

**BOARD ORDER NO. MGB 033/10**

**FILE: 08AN/CHIP-V01**

**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 Village of Chipman, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from Lamont County.

**BEFORE:**

Members:

T. Golden, Presiding Officer  
J. Noonan, Member  
L. Patrick, Member

MGB Staff:

R. Duncan, Case Manager

**SUMMARY**

After careful examination of the submissions from the Village of Chipman (Village), Lamont County (County), affected landowners, and other interested parties, the Municipal Government Board (MGB) makes the following recommendation for the reasons set out in the MGB report, shown as Appendix D of this Board Order.

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- (a) effective January 1, 2010, the land described in Appendix A and shown on the sketch in Appendix B is separated from Lamont County and annexed to the Village of Chipman,
- (b) any taxes owing to Lamont County at the end of December 31, 2009 in respect of the annexed land are transferred to and become payable to the Village of Chipman together with any lawful penalties and costs levied in respect of those taxes, and the Village of Chipman upon collecting those taxes, penalties and costs must pay them to Lamont County,

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- (c) the assessor for the Lamont County must assess the annexed land and the assessable improvements to it for the purposes of taxation in 2010,
- (d) taxes payable in 2010 in respect of the annexed land and any assessable improvements to it are to be paid to Lamont County and Lamont County must remit those taxes to the Village of Chipman, and
- (e) the assessor for the Village of Chipman must assess the annexed land and the assessable improvements to it, for the purposes of taxation in 2011 and subsequent years,

and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, 11<sup>th</sup> day of March 2010.

MUNICIPAL GOVERNMENT BOARD

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(SGD.) L. Patrick, Member

**APPENDIX A**

**DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM LAMONT  
COUNTY AND ANNEXED TO THE VILLAGE OF CHIPMAN**

THE SOUTHEAST QUARTER OF SECTION THIRTY-ONE (31), TOWNSHIP FIFTY-FOUR (54), RANGE EIGHTEEN (18) WEST OF THE FOURTH MERIDIAN AND INCLUDING ALL THAT LAND ADJACENT TO THE EAST SIDE OF SAID QUARTER SECTION LYING WEST OF THE EAST BOUNDARY OF PLAN 962 1333.

SECTION TWENTY-NINE (29), TOWNSHIP FIFTY-FOUR (54), RANGE EIGHTEEN (18) WEST OF THE FOURTH MERIDIAN AND INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE EAST SIDE OF SAID SECTION.

THE SOUTH HALF OF SECTION THIRTY (30), TOWNSHIP FIFTY-FOUR (54), RANGE EIGHTEEN (18) WEST OF THE FOURTH MERIDIAN AND INCLUDING ALL THAT LAND ADJACENT TO THE EAST SIDE OF SAID HALF SECTION LYING EAST OF THE WEST BOUNDARY OF PLAN 812 1295 AND INCLUDING ALL THAT PORTION OF THE EAST-WEST ROAD ALLOWANCE LYING EAST OF THE PROJECTION SOUTH OF THE WEST BOUNDARY OF PLAN 812 1295.

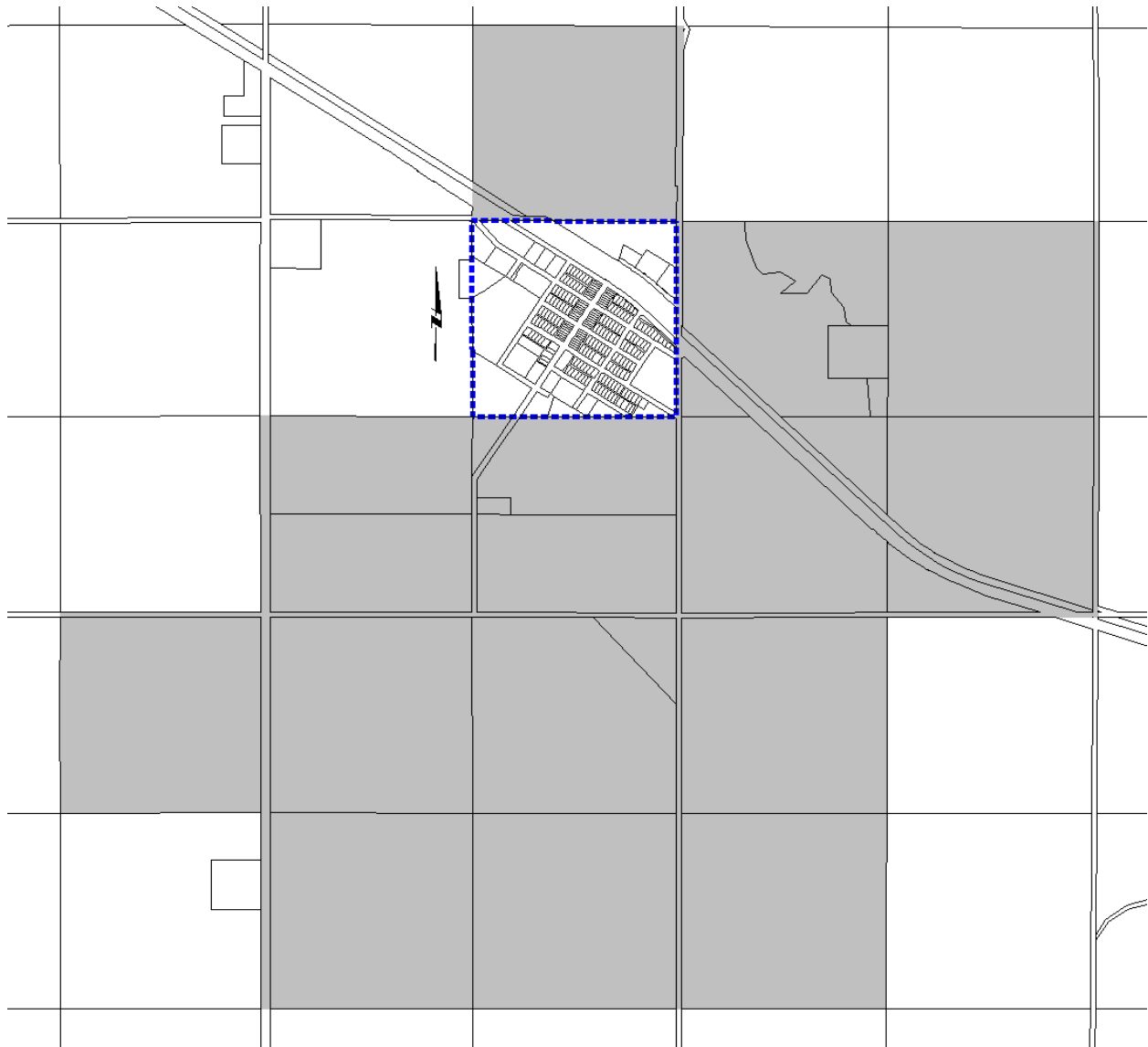
THE NORTHEAST QUARTER OF SECTION TWENTY-FOUR (24), TOWNSHIP FIFTY-FOUR (54), RANGE EIGHTEEN (18) WEST OF THE FOURTH MERIDIAN AND INCLUDING THE EAST-WEST ROAD ALLOWANCE ADJACENT TO THE NORTH OF SAID QUARTER SECTION.

