

BOARD ORDER NO. MGB 038/17

FILE: AN16/MILL/T-01

IN THE MATTER OF THE *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (*Act*).

AND IN THE MATTER OF an application by the Town of Millet, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the County of Wetaskiwin No. 10.

BEFORE:

Members:

H. Williams, Presiding Officer

S. Boyer, Member

G. Zaharia, Member

Case Manager:

R. Duncan

SUMMARY

After careful examination of the submissions from the Town of Millet, the County of Wetaskiwin No. 10, 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,
 - (a) “annexation area” means the area described in Schedule 1 and shown on the sketch in Schedule 2;
 - (b) “annexed land” means the land described in Schedule 1 and shown on the sketch in Schedule 2;
 - (c) “farm land assessment class” means the class referred to in section 297(1)(c) of the *Municipal Government Act*;

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(d) “residential assessment class” means the class referred to in section 297(1)(a) of the *Municipal Government Act*.

2 Effective January 1, 2018, the land described in Schedule 1 and shown on the sketch in Schedule 2 is separated from the County of Wetaskiwin No. 10 and annexed to the Town of Millet.

3 Despite section 2, title to the land and improvements located on BLOCK B, PLAN 9824390, Certificate of Title 982 271 906, shall remain vested in the County of Wetaskiwin No. 10 and shall not transfer to the Town of Millet as a result of this annexation.

4 Any taxes owing to the County of Wetaskiwin No. 10 at the end of December 31, 2017 in respect of the annexed land and any assessable improvements to it are transferred to and become payable to the Town of Millet together with any lawful penalties and costs levied in respect of those taxes, and the Town of Millet upon collecting those taxes, penalties and costs must pay them to the County of Wetaskiwin No. 10.

5(1) For the purpose of taxation in 2018 and subsequent years, the assessor for the Town of Millet must assess the annexed land and the assessable improvements to it.

(2) For the purpose of taxation in 2018 and in each subsequent year up to and including 2027, property that lies within the annexation area and to which the farm land assessment class or the residential assessment class has been assigned

(a) must be assessed by the Town of Millet on the same basis as if the property had remained in the County of Wetaskiwin No. 10, and

(b) must

(i) for the purposes of raising revenue to be used toward the payment of expenditures and transfers referred to in section 353(2)(a) of the Act, be taxed by the Town of Millet using the tax rate established under section 354 of the Act by the County of Wetaskiwin No. 10 or the Town of Millet, whichever is lower, for property of the same assessment class,

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- (ii) for the purposes of raising revenue to be used toward the payment of the requisitions referred to in section 353(2)(b) of the Act, other than a requisition referred to in section 326(1)(a)(ii) of the Act, be taxed by the Town of Millet using the tax rate established under section 359 of the Act by the County of Wetaskiwin No. 10 or the Town of Millet, whichever is lower, for property of the same assessment class, and
- (iii) for the purposes of raising revenue needed to pay an Alberta School Foundation Fund requisition, be taxed by the Town of Millet using the tax rate established under section 359.1 of the Act by the County of Wetaskiwin No. 10 for property of the same assessment class.

6(1) Where, in the 2018 taxation year or any subsequent taxation year up to and including 2027, a portion of the annexed land

- (a) becomes a new parcel of land created by any method that occurs at the request of or on behalf of the landowner, including but not limited to
 - (i) subdivision,
 - (ii) separation of title by registered plan of subdivision, or
 - (iii) instrument,
- (b) is redesignated, at the request of or on behalf of the landowner, under the Town of Millet Land Use Bylaw to another designation, or
- (c) is connected, at the request of or on behalf of the landowner, to water or sanitary sewer services provided by the Town of Millet,

section 5 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.

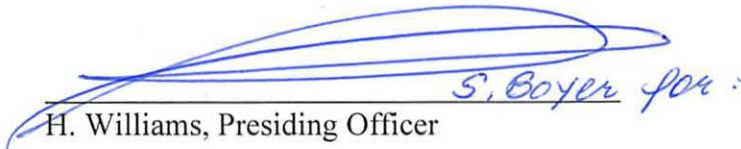
(2) After section 5 ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other property of the same assessment class in the Town of Millet is assessed and taxed.

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DATED at the City of Edmonton, in the Province of Alberta, this 28th day of September 2017.

MUNICIPAL GOVERNMENT BOARD


H. Williams, Presiding Officer

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Schedule 1

**DETAILED DESCRIPTION OF THE LANDS SEPARATED
FROM THE COUNTY OF WETASKIWIN NO. 10
AND ANNEXED TO THE TOWN OF MILLET**

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION THIRTY-TWO (32), TOWNSHIP FORTY-SEVEN (47), RANGE TWENTY-FOUR (24), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF MILLET INCLUDING THE NORTH-SOUTH ROAD ALLOWANCE ADJACENT TO THE EAST SIDE OF SAID QUARTER SECTION.

LEGAL SUBDIVISIONS ELEVEN (11) AND TWELVE (12) OF SECTION THIRTY-THREE (33), TOWNSHIP FORTY-SEVEN (47), RANGE TWENTY-FOUR (24), WEST OF THE FOURTH (4) MERIDIAN INCLUDING THE EAST-WEST ROAD ALLOWANCE ADJACENT TO THE SOUTH BOUNDARY OF LEGAL SUBDIVISIONS ELEVEN (11) AND TWELVE (12).

THE SOUTHWEST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP FORTY-SEVEN (47), RANGE TWENTY-FOUR (24) WEST OF THE FOURTH (4) MERIDIAN.

THE SOUTHEAST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP FORTY-SEVEN (47), RANGE TWENTY-FOUR (24) WEST OF THE FOURTH (4) MERIDIAN INCLUDING ALL THAT LAND ON THE SOUTH SIDE OF SAID QUARTER SECTION LYING NORTH OF THE SOUTH BOUNDARY OF PLAN 942 2421.

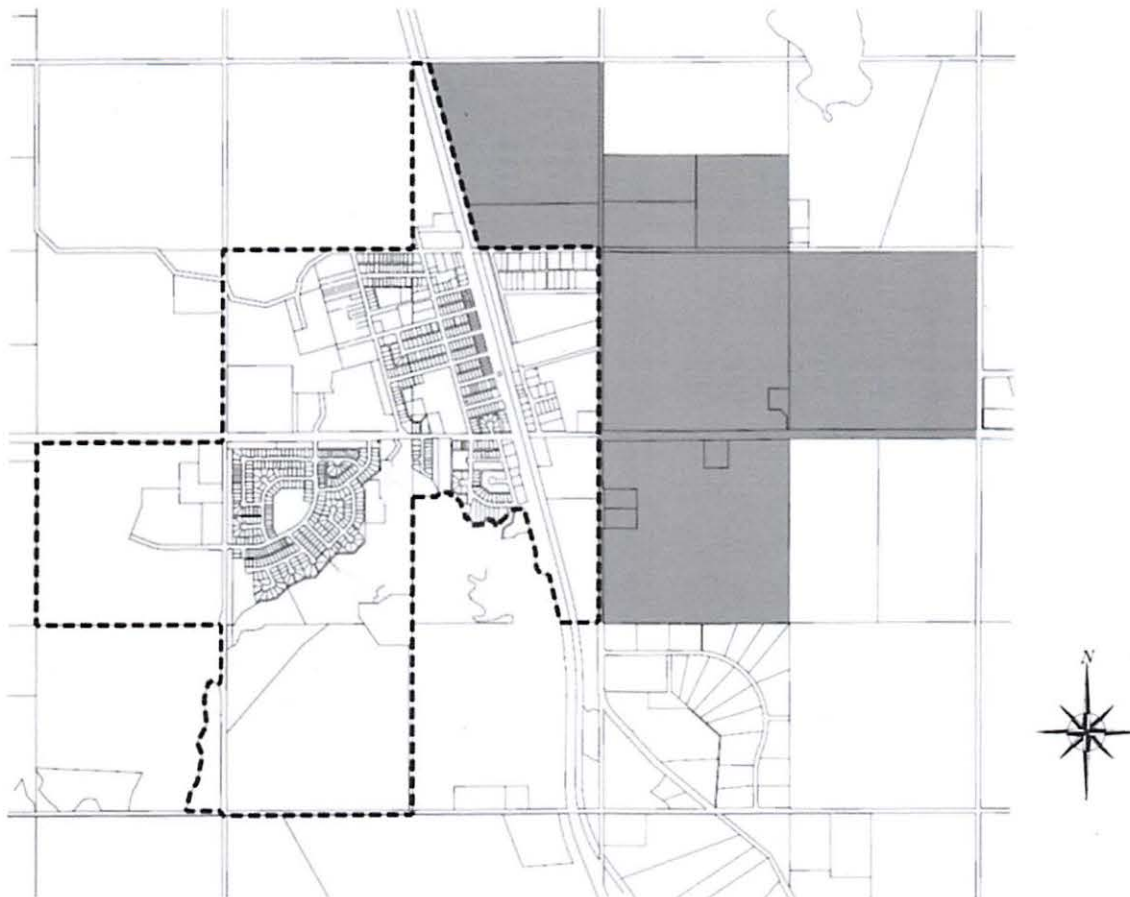
THE NORTHWEST QUARTER OF SECTION TWENTY-EIGHT (28), TOWNSHIP FORTY-SEVEN (47), RANGE TWENTY-FOUR (24) WEST OF THE FOURTH (4) MERIDIAN.

