work with both municipalities. This will ensure the new parcels comply with the relevant municipal bylaws and confirm the new parcels are suitable and safe for the proposed new development or uses when he goes to sell the property. Although the landowner’s two quarter sections are not expected to be developed until 2030 or 2035 (10-15 years), the land use and infrastructure planning required for the efficient provision of municipal services to this area must be completed well in advance.

### **Servicing**

[116] The City can extend municipal services to the annexation area. The Growth Study identified that regional water/wastewater lines servicing the City already exist. Stormwater and drainage discharge can be accommodated via the River and area creeks. The City has identified viable capital finance options to provide water, wastewater, and stormwater services and the required upgrades to the infrastructure for these services. The location of the annexed lands will allow for efficient and cost effective servicing as the City already has existing infrastructure in place adjacent to these lands. Annexation area landowners can opt out of connecting to water/wastewater services under the City’s proposal. Although the City has demonstrated the ability to provide stormwater and drainage services in the annexation area, it is reasonable to expect the collaborative working relationship between the two municipalities will allow the City to obtain assistance from the County if issues arise with facilities that traverse municipal boundaries, like the Yorkville Drainage Ditch.

[117] The City does not have the authority to perform improvements to Township Road 543 until the annexation is approved and the road is within its boundary. However, the City has considered a schedule for the improvement and some initial work may commence as early as spring 2020. This illustrates that the City is seriously concerned about ensuring adequate roads will be available to residents of the annexation area. Furthermore, the County’s agreement to return the compensation money to the City to contribute to the cost of the road improvements shows good

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will and demonstrates that it is not abandoning the PAPE residents. The MGB is satisfied that both municipalities will work together to allow adequate funding for the road. Regarding the PAPE's road that goes south along the PAPE homes, it is premature to determine the transportation network detail needed to facilitate new and existing development. The City has committed that it will work with the PAPE residents to ensure consultation occurs prior to making any decision about the existing road.

**Compliance with Planning Documents**

[118] The Annexation aligns with the Intermunicipal Development Plan, Municipal Development Plan, and the other mentioned intermunicipal collaboration tools which were used to determine the annexation area. It was noted that no Area Structure Plan was created for the annexation area.

[119] The City stated that any existing County land uses not covered within the City's LUB, are intended to be grandfathered. In accordance with the *Act*, the County's planning related bylaws for the annexation area will remain in effect until they are changed by the City. The consultation process specified by the *Act* ensures landowners and residents in the annexation area will be given an opportunity to provide input to any proposed changes to these bylaws. The City also stated that proper precautions will be taken to ensure the wetlands within the annexation area are taken into consideration for future development plans.

[120] During the proceedings it was suggested that the performance bonds be used to ensure the completion of developments. S. 655(1)(b)(vi) of the *Act* allows municipalities to enter into agreements that would require a landowner or developer to give security to ensure the terms of the agreement are carried out. The City has autonomy to require a performance bond should it decide to exercise this authority. Since there is no development being proposed in the annexation area at this time, it would be inappropriate for this matter to be included as part of an annexation recommendation.

[121] In response to the concern that the County has refused previous developments in the annexation area to support the City's annexation application, the County stated that the refusal of a development would be the result of not complying with its bylaws. No corroborating evidence was provided to substantiate this claim or to demonstrate this is an ongoing trend. The *Act* identifies the appeal process for development or subdivision application decisions. If there is a question of law or jurisdiction regarding the appeal decision, s. 688(1) of the *Act* allows for an appeal to be filed with the Court of Appeal. Given there is already a process in place, it would be more suitable for matters of this type to use the appeal processes specified by the *Act*.

## **Bylaws**

[122] It is clear the City is attempting to mitigate possible bylaw conflicts for the residents and landowners in the annexation area and has committed to reviewing its bylaws prior to the effective date. All municipalities are required to comply with the *Alberta Weed Control Act*. It is evident the City understands this and its Municipal Enforcement is responsible for this function. It is unfortunate that the landowner may be required to obtain permits from both municipalities for things like brush burning. However, as it is possible for the fire caused by the burning of brush to spread to adjacent properties, notifying the authorities of both the City and the County is probably a good practice. The City has also committed to changing its Animal Control Bylaw to address dog, cat, and other animal issues.

## **Financial Impact**

[123] The 25-year financial impact assessment period provides sufficient information to demonstrate the annexation will not impact the City's financial viability. The City is in good financial standing and the annexation is not expected to breach the debt limit specified by the *Act*. The financial viability is also supported by expected future growth rates of the City and its impact from Alberta's Industrial Heartland.

[124] The annexation is not a tax initiative. The annexation area contains lands that are primarily assessed as residential or agricultural. Although there is some linear assessment, the annexation will not generate a substantive amount of municipal tax revenue so it does not warrant cost sharing. The municipal revenue generated in 2018 was \$180,466. This is insignificant since the City's net operating costs were \$44.9 million in 2017 and the capital plan estimates that the infrastructure financing in the annexation area will be \$593.9 million over a 25-year period.