SECTION NINETEEN (19), TOWNSHIP FIFTY-FOUR (54), RANGE EIGHTEEN (18) WEST OF THE FOURTH MERIDIAN AND INCLUDING ALL THAT LAND ADJACENT TO THE WEST SIDE OF SAID QUARTER SECTION LYING EAST OF THE WEST BOUNDARY OF PLAN 812 1295.

THE WEST HALF OF SECTION TWENTY (20), TOWNSHIP FIFTY-FOUR (54), RANGE EIGHTEEN (18) WEST OF THE FOURTH MERIDIAN.

APPENDIX B

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS  
ANNEXED TO THE VILLAGE OF CHIPMAN



Legend



Existing Village Boundary



Annexation Area

**APPENDIX C**

**ORDER**

- 1 In this Order, “annexed land” means the land described in Appendix A and shown on the sketch in Appendix B.
- 2 For the purposes of taxation in 2010 and in each subsequent year up to and including 2019, the annexed land and the assessable improvements to it
  - (a) must be assessed by the Village of Chipman on the same basis as if they had remained in Lamont County, and
  - (b) must be taxed by the Village of Chipman 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 Lamont County.
- 3 Where in any taxation year a portion of the annexed land
  - (a) becomes a new parcel of land created
    - (i) as a result of subdivision,
    - (ii) as a result of separation of title by registered plan of subdivision, or
    - (iii) by instrument or any other method that occurs at the request of or on behalf of the landowner,
  - (b) becomes a residual portion of 16 hectares or less as the result of the creation of a parcel referred to in clause (a), or
  - (c) is redesignated, at the request of or on behalf of the landowner under the Village of Chipman Land Use Bylaw, to a designation other than agricultural or urban reserve,

section 2 ceases to apply to the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.
- 4 After section 2 ceases to apply to the annexed land or any portion of it, the annexed land or portion and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other property of the same assessment class in the Village of Chipman is assessed and taxed.

APPENDIX “D”

MUNICIPAL GOVERNMENT BOARD REPORT TO THE MINISTER OF MUNICIPAL  
AFFAIRS RESPECTING THE VILLAGE OF CHIPMAN PROPOSED ANNEXATION  
OF TERRITORY FROM LAMONT COUNTY

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### **Executive Summary**

The Village of Chipman (Village) is located approximately 60 kilometres east of Edmonton along Highway 15. On February 3, 2009 the MGB received an annexation application from the Village to annex approximately 906 hectares (2,240 acres) of territory from Lamont County.

The Village and County were in agreement with respect to the annexation application. However, prior to the Village submitting its annexation application, a petition was received from the residents of the Village by the Minister of Municipal Affairs (Minister) requesting the dissolution of the municipality. After reviewing the petition, the Minister, in accordance with Part 4, Division 7 of the Act, informed the Village, the County and the representative of the petitioners that the dissolution petition was sufficient. On September 30, 2008, the Minister instructed Alberta Municipal Affairs (AMA) to conduct a dissolution study. Prior to the Village submitting its annexation application the representative for the petitioners requested the MGB to postpone the annexation hearing until after the dissolution study had been completed.

The MGB held a preliminary hearing on April 8, 2009 to consider the request to postpone the annexation proceeding until after the completion of the dissolution study. The solicitor for the proponents of the dissolution argued that the annexation and dissolution processes were closely related and the dissolution process should be completed first. The solicitor for the Village argued that the two processes were two separate municipal processes and that a postponement was not warranted. At this preliminary hearing, the MGB was informed that AMA would be conducting a vote in late June to ascertain if the Village residents wished to dissolve the municipality. MGB Decision Letter 048/09 issued on May 20, 2009 deferred the MGB's decision until June 30, 2009. The Dissolution Study conducted by AMA identified that the results of the June 26, 2009 dissolution vote showed that the residents were not in favour of dissolving the Village. The MGB issued Decision Letter 081/09 on June 30, 2009 stating that the MGB would move forward with this matter. Decision Letter 081/09 observed that there were still objections to the proposed annexation, and in accordance with section 120 of the Act, the MGB was required to conduct a hearing. Moreover, the MGB identified financial information that was not contained in the Village's annexation application that would have to be addressed for the MGB to make a decision regarding the annexation request. Therefore, the MGB established a document exchange timeline for the parties and set the annexation hearing to commence on October 21, 2009. This timeline was set to allow the Village time to produce the financial information requested by the MGB and provide time for the residents as well as the other parties to review and comment on this information prior to the hearing.

At the October 21, 2009 hearing, the presentation on behalf of the Village was provided by a developer who owns a large portion of the annexation area. It was also noted that the Village employed legal counsel, but not independent municipal planning advisors, who discussed the impact of the annexation and its opportunities for the Village. During the hearing it became evident that the developer was to play a very significant role in the entire annexation process; therefore, the MGB had to determine if the application complied with the Act with respect to the

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application being a municipal application. The MGB found that the Village had submitted the application in accordance with the Act and that the application is a municipal application.

The MGB reviewed the documentation provided prior to the hearing, and listened to presentations by the parties affected by the proposed annexation. The MGB finds that the purpose of the annexation and amount of land being requested by the Village is consistent with the analysis presented and that the concerns of affected landowners have been given proper consideration. The MGB notes the proposed annexation is driven primarily by one developer. The proposed annexation will increase the size of the village from 65 hectares (160 acres) to 906 hectares (2,240 acres) and the population is expected to grow from 294 to over 6,000.

The MGB has recommendations regarding assessment and taxation for the annexation area, including a ten year assessment and taxation transition period for landowners. Given the phasing of development in the annexation area that has been proposed, a ten year protection period should provide residents a reasonable period of time to adjust to the Village's taxation system.

The MGB placed significant weight on the agreement concluded between the Village and the County. Their collaboration meets the objectives of intermunicipal cooperation outlined in Provincial Land Use Policies, annexation principles established by the MGB, and the Act.

### **Introduction**

The Village of Chipman (Village) is located in the east central area of Lamont County (County), approximately 60 kilometres east of Edmonton along Highway 15. The Village's strategic location provides an easy commute to the Alberta Industrial Heartland, where a high concentration of oil and gas industrial development is being constructed. Access to Highways 15 and 16 as well as Secondary Highways 831 and 834 provide easy access for heavy truck transportation. The Village's population of 238 (official provincial population, 2008) resides within the 65 hectares (160 acres) of its current boundary.

In July 2007, the Village was approached by a company wishing to develop within the municipality. Discussions were held between the Village, the developer and the County to investigate the possibility of an annexation in order to facilitate the development. Based on these discussions, the Village and the County formally entered into annexation discussions on August 20, 2008. On August 28, 2008 the MGB received a notice of intent to annex from the Village.