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Schedule 2

**A SKETCH SHOWING THE GENERAL LOCATION OF THE AREA SEPARATED
FROM THE COUNTY OF WETASKIWIN NO. 10 AND
ANNEXED TO THE TOWN OF MILLET**



Legend

-  Existing Town of Millet Boundary
-  Annexation Areas

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Schedule 3

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE
MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF MILLET'S PROPOSED ANNEXATION
OF TERRITORY FROM THE COUNTY OF WETASKIWIN NO. 10**

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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.

Acronym/Abbreviation	Full Description
Act	<i>Municipal Government Act</i>
Affected Landowners	Landowners within the proposed annexation area
ASFF	Alberta School Foundation Fund
ASP	Area Structure Plan
AT	Alberta Transportation
County	County of Wetaskiwin No. 10
CPR	Canadian Pacific Railway
CR	Country Residential
CRSWSC	Capital Region Southwest Water Services Commission
DC	Direct Control
IDP	Intermunicipal Development Plan
LGC	Lieutenant Governor in Council
LUB	Land Use Bylaw
MGB	Municipal Government Board
Minister	Minister of Municipal Affairs
Notice	Notice of Intent to Annex
REA	Rural Electrification Association
RV	Recreation Vehicle
SDR	<i>Subdivision and Development Regulation</i>
Town	Town of Millet
UF	Urban Fringe

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EXECUTIVE SUMMARY

[1] On December 16, 2016 the Municipal Government Board (MGB) received an annexation application from the Town of Millet (Town) to annex 269 hectares (665 acres) of land from the County of Wetaskiwin No. 10 (County) for future commercial and industrial development. Although the two municipalities were able to reach an agreement and correspondence from the affected landowners was largely supportive, the consent form from one landowner contained conditions to her acceptance of the annexation. The MGB considers a conditional acceptance to be an objection. In accordance with the *Municipal Government Act (Act)*, the MGB conducted a public hearing in Millet on March 1, 2017 to hear these objections. During the proceedings, three other landowners filed objections.

RECOMMENDATIONS

[2] After considering the written and oral submissions from the Town, the County, the affected landowners and members of the public, the MGB recommends:

1. the approval of the annexation area identified by the Town's application with an effective date of January 1, 2018.
2. the approval of a 10-year assessment and taxation transition period as requested by the Town within which farm and residential land
 - (a) must be assessed by the Town of Millet on the same basis as if the property had remained in the County of Wetaskiwin No. 10, and
 - (b) must
 - (i) for the purposes of raising revenue to be used toward the payment of expenditures and transfers referred to in section 353(2)(a) of the *Act*, be taxed by the Town using the tax rate established under section 354 of the *Act* by the County or the Town, whichever is lower, for property of the same assessment class,
 - (ii) for the purposes of raising revenue to be used toward the payment of the requisitions referred to in section 353(2)(b) of the *Act*, other than a requisition referred to in section 326(1)(a)(ii) of the *Act*, be taxed by the Town using the tax rate established under section 359 of the *Act* by the County or the Town, whichever is lower, for property of the same assessment class, and

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- (iii) for the purposes of raising revenue needed to pay an Alberta School Foundation Fund requisition, be taxed by the Town using the tax rate established under section 359.1 of the *Act* by the County for property of the same assessment class.
3. the assessment and taxation transition provisions be terminated if:
- a. at the request of or on behalf of the landowner, a new parcel or a new title is created through the subdivision process; or
 - b. at the request of or on behalf of the landowner, the land is re-designated under the Town's LUB; or
 - c. connection of an affected property to the Town's water or sanitary sewer networks; or
 - d. the lapsing of the 10-year period, which starts in 2018.
4. The title to the land and improvements located on BLOCK B, PLAN 9824390, Certificate of Title 982 271 906, remains vested in the County and shall not transfer to the Town as a result of this annexation.

REASONS

[3] The MGB considered the following factors: the consultation process, land use planning related issues, the conditions of the annexation, and the matters identified by the affected landowners during the proceedings.

Consultation Process

[4] The consultation process undertaken by the Town was inclusive and fair. The Town used mail, website updates, and joint public meetings to solicit input from the affected parties throughout its consultation process. Moreover, the Town and the County demonstrated intermunicipal cooperation by being able to reach an annexation agreement.

Land Use Planning

[5] The MGB accepts the annexation area being requested by the Town is logical and that the Town can provide the required infrastructure.

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Annexation Area

[6] The MGB finds the amount of land and the location of the annexation area is reasonable. The proposed annexation lands are contiguous with the Town and have reasonable access to Highway 2A and the Canadian Pacific Railway (CPR). In accordance with the *Act*, the land uses and Area Structure Plan (ASP) will continue to apply after the annexation until such time as they are repealed or others are made in their place by the Town. The public consultation process required to change a statutory plan (Area Structure Plan (ASP), Municipal Development Plan (MDP), and Land Use Bylaw (LUB)) will ensure all affected parties and the public can express opinions about future developments that may impact their property or community.

Infrastructure

[7] The MGB is satisfied the Town will be able to provide the infrastructure services, such as water, wastewater, and transportation to the proposed annexation area. The Town currently has a population of 2,092 and the new Capital Region Southwest Water Services Commission (CRSWSC) water line will provide enough water to service up to 5,000 people. The town acknowledges it will have to increase the capacity of its wastewater facility; however, this expansion would have been required even if the annexation was not approved to accommodate future residential development in other areas of the Town.

Conditions of Annexation

The conditions of annexation include the effective date, assessment and taxation transition provisions, and intermunicipal compensation.

Effective Date

[8] The MGB accepts the Towns' proposed effective date of January 1, 2018 as this will ensure the smooth transfer of the assessment and taxation records to the Town from the County.

Assessment and Taxation Transition Provisions

[9] The MGB accepts the 10-year assessment and taxation transition period for farmland. This will allow farming operations in the annexation area to continue unimpeded and provide time for the landowners to adjust to being part of an urban municipality.