[125] A number of major current and historical economic events that could impact the annexation were identified during the proceedings. However, no analysis was provided to quantify their possible impact on the future financial viability of the City or the County. It is reasonable to accept that different assumptions will result in different conclusions, but no alternative financial studies were submitted to dispute the financial analysis commissioned by the City in support of its annexation application. As a result, there is no reason to reject the Analysis.

[126] It was suggested that a review be conducted to determine the cost savings associated with combining the City and the County. The collaboration between the two municipalities demonstrates they are working together to provide municipal services to their residents in an efficient and effective manner. There is nothing to suggest the annexation will have a significant impact the financial viability of either municipality. Therefore, there is no reason to recommend a study of this type be required for this annexation.

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[127] The compensation of \$541,000 to be paid by the City to the County is acceptable and was not contested by the public or the municipalities. This amount was calculated using the 5-year declining balance approach approved in other annexations. However, the County agreed to return this compensation to the City's fund for road improvements on Township Road 543. The agreement was done in good faith and will be executed by the municipalities. The County will not be negatively affected, as it will experience a net gain of \$194,000 due to the loss in expenses shed for the annexation. The City's desire to pay the full \$541,000 in compensation to the County on or before July 1, 2020 is also acceptable.

[128] The typical assessment and taxation transition protection period for an annexation with a similar time horizon is generally 15 years. The 15-year period is also consistent with MGB Annexation Bulletin 1 – 2005: Assessment and Taxation. Although the 30-year transition protection period is generous, it was agreed upon by the two municipalities and was not contested by the affected landowners or the public. Moreover, there was no evidence to indicate the extended time would affect the financial viability of the City. Therefore, the 30-year assessment and taxation transition period is satisfactory.

[129] During the 30-year (2020-2049) assessment and taxation transition period, the City is to assess the lands and improvements in the annexation area as if they had remained in the County and apply the lowest of the two municipal tax rates. This 30-year municipal assessment and taxation arrangement will be terminated after the 30 years have lapsed, or if portion of the annexed lands:

- Becomes a new parcel of land created
  - as a result of subdivision,
  - as a result of separation of title by registered plan of subdivision, or
  - by instrument or any other method that occurs at the request of or on behalf of the landowner,except where the subdivision of the parcel is from a previously un-subdivided quarter section that is in use for farming purposes at the time of subdivision,
- Is redesignated at the request of or on behalf of the landowner, under the LUB in effect at the time for the City, to a land use designation other than the land use designation that was in effect for that portion immediately before January 1, 2020, except where such redesignation is to provide for a development that forms part of the business operation being carried out on the land prior to January 1, 2020,
- Is connected, at the request or on behalf of the landowner, to water and sewer services provided by the City, except for Pointe aux Pins Estates subdivision in Plan 7521001,

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[130] The connecting to water and sewer services termination clause is being recommended rather than the local improvement bylaw termination condition that was originally requested by the City. The implementation of a local improvement bylaw does not need the consent of all the adjacent landowners. A request to connect to City water and/or wastewater services requires landowner approval and the appropriate development permits and approvals from the municipality. Since the landowner is obligated to obtain the required documentation, it is reasonable to expect the landowner would have considered the tax protection implications on the entire parcel prior to making such a request.

[131] The City's original request to include a provision in the annexation order regarding the Township Road 543 improvements is not recommended. S. 6 of the *Act* gives natural person powers. This gives the City and the County the authority to enter into an agreement regarding the Township Road 543 improvements. Since the agreement is in keeping with the autonomy given municipalities by the *Act*, the inclusion of this matter as part of an annexation order is not warranted.

[132] With regard to a concern that the installation of water and sewer distribution lines adjacent to a property would cause the assessment of an adjacent property to increase, s. 4(3)(d) of the Matters Relating to Assessment and Taxation Regulation AR 220/2004 requires market value to be used when assessing "an area of 3 acres that (i) is located within a parcel of land, and (ii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel". This requirement is applicable in both the City and the County. It is possible for water and/or wastewater services to be extended past any parcel in either municipality, resulting in the application of s. 4(3)(d). Regardless, if a landowner does not agree with the assessment of a property, the remedy is to appeal to the Local Assessment Review Board.

**Effective Date**

[133] The effective date of January 1, 2020 requested by the two municipalities is acceptable. This will allow the municipalities time to exchange the information and documentation needed to ensure the smooth transfer of the annexation area.

**CONCLUSION**

[134] The MGB finds that the proposed annexation complies with the *Act* and addresses the MGB's 15 annexation principles. The two municipalities demonstrated a great level of intermunicipal collaboration and cooperation. The annexation area is logical and the amount of land is acceptable. The City participated in significant public consultation and notification to mitigate concerns of affected landowners. The conditions of annexation, are certain, unambiguous, enforceable, and time specific. Thus, the MGB recommends the annexation.