On September 5, 2008 the Minister received a petition from the residents of the Village to dissolve the municipality. On September 30, 2008, after having reviewed the dissolution petition, the Minister found that the petition was sufficient and ordered Alberta Municipal Affairs (AMA) to conduct a dissolution study.



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On February 3, 2009 the Village submitted its negotiation report to the MGB and requested the MGB to proceed with the annexation. The application states that the proposed annexation will provide enough residential, commercial, and industrial lands to meet the needs of the Village for the next 25 years, allowing the municipality to grow to a population of about 11,000 residents. The proposed annexation would shift approximately 906 hectares (2,240 acres) of territory from the County to the Village.

Although the Village and the County were in agreement with the proposed annexation, the MGB had received a letter from the representative for the dissolution petitioners requesting the MGB to postpone the annexation proceedings until the dissolution study had been completed. Letters of objection to the proposed annexation were also contained in the Village's annexation application. The MGB held a preliminary hearing on April 8, 2009 to receive submissions with regards to the postponement request and other preliminary matters. MGB issued Decision Letter 048/09, which deferred the MGB's decision, and Decision Letter 081/09 which set the dates for the annexation hearing and identified preliminary matters for the Village to address prior to the annexation hearing. On October 15, 2009 the MGB convened a hearing to address the objections that were contained in the Village's application as well as the other objections that had been filed with the MGB.

The following report outlines the roll of the MGB in the annexation process, describes the April 15, 2009 preliminary hearing, summarizes the Village's annexation application and independent financial analysis, and provides an overview of the October 14, 2009 merit hearing. The final section identifies the findings and reasons for the recommendation of the MGB to the Minister.

### **Role of the MGB, the Minister and the Lieutenant Governor in Council**

A municipality seeking annexation must first initiate the process, pursuant to section 116 of the Act, by giving written notice of the proposal to the municipal authority from which the land is to be annexed, and to the MGB and any local authority considered to be affected by the proposal. The notice must describe the land proposed for annexation, set out the reasons for annexation and include proposals 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 matters, as well as a list of matters in which there is no agreement. If there is no agreement, the report must state what mediation attempts were undertaken, or else explain why no mediation occurred. The report must also include a description of the public consultation process and the views expressed during this process. The report is then signed by both municipalities and if not, the municipality that did not sign must provide their reasons for not signing.

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

If the MGB finds that there is no general agreement, it must notify the parties of its finding and conduct one or more public hearings. The MGB only has authority to make findings and recommendations to the Minister and the Lieutenant Governor in Council (LGC). The Minister and the LGC have authority to accept in whole or in part or completely reject the findings and recommendations of this report.

### **Preliminary Hearing**

As mentioned previously, the April 8, 2009 preliminary hearing was conducted by the MGB to determine whether it should grant a request to postpone the consideration of an annexation application filed by the Village until after the results of a dissolution study are available later that summer.

### **Background**

A petition for dissolution of the Village signed by 99 residents was presented to the Village Council on August 1, 2008. This petition was subsequently re-presented to the Minister with 96 signatures on September 5, 2008. On September 30, 2008 the Minister ordered AMA to undertake a dissolution study.

On August 22, 2008 the Village filed a notice of intent to annex lands with the MGB. The MGB received a letter from one of the residents objecting to the proposed annexation on October 27, 2008 and received a second letter that day from the same person speaking on behalf of the petitioners requesting that the dissolution study be completed before a final decision on annexation was made.

The dissolution process is governed by section 129 to 134 of the Act. The MGB has no involvement in the processes outlined in these sections. However, one of the core issues for the dissolution study is to determine the viability of the municipality. The Minister may (but is not required) to hold a vote as to whether the residents believe the municipality should be dissolved. The LGC upon recommendation by the Minister may dissolve a municipality.

On February 3, 2009, the MGB received an annexation application from the Village in accordance with the section 119 of the Act. While the application was submitted by the Village, the impetus for the annexation was primarily from a developer, Triland International Inc. (TII), which had acquired a number of parcels of land around the Village. Upon receipt of the

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annexation application, the MGB set a preliminary hearing to consider the request to postpone the annexation proceedings and to address other matters of a preliminary nature.

During the April 8, 2009 MGB preliminary hearing, the solicitor for the party requesting the postponement stated that the dissolution study could be completed by the end of May 2009, after which the Minister would consider the results. The solicitor argued that the two month long delay would not be detrimental to the annexation process. The position of the petitioners was that the delay made sense because if dissolution were successful, then the annexation would not need to proceed. This would save money for all concerned. Finally, the petitioner's solicitor argued that postponement of the annexation would focus attention on the dissolution and thus enhance the possibility for a fair evaluation of the study by the residents.

The Village's solicitor opposed the postponement request and stated that the annexation request represented a great opportunity for the municipality. The Village's position was that granting the stay or postponement would be a great inconvenience to the developer and the Village. The solicitor asked the MGB to defer to TII's presentation for more detail. The Village stated that the timing for the dissolution process is not necessarily as firm as suggested by the parties requesting the postponement and could cause considerable delays. The Village's solicitor also pointed out that both the annexation and the dissolution study are independent processes and can proceed at the same time.

The County expressed support for the annexation but recognized that this was a local decision. However, the County stated that it supported the contention that a delay in the process would be harmful to the Village.

The developer, TII, argued that postponement might force them to delay necessary work on servicing for another year. The developer stated that this could result in higher costs and impact the viability of the project. The MGB also heard from a number of other interested residents and landowners, all of whom were generally supportive of the annexation process continuing without postponement.

MGB Decision Letter 018/09 issued May 20, 2009 deferred the decision on the request for a postponement after June 30, 2009. The MGB acknowledged that annexation and dissolution are two separate processes. However, an important part of the dissolution study is to review the viability of the municipality. As such, the findings of the dissolution study would be useful when considering the annexation application. Moreover, the MGB identified that there would undoubtedly be requests from the MGB for a detailed independent Financial Impact Analysis (among other things) as part of the annexation review.

The MGB Decision Letter 081/09 issued July 2, 2009 notes that the results of the dissolution study and the outcome of the vote (83% of the residents that voted were not in favour of dissolving the Village), confirm the desire of the residents to continue as a separate municipal entity. The MGB noted that the financial information provided by the Village only considered

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the first phase of development, 40 acres (16.9 hectares), and did not address the financial impact of the entire annexation area. Considering the size of the Village at that time (approximately 160 acres or 65 hectares) and the relatively large size of the proposed annexation (approximately 2,240 acres or 906 hectares) sound financial information was required about the entire development for the MGB to prepare a reasoned recommendation to the Minister and the LGC. Therefore the MGB requested an independent financial analysis from the Village prior to the start of the merit hearing.