[10] The assessment and taxation conditions are not to be removed for a period of 10 years unless the landowner requests a subdivision of the land, the redesignation of the zoning for the property, or connects to Town water or wastewater services. The MGB finds these conditions are

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reasonable as they are contingent on some type of action being initiated either by or on behalf of the landowner.

[11] Section 135(1)(b) of the *Act* stipulates that all assets, liabilities, rights, duties, functions and obligations that relate to the annexation area automatically pass to the new municipality. The MGB understands that both municipalities would prefer that the County Solid Waste Transfer Station to remain with the County. To facilitate this, the MGB is recommending that the title to the land and improvements located on BLOCK B, PLAN 9824390, Certificate of Title 982 271 906, shall remain vested in the County of Wetaskiwin No. 10 and shall not transfer to the Town of Millet as a result of this annexation.

Intermunicipal Compensation

[12] The MGB accepts the Joint Economic Development Initiative (JEDI) agreement between the Town, the County, and the City of Wetaskiwin allows these municipalities to share in the costs and revenues associated with the attraction of industrial and commercial development to the region. Therefore, there is no need for intermunicipal compensation or revenue sharing as part of this annexation recommendation.

Affected Landowner Issues

[13] The MGB has grouped the additional landowner concerns into four categories: planning considerations, additional infrastructure requests, bylaw exemptions, and taxation allowances.

Planning Conditions

[14] The landowners requested various special planning related conditions that would allow one or more subdivisions to be approved without the loss of the assessment and taxation transition provisions, restrict the Town's ability to require ASP's, or pre-approve development permits. The MGB does not recommend granting these requests as doing so would eliminate the required consultation process that affords adjacent landowners and other affected parties the opportunity to express their opinion about developments that may impact their property and/or their community.

[15] Annexation conditions must be time specific. The sale of a property may not happen until long after the conclusion of the 10-year assessment and taxation transition period. Therefore, it would also be inappropriate for the MGB to set additional conditions that would allow the continuation of the assessment and taxation protection until such time as the property or part of the property was sold.

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[16] The MGB acknowledges the approval of an ASP bylaw is discretionary. However, this additional level of planning guides development in a specified area and can mitigate future land use conflicts with the surrounding properties. The County has already determined there is a need for this additional level of planning for the existing industrial and commercial developments in the annexation area. Moreover, the two municipalities have agreed the Town will continue the practice of developing ASPs for this area. Therefore, the MGB finds it would be inappropriate to make a recommendation that would limit the Town's authority to require an ASP or restrict the Town's planning options in any way.

[17] The MGB accepts that if existing buildings were constructed in accordance with the laws applicable at that time, they can continue to be used for the purpose they were constructed or for the purpose the development permit was issued as a non-conforming use. This is consistent with section 643 of the *Act*.

Additional Infrastructure Requests

[18] The MGB accepts the Town's assurance that although water and wastewater will be extended to the annexation area, landowners will not be obligated to connect to these services. However, if the landowners request to be connected to these services, it is only reasonable that they fore go the assessment and taxation transition protection as they will be accessing municipal services not available to landowners in the County.

[19] The MGB heard a concern about drainage, but was also informed by the person that identified this issue that there is no problem at this time. Requiring an ASP for all new development in the annexation area will allow the Town to require developers to plan drainage corridors and storm water retention ponds in a way that will mitigate future drainage issues.

[20] The MGB accepts the Town's commitment to using the same standards for road maintenance and snow removal as in the County. Therefore, there is no need for the County to provide road maintenance in the annexed area as the Town's existing public works staff and equipment will be able to provide services to the annexation area. Although there were conflicting requests about the type of dust control material, referring to the County's standards can resolve this debate. The MGB finds the location of driveways is a safety concern that should be addressed by the municipality as part of the subdivision and/or the development permit approval process to ensure the safety of the traveling public as well as the affected landowners. In regard to the request to retain the County's addressing system, the MGB finds that the naming of roads and streets is a local issue that should be addressed by the residents of a municipality and its elected officials.

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Bylaw Exemptions

[21] The MGB accepts the Town's commitment to change its bylaws to allow landowners in the annexation area to continue to use the County Solid Waste Transfer Station until garbage pickup by the Town is warranted in the annexation area. This should assist landowners with the transition from the County to the Town. Bylaws that regulate burning of rubbish, the use of fire pits, and the requirement to license animals are issues that may impact local safety. As such, the MGB finds these to be local matters and not appropriate for an annexation recommendation.

[22] The MGB heard concerns about clients being shifted from Battle River REA to FortisAlberta as a result of the annexation. As the MGB received no submissions or objections from either FortisAlberta or the Battle River REA to the proposed annexation, the MGB finds the shifting clients issue is better addressed by the Alberta Utilities Commission. Concerns related to natural gas and telephone service are beyond the authority of the MGB.

Taxation Allowances

[23] Other tax related issues brought forward by the affected landowners included a request to guarantee their taxes will not increase, and the desire to not pay the Alberta School Foundation Fund (ASFF) or any other taxes, fees, encumbrances, levies, or liens.

[24] The MGB notes that the annexation assessment and taxation transition provisions provide landowners with time to adjust to their new municipality. However, if the County raises its municipal tax rate or the assessed value of similar land in the County increases, it would be fair and logical that the municipal taxes for the properties in the annexed lands would also increase. Moreover, if a landowner accesses Town infrastructure, such as water or wastewater, or benefits from using Town's planning related bylaws or policies, it is only fair that the landowner be assessed and taxed like every other landowner in the Town. Therefore, the MGB does not agree that municipal taxes in the annexation area should not increase.

[25] All landowners, whether their land is located in the Town or the County, are required to pay their portion of the ASFF. To eliminate this requirement for the properties located in the annexation area would create an unfair situation. The MGB also finds it would be unreasonable to eliminate the Town's ability to apply other similar taxes, fees, levies, or encumbrances for the properties in the annexation area levied by other government entities or local authorities. The MGB also notes that section 135(1)(a.1) of the *Act* would not remove any obligation to pay any fees, taxes, arrears, or costs applied by the County on any property in the annexation area.

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CONCLUSION

[26] The MGB finds that the proposed annexation complies with the *Act* and addresses the MGB's 15 annexation principles. The MGB was also convinced the amount of land being requested and the assessment and taxation transition provisions are reasonable. Therefore, the MGB recommends the approval of this annexation.

PART I INTRODUCTION

[27] The Town of Millet (Town) is approximately 16 kilometers northeast of the City of Wetaskiwin. This family oriented community has a variety of housing options and offers a broad range of municipal services to its residents. However, the Town recognizes that creating additional employment opportunities is essential to the long-term sustainability of the community. To facilitate the industrial and commercial growth needed to create these new jobs, the Town is positioning itself to capitalize on the transportation systems that pass through the municipality. The portions of Highways 2A and 616 that traverse the Town's boundary make the lands adjacent to these roads ideal for highway commercial development. The Canadian Pacific Railway (CPR) line on the east side of Highway 2A is also being promoted to attract new industrial growth.

[28] On December 16, 2016 the Municipal Government Board (MGB) received an annexation application from the Town to annex 269 hectares (665 acres) of land from the County of Wetaskiwin No. 10 (County). The purpose of the annexation is to provide the Town with undeveloped land for future commercial and industrial development. While the two municipalities were able to reach an agreement, the MGB determined the application contained an objection to the proposed annexation. Objections to the proposed annexation were also filed with the MGB during the hearing notification process. In accordance with the *Municipal Government Act (Act)*, the MGB conducted a public hearing in Millet on March 1, 2017 to hear these objections.

[29] The following report outlines the role of the MGB, provides an overview of the annexation application, and summarizes the submissions received during the March 1, 2017 public hearing. The report concludes with the MGB's annexation recommendations and reasons.

PART II ROLE OF THE MGB

[30] Part II outlines the role of the MGB in the annexation process.