In order to give the Village time to prepare the financial information as well as ensure the residents of the Village understood the financial impact the annexation may or may not have on them, MGB Decision Letter 081/09 established a document exchange process and set the merit hearing date. The process established by the MGB provided an opportunity for residents and the public to review the independent financial analysis prior to the date they were required to present written submissions to the MGB. The merit hearing was set to commence on October 14, 2009.

### **Annexation Application / Financial Analysis Summary**

This section has been divided into three parts. The first part provides a brief discussion of the annexation documentation in relation to the Act. The second part provides a brief summary of the annexation application submitted by the Village. The third part provides a brief overview of the independent financial analysis prepared prior to the annexation hearing by the Village.

#### **1 Annexation Documentation**

In accordance with section 116 of the Act, the MGB received a copy of a notice of intent to annex from the Village to the County on August 28, 2008. The notice of intent identified the lands to be annexed from the County, stated the reasons for the proposed annexation and clearly demonstrated that the MGB and the other local authorities the Village considers would be affected by the proposed annexation had been notified. However, information regarding proposals for the public consultation process or keeping the landowners apprised of the progress of the negotiations was not received by the MGB until September 9, 2008.

In accordance with section 118 of the Act, the required Negotiation Report was received by the MGB on February 3, 2009. The application submitted by the Village included a copy of the Annexation Agreement between the Village and the County, and a cheque for the annexation fees. Although the Village and the County were in agreement with the proposed annexation, the application contained objections from landowners. Moreover, objections had also been filed with the MGB. In accordance with section 120 of the Act, the MGB is required to conduct one or more hearings in respect of the annexation if an objection is filed with the MGB

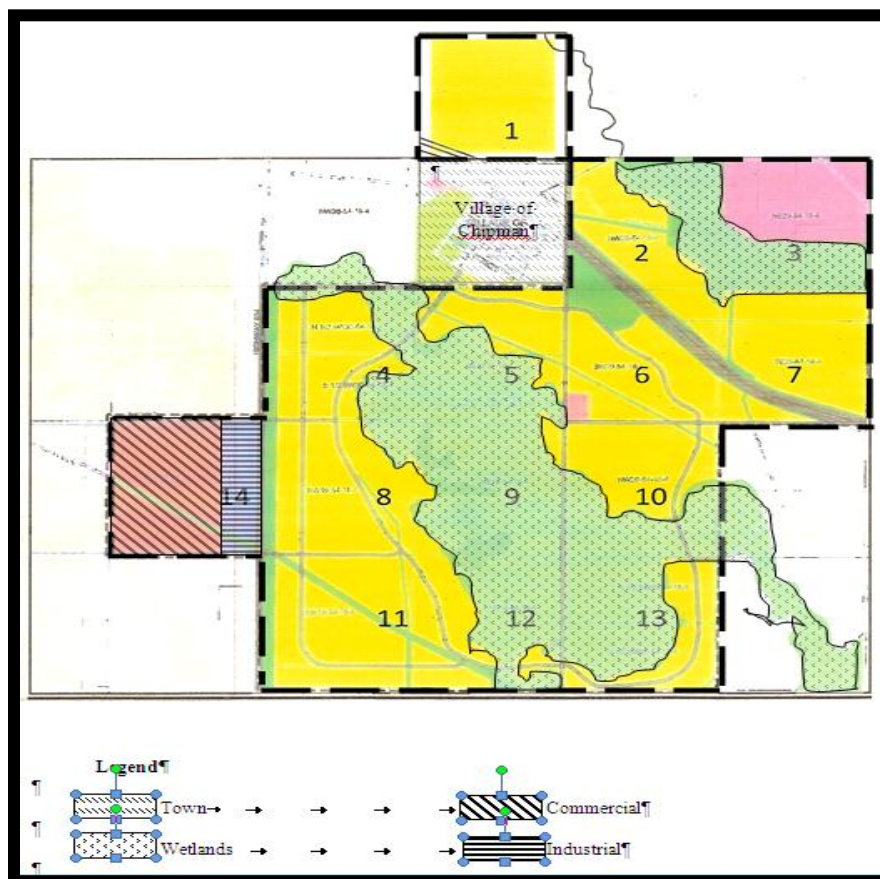
## 2 Annexation Application Summary

The following provides an overview of the annexation application and the independent financial impact assessment report submitted to the MGB by the Village prior to the start of the October 14, 2009 merit hearing. Identification of the proposed annexation area is followed by an overview of land use information contained in the Village's annexation application, a description of the landowner and public consultation process used by the Village in developing the application, a summary of the views expressed by landowners and the public during the Village's consultation process, and an overview of the agreement between the Village and the County.

### *Annexation Area*

The proposed annexation will increase the size of the Village from 65 hectares (160 acres) to 906 hectares (2,240 acres). The annexation area proposed by the Village is illustrated on Map 1.

**Map 1: Proposed Annexation Area**



Source: Village of Chipman Annexation Application

*General Description*

The proposed annexation lands are described below as the North area, South Wetlands area, South Residential and South Commercial/Industrial. The proposed annexation will increase the size of the village from 65 hectares (160 acres) to 906 hectares (2,240 acres) and the population is expected to grow from 294 to over 6,000.

*North Highway Area*

Although the Village's current boundary extends to both sides of Highway 15, a majority of the municipality and almost all the developed properties within the Village's current boundary are located south of the highway. The proposed north highway annexation area encompasses approximately 600 acres north and east of the current Village boundary. This area is shown in Map 1 as the quarter sections marked 1, 2, and 3 and includes a small portion of the east part of the quarter section shown as 6 located north of the highway as well as the lands within the quarter section identified as 7 that lie north of the highway. This area includes about 50 acres in the north east part of the quarter section identified as 3 which has been set aside for the expansion of the Village's sewage lagoons. A wetland area extends across the quarter sections shown as 2 and 3. Development restrictions in the north annexation area include a deeply incised creek, access to Highway 15 and legislative setbacks required as a buffer around the sewage lagoons. However, the creek constraint may be somewhat mitigated by developing larger view lots. The current land use in the proposed North annexation area is predominantly agriculture. The Village is proposing medium density housing for the developable lands in this area.

*South Wetlands Area*

A large portion of the south west side of the existing Village is undevelopable. This area is environmentally sensitive and is part of a larger wetland area that extends south of the existing municipal boundary through the sections identified as 4, 5, 8, 10, 12 and 13 in Map 1. The wetlands lands within the proposed annexation area have been surveyed by the developer and are intended to be transferred to a land trust which will be established once the annexation has been approved. Currently, portions of the wetland within the proposed annexation area are leased to Ducks Unlimited (DU). DU has provided a letter in support of the proposed annexation and the Village intends to have DU included in the land trust organization. The wetlands within the proposed annexation area are currently being used for grazing; however, most of the land remains in its natural state. The Village estimates that approximately 725 acres of the 2,240 acres within the proposed annexation area will be used for wetlands, roads, rights of ways and existing uses.

*South Residential Area*

The south residential area is the largest area of developable land to be annexed (see non-wetland portions of the quarter sections marked 4-13 in Map 1). This part of the annexation area has been identified mostly for residential development of various densities and land uses which are intended to support future neighbourhoods. This land is largely lower quality agricultural land, and is identified by the Canadian Land Inventory as class 3 agricultural land. A portion of this area adjacent to highway 15 is proposed to be set aside for highway expansion.

*South Industrial / Commercial Land*

The South Industrial / Commercial land contains approximately one quarter section of land east of Secondary Highway 834 that will be used for industrial and highway commercial development. The Secondary Highway will provide a buffer between these lands and the proposed residential development. Currently, there is some industrial use occurring in this area, although most of the land is used for agriculture. The Village states that approximately 180 acres within the proposed annexation area will be used for commercial and light industrial development.

*Land Use Information*

A description of the relationship between the Capital Region and the Village, the growth analysis and the proposed municipal servicing is provided below.

*Capital Region*

The Village of Chipman is in an area influenced by the Capital Region Board (CRB). The mandate of the CRB is to prepare and make recommendations with regard to the Capital Region Growth Plan, facilitate the resolution of issues arising from the preparation and implementation of this plan and to implement policies for the sharing of costs among the participating municipalities. The CRB's influence is present because the County, which surrounds the Village, is a participating municipality and is therefore subject to the policies of the CRB. However, the Village is not a participating municipality as defined by the *Capital Region Board Regulation*. In the case of this annexation, none of the policies of the CRB are an issue.

*Growth Analysis*

The Population Trends and Projections section of the Village's annexation application provides a general description of the developable area, the development timeline and a brief summary of the land uses that are expected for each developable area. The Village estimates that the proposed annexation has the potential to increase the population of the municipality from 295 to 10,710 over a 15 to 25 year period. The Village expects that the municipality will grow by 510 people per 40 acre stage.

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The annexation application did not contain a Municipal Development Plan (MDP). However, section 632 of the Act does not require municipalities with a population of less than 3,500 to adopt a MDP. The Village has indicated that it intends to adopt a MDP after a decision on the annexation application is approved.

This annexation is unique in that it is supported more by documentation prepared by TII, the developer, rather than detailed growth studies prepared by the municipality. The TII binder, which was submitted by the Village as part of its annexation application, outlines the company's expected land consumption for the next 25 years. The Village submits that the property within the proposed annexation area would provide the land required.

#### *Existing Municipal Services*

The Village has the sewer and water capacities to accommodate a maximum population of 1,500 persons. There is insufficient land in the existing Village boundary to accommodate the additional growth. Long term expansion is projected into the quarter sections adjoining the South Village boundary, as the existing service system could be extended into that area.

The annexation application identifies that the developer will assume all design and construction costs. Moreover, the developer shall assume all road and maintenance and weed control costs prior to final acceptance of the development by the Village. Future municipal services and roadways will be the developer's responsibility.

#### *The Landowner and Public Consultation Process*

The landowner and public consultation process utilized by the Village consisted primarily of public meetings and open houses. The Village held three open houses with the intention to discuss annexation with the general public. The September 16, 2008, October 16, 2008 and November 19, 2008 open houses were advertised in the **Lamont Leader** newspaper, the newspaper circulating in the proposed annexation area. The Village also hosted an open house on October 23, 2008, targeted to the adjacent and affected property owners. At each of the open houses the Village solicited input by providing forms that could be used by the public and the landowners to provide comments or input.

#### *Identified Landowner and Public Issues*

During the initial public meetings the public expressed concerns regarding future land use. It was perceived by some members of the public that the proposed annexation would be a large work camp. Council clarified that there was no intent to create a work camp in the annexed lands. Individuals expressed concerns regarding the extent of the annexation, asked about the provision of municipal services and expressed views with regards to engineering and legal assistance required by the Village. In addition, some specific concerns regarding individual properties



brought forward. The Village council was apparently unable to address the concerns, as the public objections remain unresolved and these objections meant that the MGB had to hold a public hearing in accordance with the Act. These ongoing concerns were presented to the MGB at the hearing and are reproduced under the summary of presentations (below).

***Consultation with Local Authorities and Agencies***

Local authorities were contacted and they sent letters of agreement. Two responses were particularly important. First, a letter from Alberta Transportation (AT) stated it does not object to the proposed annexation. However, AT did identify that access to the Highway would have to be addressed at the subdivision and/or area structure plan stage.

Second in a letter dated October 10, 2008 the Vegreville Corridor Water Services Commission expressed that it did not object to the proposed annexation. At the public hearing, this agency, represented by Jim Palmer, indicated sufficient capacity exists in the system to accommodate the proposed growth.

***The Annexation Agreement with the County***

The Village and the County came to full agreement regarding the annexation details. A negotiation process was conducted, leading to agreement as to the proposed annexation area, tax and assessment provisions, and a transfer date. Road responsibilities were also agreed to, which included an understanding that, subject to cost, the County would be contracted to continue road maintenance. There are no outstanding issues between the Village and the County with regard to the proposed annexation.

**3 Independent Financial Analysis Overview**

The Village of Chipman: Independent Financial Impact Analysis Report on Chipman Annexation and Development Project prepared by Wilde and Company Chartered Accountants was submitted to the MGB by the Village on September 4, 2009.

The Report by Wilde and Company indicates that the Village will accumulate a net surplus of \$11,018,595 over the life of the development. In the event that full build out is not completed, the Report projects that the Village will have positive returns on all points along the timeline considered. The operating surpluses will be used to fund the few capital items that are not the responsibility of the developer, including road maintenance equipment, a new fire truck and other community facilities. The Report states that the Village has minimal financial responsibility and the project is clearly an excellent opportunity with very significant financial rewards.

## **MGB Merit Hearing**

The merit hearing with regard to the Village's annexation application was convened on October 14, 2009. The following section briefly describes the hearing notification process used by the MGB and summarizes the presentations and submissions received by the MGB.

### **Merit Hearing Notification Process**

In accordance with the instructions set out in MGB Decision Letter 081/09, the MGB convened a hearing to hear the merits on October 14, 2009. Hearing notification letters were sent to all affected landowners on September 4, 2009 and hearing notices were published in the **Lamont Leader** newspaper the weeks of September 14 and 21, 2009. The hearing notifications published in the newspaper circulating in the affected area fulfill the requirements of section 122 of the Act.

### **Merit Public Hearing**

A total of 20 people attended the October 14, 2009 merit hearing. The MGB received oral submissions from the Village, the County, landowners in the annexation area, and other affected landowners.

### **Village's Submission**

The solicitor for the Village explained that the annexation had been approved by Village Council for a number of reasons that include:

- Provincial need for affordable housing: The proposed land use for the developable portion of the annexed area is largely residential. It was indicated to the MGB that a large portion of housing cost is land cost. In the Village, land is inexpensive, which results in more affordable housing.
- Location of the Village: It was suggested that, being located near the "Industrial Heartland", the Village is a viable alternative for housing people employed in the general area. Being outside the area of the Capital Regional Commission regulations is seen as an advantage to the Village as the restrictions applied in the CRC do not apply to the Village.
- Sustainability: The Village wishes to provide improved service to residents. In order to afford improved services, growth is required.