[31] The MGB is an independent and impartial quasi-judicial board established under the *Act* to make decisions about land-use planning and assessment matters. The *Act* gives the MGB the authority to "deal with annexations" and allows the MGB to "establish rules regulating its procedures". The MGB Annexation Procedure Rules have been adopted to provide information

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about annexation proceedings, facilitate a fair and open process, and increase the efficiency and timeliness of annexation proceedings.

[32] Pursuant to section 116 of the *Act*, a municipality seeking annexation must initiate the process by giving written notice to the municipal authority from which the land is to be annexed, the MGB, and any other local authority the initiating municipality considers may be affected. The notice must describe the land 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 must meet and negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve any outstanding matters.

[33] Section 118 of the *Act* identifies that at the conclusion of the intermunicipal negotiations and the consultation process, the initiating municipality must prepare a negotiation report. 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 must also 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 reasons for not signing the report.

[34] The initiating municipality then submits the negotiation report to the MGB. If the initiating municipality requests the MGB to proceed, pursuant to section 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 notifies 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, the MGB must conduct one or more public hearings. If the MGB is required to conduct a hearing, section 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.

[35] 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 considering the evidence and submissions from the parties, section 123 of the *Act* requires the MGB 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

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forward for consideration to the Lieutenant Governor in Council (LGC). After considering the recommendation, the LGC may order the annexation.

PART III ANNEXATION APPLICATION

[36] Part III provides an overview of the Town's annexation application. This includes a review of the consultation activities undertaken by the Town, an overview of planning and infrastructure issues, a discussion of protective services, a brief examination of financial considerations, and a summary of the affected party considerations.

Consultation Process

[37] The Town initiated the annexation process by submitting a Notice of Intent to Annex (Notice) to the MGB and the County on December 9, 2016. Copies of the Notice were also sent to the following local authorities: the Wetaskiwin Regional Public School Division, the St. Thomas Aquinas Roman Catholic Separate Regional Division #38, and Alberta Health Services – Wetaskiwin Community Health Centre. Although not required by the *Act*, the Town also sent copies of the Notice to: Alberta Transportation (AT), FortisAlberta, ATCO Gas, the Battle River Power Co-op, all landowners within the proposed annexation area (affected landowners), and all landowners with properties adjacent to the proposed annexation lands.

[38] The Town and the County have a good working relationship and were able to negotiate an annexation agreement. The agreement identifies the area to be annexed by the Town and acknowledges that a number of parcels within the annexation area have Area Structure Plans (ASP) approved by the County. Initial Intermunicipal Development Plan (IDP) discussions between the two municipalities have already established that “as a general rule, farm land should be in the County and land which is subdivided to urban densities, or which requires municipal water and/or sewer, should be in the Town”. The two municipalities may also enter into a maintenance agreement for a portion of Range Road 244. All properties, except for farmland, are to be taxed using the Town's tax rate once the annexation is approved. Farmland is to be taxed at the lower of the Town or County rate for a period of 10 years after the annexation effective date or until such time as the land is developed for other purposes. The agreement also states the Town was to request an effective date of January 1, 2017.

[39] During the development of its application, the Town undertook a number of activities to communicate and consult with the affected landowners, the affected local authorities, the residents of the Town, and residents of the County. The Town and County conducted a joint open house on September 20, 2016 to provide information about the proposed annexation as well provide a mechanism for feedback. Affected and adjacent landowners were sent letters informing them of the open house, while advertisements were placed in the local newspaper to attract other members

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of the public that may be interested in the proposed annexation. The Town and County websites used a “Frequently Asked Questions” format to provide the general public with easy access to information. Letters were also sent to affected landowners to keep them informed and to address concerns.

Planning and Infrastructure

[40] The Town explained it currently occupies 373 hectares (924 acres) of land and has a population of 2,092. The 269 hectares (665 acres) of land being requested from the County is for long-term industrial and commercial development. The proposed annexation area follows logical growth patterns and is adjacent with the existing Town boundary. The County has advised the Town that there are no environmentally sensitive areas in the proposed annexation area. The four areas being requested are described below.

[41] The two parcels of land in the NE 32-47-24-4 are located east of Highway 2A and the CPR line. The largest parcel is 40 hectares (100 acres). An existing County ASP guides development for the 40 hectares (100 acres) parcel and has designated this property as Industrial. The second property, 10 hectares (26 acres), has a house with two garages and is zoned as Urban Fringe (UF). Any further development on this UF property would require the approval of an ASP.

[42] The three parcels of land in the south half of the NW 33-47-24-4 do not have a County ASP to guide development. The two 8 hectare (20 acre) parcels are zoned as UF and have residential style development. The other 16 hectares (40 acres) property has a relocatable office and is zoned as Direct Control (DC). If the annexation is approved, the Town may require an ASP before development is allowed to proceed in this area. Given the land to the west and south is zoned as Industrial, future residential development may not be compatible in this area.

[43] The south half of 33-47-24-4 has three properties. This area has potential for commercial and industrial development due to its proximity to the intersection of Highway 2 and Township Road 475. Development is governed by a County ASP. An inactive landfill in this area as well as the existing County Solid Waste Transfer Station adjacent to the south boundary of this half section constricts the types of development that may be considered in this area.

[44] The NW 28-47-24-4 has two small Country Residential (CR) parcels (each 1.2 hectares/3 acres), the County Solid Waste Transfer Station (1.2 hectares/3 acres), with the remainder zoned as Industrial. Sections 13(2)(d), 13(3)(d), and 13(4)(d) of the *Subdivision and Development Regulation* (SDR) require a 300 meter setback for the County Solid Waste Transfer Station, which constrains residential and commercial development in this area. A draft ASP is being considered by the County to guide development on this quarter section. If this ASP is approved by the County, it will also be adopted by the Town upon acceptance of the proposed annexation.

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[45] Although the two municipalities do not currently have an IDP, the annexation lands being requested are consistent with the Town of Millet Municipal Development Plan (MDP). The annexation is also supported by the Joint Economic Development Initiative (JEDI), an industrial tax sharing agreement between the Town, the County, and the City of Wetaskiwin.

[46] With regard to municipal infrastructure, the Town and the County have identified the boundary roads that are to be included as part of this annexation and agreed that any existing road maintenance agreements between the developers and the County are to be transferred to the Town upon approval of the annexation. Upgrades to the road network in the annexation area will be done on a planned basis and in consultation with the County, affected landowners, and AT. The Town has become a member of the Capital Region Southwest Water Services Commission (CRSWSC) and will be able to extend water service to the annexation area. The Town's wastewater system is within provincial standards; however, upgrades may be required in the future. As water and wastewater lines are extended into the annexed land, landowners will be given the option of connecting to these lines. Properties in the annexation area will be able to use their existing water wells and/or sewage systems as long as they comply with provincial regulations. Offsite levies will be charged if the properties are connected to the Town systems.

[47] The County did not identify any environmentally sensitive lands in the annexation area during the negotiation process. Regardless, the Town's MDP identifies mitigation factors that would need to be followed if any key natural features or sensitive areas were identified after the approval of the annexation.

Protective Services

[48] The Town is able to extend protective services to the annexation area. The Millet Fire Services Department can provide emergency services. Mutual aid agreements with other municipalities in the area allow the town to access additional fire service if required. Policing and ambulance services are under provincial jurisdiction and will continue as normal. The Town's Peace Officer is able to extend services to the area.

[49] The Town's application also considered the provision of other municipal services. Waste management services will be provided to the annexation area when there is sufficient volume to justify the cost. Until then, landowners in the annexation area can use the County Solid Waste Transfer Station. Town civic addresses will be assigned to the annexation area as soon as the annexation has been approved.