The solicitor explained that at first glance the amount of land being annexed by the Village, 906 hectares (2,240 acres), appears to be quite large. However, he noted that more than 293 hectares (725 acre) of the land within the proposed annexation is wetland. Further, when public land

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requirements are deducted, the total area available for residential (340 hectares or 840 acres) and industrial/commercial (73 hectares or 180 acres) purposes in the annexation territory is just 412 hectares (1,020 acres). It was noted that the agricultural quality of the land being considered for annexation is rated by the Canadian Land Inventory as class 3, a lower quality of land. The Village stated that based on its population projections it expects to grow to a population of 10,710 over the next 15 to 25 years.

The solicitor indicated that the wetland areas are undevelopable. At present, a portion of the wetland within the annexation area is under lease to DU. In discussions with DU, the developer agreed to create a Trust that would own the wetland area. The solicitor indicated that the developer has committed to supporting the trust for a period of time. The wetland would be managed in cooperation with DU and remain in its natural state. This would become a design feature in the residential development. This design feature would be a method of protecting the wetland for the future.

The MGB was informed that financially the Village is in a good position. The independent financial assessment indicated that the annexation can be accommodated. The main criterion is that developers would be responsible for all costs of development. Using development agreements and taking performance bonds on the various phases of development would also protect the municipality from financial risk. Statements from the major developer and a memorandum of understanding were presented to confirm this proposal. Approximately five kilometres of roads will come under Village jurisdiction after the annexation. Negotiations with the County to maintain these rural roads are underway and the proposed fee is considered reasonable by the Village.

Servicing the new areas would be the responsibility of developers. Water is available in sufficient quantities from the Vegreville Corridor Water Services Commission. The sewage lagoons are of sufficient size to accommodate about 1,500 persons. The proposed growth would require further expansion of the sewage lagoons. Currently, the land needed to expand the sewage system to the extent required is owned by a developer who has agreed to make it available for these purposes.

The Village and County were able to reach an agreement on the application. There are no outstanding issues between the Village and the County.

In terms of the objections that have been voiced against the annexation, the Village suggests that many are beyond the authority of a municipality to address. In the case of the Loren property, it was proposed that the MGB should weigh the “lifestyle argument” of one property owner against the greater public good.

In response to questions, the solicitor for the Village stated that that the municipality is aware of the need to achieve agreements at each stage of development. Each agreement would require a

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bond to be provided to an amount necessary to complete any outstanding work. The Village is committed to ensure the availability of necessary expertise to limit future risk.

In its summary, the Village discussed how its application met with the annexation principle that had been established by the MGB in the St. Albert / Sturgeon County annexation. During questioning, the solicitor for the Village assured the MGB that servicing agreements can be legally binding.

### **County's Submission**

The County stated that it is its policy to support the various urban municipalities within its boundaries. These urban municipalities offer a broad variety of services to the County residents. As such, strong and viable urban neighbours are a benefit to the County. In support of these municipalities, the County has participated in a series of intermunicipal activities such as the water commission. In this light, the County entered negotiations with the Village and agreed to the needed for growth in the area. Accommodating urban growth is not a policy or strength of the County and it relies on urban areas to provide housing and urban growth. Therefore if growth is to occur, the County feels it should be with in an urban area.

The County indicated that the lands being considered as part of this annexation generate little tax revenue and will have little impact on the financial position of the County. The County is willing to enter an agreement with the Village for rural road maintenance. The taxation conditions presented by the Village were accepted and no additional compensation was required. This infrastructure is expected to be encompassed by a memorandum of agreement (MOU) with the developer. The MOU also includes soft services such as a new municipal administration building and fire fighting equipment. Locations, sizes and phasing of the installations are subject to further negotiation and planning exercises.

### **Developer Submissions**

James Rae represented TII, which controls the Chipman Development Company. Mr. Rae indicated that his company owns about 1,560 acres in the annexation area. He presented the company's point of view on the type of growth and the rates of growth that were possible for the Village of Chipman. He also spoke to the two companies' commitment to its potential growth. Mr. Rae provided a brief overview of the history of the company in order to ensure the MGB of its ability to successfully accomplish major developments, and to show how that experience will be applied to the lands in the annexation area. Although now expired, a letter of agreement was signed with the Village that outlined the development process. Included in the agreement was a commitment to pay for the development costs, including off-site services such as fire protection and administration facilities.

TII believes the Village will grow because of its location near the Alberta Industrial Heartland, its access to rail and highway routes, the fact that it is outside the regulated CRB, and its policy

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of being proactive. The development is intended to provide affordable housing at a density of four to seven units per acre.

Mr. Rae stated that some 750 acres of property owned by TII within the annexation area are wetland and are therefore undevelopable. TII has agreed to establish and pay the costs of a Land Trust to own and manage the wet land area. The Trust would be sponsored by the developer until the organization would be viable on its own.

Lynn Kurach, representing Kurach Holdings Inc., agreed with Mr. Rae's presentations and supports the annexation. This company owns about 275 acres, mostly located on the north area of the proposed annexation. This land is, in part, overlooking the river valley and its development would likely include some higher cost housing. Kurach Holdings Inc. understands that development to the north of the highway will depend on improvements to the intersection of Highway 15 and the County roadway. Also, Mr. Kurach indicated that his company will play a role paying for their portion of the required services.

### **Landowner/Public Submissions**

At the hearing, the MGB received presentations from several landowners and members of the public. A summary of each submission received by the MGB is provided below.

#### **The Loren Family**

Ms. Melissa Clow, a Student at Law with Ahlstrom Wright Oliver and Cooper LLP, represented the Loren family in the public hearing. Ms. Clow stated that her clients purchased their 14 acre parcel of land with the intent of living a rural lifestyle. The Lorens currently raise a small number of animals, mostly for their personal use. The possibility of urban development would have a major impact on their quality of life. No consideration of buffer areas around their property has occurred. Ms. Clow also expressed concerns regarding potentially higher taxes as a result of the zoning being changed from agricultural to residential and the costs associated with having to switch to the Village's water and sewer system.

The Loren family is concerned that the wetland area may be in danger of degradation and insufficient detail is available of the impact of the development on the wetland. In their opinion the area is important enough to require an Environmental Impact Analysis. Ms. Clow also suggested that the annexation was contrary to the County's Municipal Development Plan, with respect to subdivision of agricultural land and the development of country residential uses.

The submission by Ms. Clow also expresses concerns regarding the impact the residential development will have on the Loren family land. Specifically, land use bylaws that will prevent the family from keeping animals such as pigs and cattle on their property.

It was confirmed that land owned by the Loren family was for sale at the time of the hearing.