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Financial Considerations

[50] The Town requested the MGB to recommend that the tax rate levied on all annexed farmland, for both municipal and school purposes, be the lower of the Town or the County rates for 10 years or until the land is developed for other uses. All other land types are to revert to the Town tax rate as soon as the annexation is effective. Given the two municipalities share municipal tax revenue on industrial properties as part of the JEDI agreement, the Town reported there is no intermunicipal compensation associated with the proposed annexation.

[51] Information provided by the Town shows that in 2015 the annexation area had an assessed value of \$5,907,620 and generated \$61,248 in municipal taxes.

Affected Party Issues

[52] The application identifies that the following issues were brought forward during the consultation activities undertaken by the Town: financial considerations (assessment and taxes), municipal services (solid waste disposal and addressing and road naming), municipal infrastructure (water and wastewater service, snow removal and road maintenance/upgrading), and protective services (fire services, policing, ambulance service, community peace officer services). The Town's response to each of these issues has been identified above.

[53] The application contained three written submissions from affected landowners. Two affected landowners provided signed consent forms in favor of the proposed annexation. One of these consent forms stated that the provision of full municipal services (water and sewer) will enable more intensive industrial and commercial development and the JEDI agreement will assist the development potential of industrial lands in this area. Correspondence from the third landowner identified support for the annexation, subject to a number of conditions related to her property. These conditions included: no subdivision restrictions, no zoning requirements for subdivisions, grandfathering of setbacks, consideration of Recreation Vehicle (RV) storage business, accessory buildings, taxes, burning, approval of a new home to replace the current residence in the same location.

[54] In response to the Notice sent to the local authorities and other parties at the start of the annexation process, the Town received written responses from AT, Alberta Health Services, and ATCO Gas. Correspondence contained in the application identifies that all three of these organizations have no objection to the proposed annexation.

PART IV PUBLIC HEARING – MARCH 1, 2017

[55] Part IV provides an overview of the hearing process as well as a summary of the submissions received by the MGB at the March 1, 2017 public hearing.

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Hearing Process Overview

[56] Although the correspondence from the affected landowners contained in the Town's application generally supports the proposed annexation, the MGB considers the consent form with conditions to be an objection. In accordance with section 120(3) of the *Act*, the MGB conducted a public hearing on March 1, 2017 to consider the objection contained in the Town's annexation application and accept any additional submissions regarding this matter. The March 1, 2017 hearing date was set to accommodate the availability of key personnel from the Town and the County.

[57] The MGB published hearing notices in the local newspaper, the **Wetaskiwin Times**, during the weeks of February 15 and 22, 2017. On January 30, 2017 the MGB also mailed hearing notification letters to all affected parties identified by the Town. Both the newspaper and letter notifications stated that written submissions from affected landowners or members of the public should be received by the MGB by 10:00 AM on Thursday, February 23, 2017.

Public Hearing Submission Summary

[58] During the proceedings the MGB received oral and written submissions from the affected landowners and members of the public, the Town, and the County. A summary of these submissions is provided below.

Summary of Affected Landowner/Public Concerns

[59] The following summarizes the written and oral submissions received by the MGB from affected landowners and the public.

M. Manion

[60] A letter from M. Manion contained in the annexation application indicated that prior to the annexation she had been in discussions with the County about a number of issues regarding the development of her property. Her correspondence identified that she would be in support of the annexation if the Town:

- a. approves three subdivisions on her property with no ASP or rezoning requirement for these subdivisions;
- b. approves the construction of a new home to replace the current grandfathered residence with a setback of 76 feet, while retaining the existing UF zoning and not voiding the assessment and taxation transition provisions;

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- c. considers a RV storage business;
- d. approves the grandfathering of accessory buildings so they are not subject to the current Land Use Bylaw;
- e. grants the tax rates to be the lower of the Town or County until the east subdivision is sold; and
- f. allows the continuation of garbage disposal by burning in metal burn-barrels.

[61] During her oral presentation at the hearing M. Manion did not provide additional information about the issues listed above. However, she did express concerns that FortisAlberta has made an application to replace Battle River Rural Electrification Association (REA) as the utility provider for the Battle River area. M. Manion submitted the annexation was the reason for this change.

M. and C. Booth, S. Malloch, and J. Mullen

[62] The correspondence received by the MGB prior to the hearing from M. and C. Booth, S. Malloch and J. Mullen listed a number of conditions. To reduce repetition, the MGB has combined the common items listed by these landowners.

[63] In general, these landowners indicated they did not want their land rezoned until there was development. They also requested: the existing utility suppliers (power, natural gas, telephone, water) be allowed to continue to provide services to their property, the continued use of the County Waste Transfer Station, the County continue to maintain Range Road 244 and Township Road 475A, no tax increases for ten years, no changes to civic addresses, the ability to have one subdivision per property without the loss of the assessment and taxation protection, oil to be used for dust control on their roads rather than calcium, no changes to their existing driveways, and no levies/surcharges/encumbrances/fees. Other than listing their conditions in their written submission, these landowners provided no additional information.

[64] In addition to the general requests listed above, the letter from M. and C. Booth asked for permission to have a possible sand extraction operation (future sand pit) and the correspondence from S. Malloch stated she should not be subject to Town dog license fees. Again, M. and C. Booth and S. Malloch provided no additional information to explain their condition. The MGB did not receive any oral submissions during the hearing from M. and C. Booth or S. Malloch.

[65] The correspondence from J. Mullen also identified that he should not be subject to school taxes, that there are to be no changes to septic tank installation and operation, and that the Town should ensure contaminated liquids from other properties should not be allowed to seep onto his property. During his oral presentation at the hearing J. Mullen explained that his land was lower than the other properties in the area and restated his concern about contaminated runoff water

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flowing onto his land. However, in response to questioning, he indicated contaminated runoff was not a problem at this time. J. Mullen did not provide a response to the request for additional information about the other items listed in his correspondence to the MGB.

Other Submissions

[66] Oral and written submissions in support of the Town's proposed annexation were received from Taryncroft Equities Ltd. and R. Shipway.

[67] The written submission from R. Shipway contained in the Town's application supported the annexation.

[68] In addition to the written submission from Taryncroft Equities Ltd. contained in the annexation application, N. Winter made an oral presentation on behalf of the company during the hearing. In his oral submission Mr. Winter stated his company had a good working relationship with JEDI and the County and would be comfortable sharing the development information with the Town.

Summary of Town's Position

[69] In support of its annexation request, the Town provided a brief overview of its application and provided additional information.

[70] It was emphasized that the two municipalities have a good working relationship with a history of collaborating in a number of areas. This includes intermunicipal agreements such as JEDI and fire and emergency services. Both municipalities also work together as participating members in other intermunicipal organizations such as the West Central Planning Agency and the West Dried Meat Lake Regional Landfill. Although the Town and County do not have an IDP, they recently received an Alberta Community Partnership grant to develop both an IDP and an Intermunicipal Collaboration Framework.

[71] The Town understands that the January 1, 2017 effective date established by the annexation agreement may not be achievable and has discussed this matter with the County. Both municipalities are in agreement that the effective date requested should be changed to January 1, 2018. The Town and the County believe this will facilitate the clean transfer of tax and assessment records.

[72] With regard to the assessment and taxation transition provisions, the Town is requesting that the municipal tax rate and the school tax rate used for farmland in the annexation area be the lower of those levied by the Town or the County for a period of ten years. It was clarified that

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these provisions are not to be removed unless the landowner requests: a change in the permitted use under the Land Use Bylaw; the land to be subdivided; or the property to be connected to the Town's water or wastewater services.

[73] It was explained that the main reason for the annexation was to obtain industrial and commercial land. Of the 665 acres of land in the proposed annexation area, 621 acres have already been zoned as Industrial or Direct Control by the County. In addition, three of the four industrial parcels already have ASPs approved by the County. The ASP's will be transferred to the Town if the annexation is approved.