**John Winnick**

John Winnick owns the quarter section located at SE 31-54-18 W4. This land is immediately north of the quarter section identified as 1 on the Map 1. Mr. J. Winnick's land is divided by a deep creek valley, making it impossible for him to drive farm implements to this part of his land. Mr. J. Winnick stated that a "hand shake" agreement between his family and the owners of the property to the south has allowed him to access his lands by passing through the neighbouring property. Mr. J. Winnick contends that this agreement has been in place for the past 100 years. In order to ensure access to his lands, Mr. J. Winnick requested a Written Agreement allowing continued access. He suggests that a "Registered Right-of-Way easement be granted before he can agree to the annexation.

**Loren Winnick**

Loren Winnick stated he owned the land east of the quarter sections identified as 1 and north of the quarter section identified as 2 in Map 1. Though not necessarily opposed to the annexation, Mr. L. Winnick is concerned with the impact of urbanization such as loss of hunting areas, trespassing, increase in vandalism, and fire hazards. He would like the Village's assistance with these problems.

**Allen Antoniuk**

Allen Antoniuk stated that there was no indication that there is any real demand for such a large amount of developable land to be annexed to the Village, especially given the amounts of land being proposed for other towns in the area. Moreover, he compared this annexation to the City of Edmonton annexing the entire Capital Region. Mr. Antoniuk stated that the Village should be part of the CRB and subject to its growth plans.

Mr. Antoniuk expressed concern that allowing DU to influence the management of the wetlands would increase the danger of fire, as DU would not allow cutting of long dry grass. Mr. Antoniuk also stated that in the past, the management of the wetland has contributed to flooding on some of his lands outside the annexation area and this problem should be corrected.

**Ducks Unlimited Canada**

After the hearing, the MGB received a letter from Ducks Unlimited Canada (DU) advising that the DU Chipman South Wetland Project area was contained within the boundaries of the Chipman Land Trust. DU advised that the typical project life is usually 20-30 years. The agreement is not perpetual; however, if DU considers the project to be important and the project is located in an important area, DU re-signs for an additional 20-30 years. DU cannot guarantee that the project will be re-signed in 2018, but unless something unforeseen happens, it does expect to re-sign this agreement. DU identifies that its current costs include the annual

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maintenance associated with one person checking the project one day a month and the capital cost of installing a the box and pipe. DU identified that it manages most of its water projects under a paradigm of “Minimal Ecological Management”.

**Written Comments**

Comments were received by the MGB in written form by persons who did not appear at the hearing.

1. Sharon Chateauneuf expressed a wish for the Village to remain small and objected to a work camp.
2. The Yost family had a concern regarding the sewage lagoon and possible seepage into the water table.

**Village’s Response to Landowner/Public Submissions and Summary**

With regard to the concern brought forward by Ms. Clow on behalf of the Loren Family, the Village states that the Province regulates farm assessment, and the annexation will not affect those regulations. However, to address this concern, the Village proposes that as a condition of the annexation the lands be assessed and taxed as if they were in the County for a period of ten years. These conditions are to be removed if the property is subdivided, developed or re-designated at the owner’s request to a non-agricultural land use. The conditions will also be removed when and if the Loren’s connect to Village water.

The lifestyle issues identified by Ms. Clow flow largely from owning property very near a growing municipality. The Village contends that some design features of the final subdivision may reduce the impact; however, they will not eliminate the lifestyle issues identified by Ms. Clow. The Village stated that an Environmental Impact Analysis for the wetland is the responsibility of the province. The Village notes that management of the wetland is to be operated by a Land Trust, with the assistance of DU. The Village’s position is that this is a good system that will protect the environmentally sensitive areas.

With regard to the access concern from J. Winnick, the Village submits that this is a private matter, which is not caused by, or relevant to the annexation.

With regard to the concern raised by Ms. Chateauneuf, the Village stated that the annexation area is intended for a residential development and not a work camp. The Village has been quite clear that it opposes the creation of a work camp.

With regard to the concerns expressed by L. Winnick, it is the opinion of Village Council that although these are reasonable comments, the solutions lie outside the jurisdiction of the Village or will be addressed in the later, more detailed stages of planning for development.

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Mr. Antoniuk presents questions that are in disagreement in the general growth policy of the Village and will remain a disagreement and it is up to the MGB to decide the course of action. The drainage concerns brought forward by Mr. Antoniuk will be addressed as development occurs.

The Village did not provide comments regarding the concern raised by the Yost family.

### **County Response**

The County did not provide a response with regard to the submissions of the landowners.

### **MGB Findings and Reasons**

After reviewing the documentation provided prior to the hearing, as well as listening to the presentations by the parties affected by the proposed annexation, the MGB finds that the annexation should be approved as follows:

- the lands to be annexed are to be consistent with the lands identified in the Village's annexation application,
- the effective date of the annexation is to be January 1, 2010,
- the lands within the annexation area are to be assessed and taxed on the same basis as if they remained in the County unless the land is subdivided, rezoned at the request of the landowners or connected to Village the water or the wastewater systems.

The MGB finds that it does not have the jurisdiction to forward this annexation application to the CRB.

### **Reasons**

#### Municipal Agreement

The MGB acknowledges that the Act and the Alberta Provincial Land Use Policies encourage municipalities to cooperate and collaborate. With respect to annexations, the Act requires municipalities to negotiate in good faith and, if they are unable to reach agreement, attempt mediation. The negotiation and/or mediation process allows the municipalities to meet, identify issues of mutual concern, discuss solutions, and reach an understanding with regard to a proposed annexation. The MGB finds that the application filed by the Village as well as the submissions of the Village and the County at the public hearing demonstrate a high level of cooperation and collaboration between by the two municipalities.

The MGB notes that in this case compensation was not an issue nor was it requested. Although the two municipalities were in agreement that there was to be no assessment and taxation



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conditions offered to the landowners, the County did not object when the Village offered a ten year transition period to the landowners. The County has clarified the amount of roadway that the Village will become responsible for maintaining, and the two municipalities are in the process of making an agreement to continue to provide road maintenance in the annexation area. As a result of the cooperation and collaboration between the Village and the County, the MGB has given considerable weight to the annexation agreement reached by these two municipalities.

#### Provincial Legislation

During the hearing, the MGB heard that the proposed annexation was an excellent opportunity for the Village in terms of its future viability. The MGB notes that section 3 of the Act states that the purposes of a municipality are:

- (a) to provide good government,
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality, and
- (c) to develop and maintain safe and viable communities.

The MGB finds that the proposed annexation will assist the Village in carrying out its purpose as identified by the Act.

The MGB considered the assertion from Mr. Antoniuk that this matter should be forwarded to the CRB. Section 1(h) of the *Capital Region Board Regulation* defines a participating municipality as a municipality “listed in the Schedule”. Although the County is identified as a participating municipality, the Village is not. Section 25(1)(b) of the Regulation states that if “the Municipal Government Board is considering an application for an annexation involving 2 or more participating municipalities, the Minister may by order direct the Municipal Government Board to defer its consideration of the matter”. The MGB finds that since the Village is not a participating municipality, the MGB is required by section 122 of the Act to make a recommendation to the Minister. Moreover, the MGB received no order from the Minister with regard to this matter. The Village was not identified as a participating municipality within the Capital Region Board Regulation. Therefore, there is no requirement that the Village comply with CRB standards.