[74] The Town confirmed water can be provided to the lands in the annexation area. The Town has become a member of the CRSWSC, which provides potable water to a number of urban municipalities in the region. The Town stated the water line is scheduled to be commissioned on March 20, 2017. The Town operates a four-stage wastewater lagoon system and is aware that it will have to expand its facility regardless of whether the annexation is approved or not. Long-range plans are being developed to accommodate future residential and non-residential wastewater capacity. Lands in the annexation area with provincially approved water and wastewater systems will not have to connect to Town water and wastewater systems. However, off-site levies will apply once these properties connect to the Town's systems.

[75] The Town's Solid Waste Management Bylaw requires every premise to participate in the residential waste management system. The Town will provide waste management services to the lands in the annexation area once there is sufficient volume to justify the costs. Until then, landowners in the annexation area will be allowed to use the County of Wetaskiwin Solid Waste Transfer Station.

[76] The majority of the annexation area is undeveloped land. The Town has agreed to keep road maintenance and snow removal at the same level as in the County. Upgrades to roads will be done in a planned manner as development occurs. Civic addressing in the annexation area will be changed to reflect the system used in the Town.

[77] The Town explained that prior to the submission of its application the Booth property was removed from the annexation area. Unfortunately, the removal of this parcel of land was not communicated to the landowners. The Town stated that this oversight was addressed prior to the start of the hearing.

Summary of County's Position

[78] At the hearing the County confirmed its support for the Town's annexation application. The County commended the JEDI Agreement for allowing the two municipalities and the City of

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Wetaskiwin to promote industrial growth in the region. All three municipalities benefited from JEDI by sharing tax revenues, reducing competition for industrial development, removing development obstacles, and enabling quicker annexations.

[79] It was explained that over the years a number of development proposals have been received for the industrial area east of the Town. However, the inability for the County to provide water to these properties has caused challenges for these projects. The County and the Town realized that the best way to resolve this issue was for the Town to annex this area. Membership in the CRSWSC ensures the Town will be able to supply water and other utility services that will assist with the development of these lands.

[80] The County explained that the Town has a franchise agreement with FortisAlberta that would apply to the lands in the annexation area. In response to the concern about changes to the utility provider for the properties in the annexation area, the County informed the MGB that FortisAlberta had made an application to replace the Battle River Rural Electrification Area (REA) as the utility provider for the entire Battle River area. It was explained that FortisAlberta could have made the application regardless of the proposed annexation. The MGB was informed that the Town has a utilities franchise agreement with FortisAlberta that would apply to the annexed area.

PART V MGB RECOMMENDATION

[81] After considering the written and oral submissions from the Town, the County, the affected landowners and members of the public, the MGB recommends:

1. the approval of the annexation area identified by the Town's application with an effective date of January 1, 2018.
2. the approval of a 10-year assessment and taxation transition period as requested by the Town within which farm and residential land
 - a. must be assessed by the Town of Millet on the same basis as if the property had remained in the County of Wetaskiwin No. 10, and
 - b. must
 - i. for the purposes of raising revenue to be used toward the payment of expenditures and transfers referred to in section 353(2)(a) of the *Act*, be taxed by the Town using the tax rate established under

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section 354 of the *Act* by the County or the Town, whichever is lower, for property of the same assessment class,

- ii. for the purposes of raising revenue to be used toward the payment of the requisitions referred to in section 353(2)(b) of the *Act*, other than a requisition referred to in section 326(1)(a)(ii) of the *Act*, be taxed by the Town using the tax rate established under section 359 of the *Act* by the County or the Town, whichever is lower, for property of the same assessment class, and
- iii. for the purposes of raising revenue needed to pay an Alberta School Foundation Fund requisition, be taxed by the Town using the tax rate established under section 359.1 of the *Act* by the County for property of the same assessment class.

- 3. the assessment and taxation transition provisions be terminated if:
 - a. at the request of or on behalf of the landowner, a new parcel or a new title is created through the subdivision process; or
 - b. at the request of or on behalf of the landowner, the land is re-designated under the Town's LUB; or
 - c. connection of an affected property to the Town's water or sanitary sewer networks; or
 - d. the lapsing of the 10-year period, which starts in 2018.
- 4. The title to the land and improvements located on BLOCK B, PLAN 9824390, Certificate of Title 982 271 906, remains vested in the County and shall not transfer to the Town as a result of this annexation.

PART VI REASONS

[82] When making an annexation recommendation the MGB considers the annexation principles identified by MGB Board Order 123/06. In this case these principles can be addressed under the following broad issues: the consultation process, planning related issues, the conditions of the annexation, and the matters identified by the affected landowners during the proceedings. Each of these issues are discussed below.

Consultation Process

[83] The MGB finds the consultation process undertaken by the Town was reasonable.

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[84] There is a high degree of intermunicipal collaboration and cooperation. The revenue sharing provisions of the JEDI demonstrates a desire by the Town, the County, and the City of Wetaskiwin to work together in a way that will improve the economy of the entire region. The ability of the Town and County to successfully negotiate an annexation agreement combined with the number of agreements between the two municipalities is significant in that it shows a commitment by both municipalities to pool resources in a way that will benefit their residents. The terms of the annexation agreement have been passed by both the Town and the County Councils, so it is logical to accept the annexation agreement does not infringe upon the local autonomy of either municipality.

[85] The activities undertaken by the Town to consult with the affected landowners and the public were reasonable. As required by the *Act*, the Town sent copies of the Notice to both the County and the City of Wetaskiwin as well as the other local authorities in the region. In addition, the Town sent Notices to the affected landowners, the utility providers in the area, and AT to inform them of the proposed annexation. This gave all parties an opportunity to provide the Town input at the inception of the annexation process. During the development of the annexation application the Town and County conducted a joint open house and posted information on the Town's website to update the public and affected landowners of the status of the annexation. The Town also used mail-outs to update and respond to concerns and questions from affected landowners and the public and conducted one-on-one meetings with individuals throughout the process, which gave parties an additional opportunity to provide input.

[86] During the hearing the Town acknowledged it did not inform M. and C. Booth that their land had been removed from the annexation area until immediately prior to the start of the proceedings. However, no objections were raised during the hearing regarding this oversight and it is clear that the County is supportive of removing this parcel from the annexation area. Since there was no evidence to conclude this oversight significantly impacted the open and transparent process intended by the *Act*, the MGB is satisfied the lack of communications with M. and C. Booth was inadvertent and did not have a significant negative impact on the fairness of the process. Furthermore, the M. and C. Booth did not object or provide any additional submissions upon learning their land was not part of the annexation area.

Planning Related Issues

[87] The MGB accepts the annexation area being requested by the Town is logical and that the Town can provide the required municipal infrastructure.

Annexation Area

[88] The MGB finds the amount of land and the location of the annexation area is reasonable.

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[89] The stated purpose of the annexation is to provide the Town with land for highway commercial and industrial uses. Previous land use planning by the County has already shifted the land use in the annexation area to allow this type of development. A majority of the area being requested by the Town, 238 hectares (589 acres) or 89% of the annexation area, and has already been zoned by the County as Industrial or Direct Control. Additional planning controls have also been instituted by the County through the establishment of ASPs for 247 hectares (611 acres) or 93% of the proposed annexation area. Furthermore, some of the land in the annexation area is constrained by the SDR which controls the type of development around the existing and former solid waste transfer sites. During the hearing, oral evidence submitted by the County and a developer identified there has been demand in the past for these lands; however, the lack of municipal services has been an impediment to development. The Town's ability to provide water and wastewater services to the annexation should improve the marketability of the land in the annexation area.

[90] The proposed annexation lands are contiguous with the Town and have reasonable access to Highway 2A and the CPR. These two transportation systems run parallel to each other and essentially separate the Town's existing residential lands from the industrial/commercial development being proposed for the annexation area. This separation creates a buffer that can reduce the amount of future conflicts between these two land use designations. The properties in the annexation area also tend to be larger, which is conducive to the needs of large scale projects.

[91] The Town has confirmed that the existing land uses and ASP's will continue to apply after the approval of the annexation. This is consistent with section 136(1)(b) of the *Act*, which states the land use districts in an annexation area will "remain the same until repealed or others are made in their place by the new municipal authority". The *Act* also specifies the public consultation process required for any substantial redistricting of the annexation area. The required public consultation process will give the affected landowner as well as adjacent landowners and the public an opportunity to provide input to proposed rezoning that may impact their properties. Moreover, this will also give the Town the opportunity to mitigate possible land use conflicts between any existing residential or agricultural land uses and future industrial or commercial development.

Municipal Infrastructure

[92] The MGB is satisfied the Town will be able to provide the infrastructure services, such as water, wastewater, and transportation, to the proposed annexation area.

[93] The Town confirmed the CRSWSC water line was scheduled to be commissioned in March 2017. As this line will provide enough water for up to 5,000 people and the current population of the Town is 2,092, the MGB is confident the Town will be able to extend water services to the annexation area.

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[94] Although the Town's wastewater system complies with provincial standards, the Town acknowledged that it will have to expand this facility in the near future. However, this upgrade would have been required regardless of whether the annexation is approved or not. The current wastewater facility has the capacity to accommodate approximately 1,400 dwellings, but with residential development in the vacant area of the Town it is expected the existing facility will need to be expanded. Preliminary engineering has been done to address the required expansion. The Town is somewhat fortunate in that the existing lagoon can be expanded to accommodate the increased capacity, which should help to reduce the capital outlay required by the Town. The MGB also accepts that the Town may use off-site levies to pay for a portion of the capital costs associated with upgrades to the wastewater facility. Therefore, the MGB was convinced the Town will be able to extend wastewater services to the annexed area.

[95] The MGB accepts the Town is able to provide road maintenance and snow removal in the annexation area to the same level as the County. The MGB understands that an agreement regarding road maintenance in the annexed area may be one of the topics discussed by the Town and the County during their IDP negotiations. As municipalities have the authority to enter into contracts of this type, the MGB considers this to be a local matter that should be left with the Town and County. The need and timing of road upgrades in the annexation area is also a local matter, so decisions of this type are best left with the Town. Given the close proximity of the existing roads in the Town to the existing roads already developed by the County, and the planning already undertaken as part of the ASP process, it is reasonable to accept the Town can connect its existing transportation network to the annexation area.

Conditions of Annexation

[96] The MGB finds the conditions of annexation requested by the Town to be reasonable. In making this finding, the MGB considered the effective date, the assessment and taxation transition provisions, and compensation implications.

Effective Date

[97] Although the Town's application requested the effective date of the annexation to be January 1, 2017, it revised its request during the hearing to January 1, 2018. As the public hearing was delayed until March 1, 2017 to accommodate the schedule of experts for both the Town and the County, the MGB finds an effective date of January 1, 2018 would be more appropriate. This will ensure the smooth transfer of the assessment and taxation records to the Town from the County and also allow the Town time to consider the lands within the annexation area during its annual budget deliberations and capital planning process.

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Assessment and Taxation Provisions

[98] The assessment and taxation provisions include the transition period, subject to removal conditions, and intermunicipal compensation.

Transition Period

[99] The 10-year annexation transition period for farmland agreed to by the two municipalities is reasonable. This will allow farming operations in the annexation area to continue unimpeded and provide time for the landowners to adjust to being part of an urban municipality. Farmland properties in the annexation area will also be afforded extra protection by being taxed using the municipal tax rate of the Town or the County, whichever is lower. Despite the Town providing opportunities for non-agricultural landowners to bring forward objections during its consultation process, no objections were filed. Furthermore, as there were no submissions regarding the length of the assessment and transition period, the 10-year transition period for farmland is acceptable.

Subject to Removal Conditions

[100] The “subject to removal” conditions agreed to by the Town and the County that would remove the transition period are satisfactory. The assessment and taxation conditions will not be removed for a period of 10 years unless the landowner requests a subdivision of the land, the redesignation of the zoning for the property, or connects to Town water or wastewater services. All these conditions are contingent on some type of action being initiated either by or on behalf of the landowner. Since the subject to removal activity would have been initiated by the landowner, the landowner would have considered the relevant factors, including the loss of the assessment and taxation protection, prior to asking the Town to consider this type of request.

[101] Section 135(1)(d) of the *Act* states that the bylaws and resolutions of the County that apply specifically to the area of land in an annexation area “will continue to apply to it until repealed or others are made in their place by the [Town]”. This provides certainty to the landowners in the annexed area by allowing them to retain their current land use designations. In particular, this ensures the current CR, DC, and UF designations will remain the same after the annexation. The MGB acknowledges that some subdivisions and/or land use designation revisions may be initiated by other parties and may be beyond the control of the landowners. However, if the landowners did not request the change they would not lose their tax protection. Moreover, the public consultation process associated with any subdivision or statutory plan (MDP, LUB, ASP) revision initiated by another party would provide these landowners with an opportunity to express their views prior to the approval of the subdivision, or the enactment of any substantial bylaw change.

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[102] Section 135(1)(b) of the *Act* also stipulates that all assets, liabilities, rights, duties, functions and obligations that relate to the annexation area automatically pass to the new municipality. The MGB notes that the Land Title Certificates provided by the Town as part of its application identify that the County Solid Waste Transfer Station is owned by the County. Subsequent to the hearing both municipalities indicated that they would prefer that the County Solid Waste Transfer Station to remain with the County. To facilitate this, the MGB is recommending that the title to the land and improvements located on BLOCK B, PLAN 9824390, Certificate of Title 982 271 906, shall remain vested in the County of Wetaskiwin No. 10 and shall not transfer to the Town of Millet as a result of this annexation.

Intermunicipal Compensation

[103] The JEDI agreement between the Town, the County and the City of Wetaskiwin establishes a methodology in which the municipalities are to share in the costs and revenues associated with the attraction of industrial and commercial development to the region. As this agreement is consistent with authority given to municipalities by the *Act*, the MGB concludes there is no need to include revenue sharing as part of this annexation recommendation.

[104] The MGB notes that in 2015 the assessed value of the annexation is \$5,907,620 while the total assessed value for the Town was \$207,429,581 (Alberta Municipal Affairs) and the County was \$2,775,626,767 (Municipal Affairs). The annexation area assessment represents an increase in assessment of 2.85% for the Town and a decrease of less 0.21% for the County. Therefore, the MGB accepts the annexation is not a tax initiative. Moreover, the MGB is confident the annexation will not create a financial hardship for either municipality.

Affected Landowner Issues

[105] During the proceedings affected landowners and members of the public identified a number of concerns about the annexation. As the MGB has already provided its reasons for issues related to the removal of the assessment and taxation transition provisions, these issues will not be repeated in this section. To reduce repetition, the MGB has grouped the additional landowner concerns into four categories: planning conditions, additional infrastructure requests, bylaw exemptions, and taxation allowances.

Planning Conditions

[106] The MGB does not recommend special planning related conditions that would allow one or more subdivision to be approved without the loss of the assessment and taxation transition provisions, restrict the Town's ability to require ASP's, or pre-approve development permits.