#### Planning Process

The MGB is satisfied that the normal planning requirements have been met. There is some concern that the Village does not have an updated MDP. The MDP would have addressed future land uses within the Village, identified proposals for future development as well as established future growth patterns and transportation systems with the County. A MDP is also the basis for identifying the possible requirements for an Intermunicipal Development Plan. However, the MGB recognizes that the Act does not require municipalities with a population of less than 3,500 to adopt an MDP.

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The MGB heard evidence which indicated that a significant amount of planning activity has occurred in cooperation with the main developer, TII. TII and the Village have developed some growth projections and evaluated the best directions for this growth. The County is in agreement with the proposed growth direction and has had input with regard to transportation corridors. The provision of municipal servicing to the proposed annexation area has been established by the Village. Estimates of costs have been considered by the Village and proposals have been developed for the financing and programming of municipal development. The Village has stated that a MDP would be adopted and the Land Use Bylaw would be amended after the result of the annexation application is known. It appears that together, in the negotiations with the County, the Village has followed a process that could have resulted in an MDP, lacking only the preparation of a bylaw.

#### Municipal Services

The MGB is satisfied with the Village's ability to provide municipal services to the proposed annexation area.

Sufficient water is available from the water cooperative. The MGB notes that the Vegreville Corridor Water Service Commission is currently operating well below capacity. In the future, should demand from all members of the Vegreville Corridor Water Service Commission require more capacity, infrastructure and licenses are in place to increase water delivery.

The Village's current waste water infrastructure will service 1,500 persons, which allows for a nearly seven fold increase in town population. A population greater than 1,500 will require improvements to the Village's wastewater infrastructure. Agreements are in place to have these improvements paid for by developers. Moreover, the TII has allocated lands adjacent to the current wastewater system to allow for future wastewater infrastructure expansion.

Internal roads will be constructed at the developers' expense. These roads will be turned over to the municipality after a warranty period. Prior to the start of development within the annexation area, the Village accepts the responsibility for about five kilometres of County road. Although the Village currently looks after roads within its current boundary, the County will be contracted to continue road maintenance in the proposed annexation area.

#### Environmental Concerns and Wetlands Trust

Some environmental concerns were mentioned with respect to the wetlands. The MGB understands both the Village and developers who own land in the annexation area are aware of the importance of the wetlands. This was expressed in the application and at the public hearing. The proposal to create a Land Trust with the involvement of among others DU is the method of protection proposed. Further confirmation received verified that the TII would fund the land trust and transfer wetland under their ownership to the trust. Eventually the Land Trust will be

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transferred to the board and Village although this will occur at a point when the organization is sustainable.

The wetland was a critical area to protect and the MGB notes that several options exist for providing a legal framework for the protection of the land, including the proposed Land Trust discussed before the MGB. The provisions of section 664 of the Act (environmental reserves) also provide an alternative for the Village to consider. The MGB is confident with the Village legal representative's assurances that the Village is aware of the nature and importance of the wetlands and the legal options available to them. When the time comes to take action, the Village will be in a position to implement the process that best suits the situation.

#### Land Requirements

The MGB finds that the population projections are consistent with the analysis presented. Concerns were expressed during the hearing about the population projections being overly optimistic based on the amount of growth experienced by the other municipalities in the region. The MGB notes that this annexation is unique and historical growth patterns cannot be used to establish growth projections. The annexation application submitted by the Village states that it expects to grow to a population of 10,710 over the next 15 to 25 years. The MGB accepts that the Village has done its due diligence, and therefore must rely on the total build-out projections and timeframe suggested by the developer, TII.

The MGB finds that the amount of land being requested also consistent with the analysis presented. During the hearing concern was expressed with regard to the amount of land being requested for this annexation. However, the MGB was provided with no evidence to quantify or substantiate this assertion. The MGB also received a comment with regard to the size of the annexation in relative terms. The MGB notes that once the wetlands, rights of way and other municipal requirements are taken into account, the amount of developable land is 1,020 acres (840 acres residential and 180 acres commercial industrial).

#### Municipal Risk

The MGB is convinced that the Village is aware of the possible risks and has undertaken to ensure it will be protected should development deadlines not be met.

It is clear that the annexation proposal is based upon business projections from optimistic developers, who made a case the Village supported. It was important for the MGB to determine the risk to the Village should the projections of development fall short or take longer than expected. Since all but one affected person were in general agreement with the annexation proposal, the main risk is a financial one. A financial review was presented to the MGB that demonstrated that the Village could accommodate the proposed development in the annexation area. A number of assumptions were made in the analysis, including the premise that the developer would cover the costs of services and infrastructure.

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The MGB was assured by the Village's solicitor that the municipality is aware of the need to achieve agreements at each stage of development. Each agreement would require a bond to be provided to an amount necessary to complete any outstanding work. The Village is committed to ensure the availability of necessary expertise to limit future risk.

#### Affected Persons Concerns

The presentations made by Mr. J. Winnick, Mr. L. Winnick, Mr. Antoniuk and the Loren Family expressed reasonable comments that may be expected to come from landowners faced with being next to, or included in, a growing urban area. Except for some of the concerns of the Loren family, the MGB finds that solutions to the concerns expressed are outside the parameters of the annexation approval. Issues such as access to land locked parcels, the possibility of an increased amount of trespassing, drainage issues and litter in fields used for agricultural purposes can be important concerns to residents. These people are encouraged to follow up with other agencies in time.

The MGB finds that the development being proposed by the Village will not result in a "work camp". The amount of planning documents submitted to the MGB clearly shows a significant level of planning. The MGB notes that the Act requires public participation as part of the MDP, Land Use Bylaw and Area Structure Plan processes. This requirement for public participation will allow Village residents to provide input with regard to the future development of their municipality.

The lifestyle issues presented by the Loren family are more difficult to reconcile. In the end, the MGB recognizes that the growth of a municipal authority will inevitably impact land owners. In this case, the right to preserve one's lifestyle must be balanced with the Village's need to grow and the rights of other property owners to develop their land. The MGB finds that the concerns about the preservation of a rural lifestyle should not prevent the annexation, nor can the Loren family's land be excluded from the annexation. Due to phasing, it may take some time for the 14 acre parcel to be impacted by development. This, combined with the assessment and taxation conditions proposed by the Village at the hearing will give the Loren's as well as the other landowners within the proposed annexation an opportunity to adjust to changes. In addition, the Loren family will still have access to the public planning process and can have input to the more detailed plans to limit the impact of growth on their rural lifestyle.

#### Conclusion

The MGB recommends the effective date of the annexation be January 1, 2010 and that the Order in Council include the assessment and taxation conditions as identified in Appendix A to C.