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[107] The *Act* specifies the process for the subdivision of land and the approval of development permits. Both these processes require some type of consultation with adjacent landowners and/or the public. This ensures other parties that may have an interest have the opportunity to express their opinion about developments that may impact their property and/or their community. As no subdivision applications or development permits have been applied for as yet, it would be improper for the MGB to recommend a condition that would in essence remove the consultation process afforded by the *Act*. Moreover, if an affected landowner is using the Town's planning policies or bylaws to subdivide or approve a business, such as a RV storage facility, it is only reasonable the land be taxed in the same manner as all other property in the Town.

[108] Annexation conditions must be time specific. It would also be inappropriate for the MGB to set additional conditions that would allow the continuation of the assessment and taxation until such time as the property or part of the property was sold as a transaction of this type may not happen until long after the conclusion of the 10-year assessment and taxation transition time period. It would also be unfortunate if the assessment and taxation transition provisions were lost because of a sale caused by common land transactions like the incorporation of the farm or the transfer of land to younger family members.

[109] The MGB acknowledges that in the past it has recommended annexation conditions that that have allowed one subdivision to be approved before the removal of assessment and taxation transition protection. This allows a small portion of land with an existing farmstead (typically 16 acres or less with a farm house and accessory buildings) to be subdivided from an undivided quarter section (approximately 160 acres). This "first parcel out" policy is usually allowed by the municipality from which the land is being annexed from as it protects agricultural land by creating a tract of vacant land (144 to 150 acres) that is large enough to be kept in production until such time as the property is needed for large scale development. However, in this case the properties have already been subdivided from the original quarter section into parcels of 40 acres or less, so the first parcel has already been removed from the original quarter section. Therefore, the MGB does not recommend that a subdivision be allowed without the loss of the 10-year assessment and taxation protection.

[110] The MGB acknowledges the approval of an ASP bylaw is not mandatory under the *Act*. However, this additional level of planning guides development in a specified area and can mitigate future land use conflicts with the surrounding properties. The County has already determined there is a need for this additional level of planning for the existing industrial and commercial developments in the annexation area by requiring the development of ASPs prior to development. The County emphasized its commitment to this added control by continuing with the ASP process for a proposed development in the annexation area despite the annexation being applied for by the Town. The two municipalities have also agreed the Town will continue the practice of developing

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ASPs for this area. Therefore, the MGB finds it would be inappropriate to make a recommendation that would limit the Town's authority to require an ASP.

[111] The MGB accepts that if existing buildings were constructed in accordance with the laws applicable at that time, they can continue to be used for the purpose they were constructed or for the purpose the development permit was issued as a non-conforming use. This is consistent with section 643 of the *Act*. Also in this annexation, the issuing of a development permit is not a condition that would cause the loss of the assessment and taxation transition provisions. However, concerns about the approval of building setbacks and/or the construction of a new home that may require a subdivision or the redesignation of the property are local matters and best left unrestricted by an annexation order. Similarly, it is not common practice for an annexation to order a municipality to consider approving any type of business, including RV storage.

Infrastructure Requests

[112] The MGB understands the Town can extend the required municipal infrastructure to the annexation area. The MGB accepts the Town's commitment that landowners in the annexation area will not be obligated to connect to these services as this will protect the landowners from the loss of the assessment and taxation transition provisions.

[113] Although one landowner raised drainage as a concern, he did not identify any specific problem that needs to be addressed at this time. An ASP for all new development in the annexation area will allow the Town to require developers to plan drainage corridors and storm water retention ponds in a way that will mitigate future drainage issues. The MGB is also satisfied there are no environmental concerns with this annexation.

[114] The MGB acknowledges the Town's commitment to using the same standards for road maintenance and snow removal as in the County. Although there were conflicting requests about the type of dust control material, referring to the County's standards can resolve this debate. Moreover, the January 1, 2018 effective date should give the two municipalities time to discuss road maintenance, dust control, snow removal services and other issues that will facilitate a seamless transfer of road and other related services for the landowners in the annexation area. The MGB finds the location of driveways is a safety concern that should be addressed by the municipality as part of the subdivision and/or development process to ensure the safety of the traveling public as well as the affected landowners. In regard to the request to retain the County's addressing system, the MGB finds that the naming of roads and streets is a local issue that should be addressed by the residents of a municipality and its elected officials.

[115] The Town has also stated the existing public works staff and equipment will not need to be expanded in order to provide services to the annexation area. As no evidence to the contrary was

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provided, the MGB finds there is no need for the County to provide road maintenance in the annexed area as requested by some of the affected landowners.

Bylaw Exemptions

[116] The MGB accepts the Town will change its bylaws to allow landowners in the annexation area to continue to use the County Solid Waste Transfer Station until such time as garbage pickup by the Town is warranted in the annexation area, and permit landowners in the annexation area to opt out of connecting to Town water and sewer service. This should assist landowners with the transition from the County to the Town. Bylaws that regulate burning of rubbish, the use of fire pits, and the requirement to license animals are issues that may impact local safety. As such, the MGB finds these are also local matters and are not appropriate for an annexation recommendation.

[117] The MGB heard concerns from some landowners about being shifted from the Battle River REA to FortisAlberta as a result of the annexation. The *Act* allows a municipality to enter into an agreement that grants another person or organization to provide a public utility within the municipality must be approved by the Alberta Utilities Commission. The Town has entered into a franchise agreement with FortisAlberta; however, the County has no such agreement with the Battle River REA. The MGB heard from the County that the change being sought by FortisAlberta may happen regardless of the annexation. The MGB received no submissions or objections from either FortisAlberta or the Battle River REA. Ultimately, the MGB finds the shifting clients issue is better addressed by the Alberta Utilities Commission. Likewise, concerns about natural gas and telephone service are beyond the authority of the MGB.

Taxation Allowances

[118] The MGB has already addressed the assessment and taxation transition time period and provided its reasons for recommending that the transition provisions be removed if there is a subdivision, redesignation of land, or connection to Town water or wastewater. Other tax related issues brought forward by the affected landowners included a request to guarantee their taxes would not increase, and the desire to not pay the ASFF or any other taxes, fees, encumbrances, levies, or liens.

[119] With regard to the landowner request that the municipal taxes not increase, the MGB notes that the annexation assessment and taxation transition provisions provide landowners with time to adjust to their new municipality. Typically, this is done by allowing the annexed properties to be assessed as if they were still in the County and taxed using the same municipal rates set by the County for a specified period. If the County raises its municipal tax rate or the assessed value of similar land in the County increases, it would only be fair and logical that the municipal taxes in the annexed lands would also increase. Moreover, if the landowner accesses Town infrastructure

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such as water or wastewater, or benefits from using the Town's planning related bylaws or policies, it is only fair that the landowner be assessed and taxed like every other landowner in the Town. Therefore, the MGB does not agree that municipal taxes in the annexation area should not increase.

[120] The MGB finds the landowners requests to not have their property taxes increase for 10 years and not be subject to school taxes is unreasonable. The ASFF, or school tax, is essentially a requisition levied by the Province and paid by a municipality. All landowners, whether their land is located in the Town or the County, are required to pay their portion of the ASFF, based on the assessed value of their property. To eliminate this requirement for the farmland property located in the annexation area would create an unfair situation. The MGB also finds it would be unreasonable to eliminate the Town's ability to apply other similar taxes, fees, levies, or encumbrances associated with the lands in the annexation area levied by other government entities or local authorities. The MGB also notes that section 135(1)(a.1) of the *Act* would not remove any obligation to pay any fees, taxes, arrears, or costs applied by the County on any property in the annexation area.

CONCLUSION

[121] After considering all the submissions received during these annexation proceedings, the MGB finds that the annexation complies with the process specified by the *Act* and is in accordance with the MGB annexation principles. Moreover, the MGB was convinced the amount of land being requested by the Town and the assessment and taxation transition provisions being afforded to the landowners are reasonable. Therefore, the MGB recommends the approval of this annexation.