

BOARD ORDER:

MGB 024/18

FILE:

17/IMD-001

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 INTERMUNICIPAL DISPUTE lodged by City of Calgary against Rocky View County Bylaw No. C-7667-2017, Glenbow Ranch Area Structure Plan and Rocky View County Bylaw C7665-2017, County Plan

CITATION: City of Calgary v Rocky View County, 2018 ABMGB 24

BEFORE:

Members:

H. Kim, Presiding Officer

D. Petriuk, Member

E. Williams, Member

Case Manager:

C. Miller Reade

Board Officer:

A. Drost

This is a dispute filed with the Municipal Government Board (MGB) after the adoption of Bylaw No. C-7667-2017 by Rocky View County (Rocky View). The City of Calgary (Calgary) has filed a dispute under section 690 of the *Act* claiming that portions of the bylaw has or may have a detrimental effect on it. Upon notice being given to the interested parties, a hearing was held in the City of Calgary, in the Province of Alberta, on April 12, 2018.

OVERVIEW

[1] The MGB must determine whether to accept a Mediation Settlement Agreement submitted by Calgary and Rocky View regarding an intermunicipal dispute filed by Calgary. Calgary filed the dispute, stating that the Glenbow Ranch Area Structure Plan (Glenbow Ranch ASP) drafted by Rocky View County, and the amendments to their County Plan have detrimental impacts on Calgary. In particular, Calgary identified detriment to transit, transportation, recreation and water protection. After mediation efforts, both municipalities entered into a Mediation Settlement Agreement, which was accepted by both Councils. The MGB finds that the Glenbow Ranch ASP creates detriment to Calgary. Further, the joint submission reflects mutual collaboration, intermunicipal respect, and the willingness to participate in long-term joined planning initiatives to resolve detriment. Accordingly, the MGB accepts the Mediation Settlement Agreement, and

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orders the amendments to the Glenbow Ranch ASP as proposed, with minor changes as agreed to by the parties and reflected in this decision.

PART B – THE MEANING OF DETRIMENT

[2] Pursuant to section 690(5) of the *Act*, if the MGB receives a notice of appeal and a statutory declaration under subsection (1)(a), it must, subject to any *Alberta Land Stewardship Act S.A. 2009 Ch. A-26.8 (ALSA)* regional plan, decide whether the provision of the statutory plan, or its amendment, or land use bylaw, or its amendment is detrimental to the municipality that made the appeal. The MGB may dismiss the appeal if it decides that the provision is not detrimental, or order the adjacent municipality to amend or repeal the provision if it finds the provision detrimental.

[3] Detriment is not defined in the *Act* or its regulations, but the MGB has previously considered its meaning and the evidential burden that must be met by initiating parties. Although not bound by previous decisions, the MGB agrees with previously established meanings and thresholds. For section 690 appeals, *The City of Edmonton, the City of St. Albert, and the Town of Morinville v. County of Sturgeon*, MGB 77/98 [*Sturgeon*] contains a thorough discussion of detriment as follows:

The dictionary definition is straightforward enough. According to Webster’s New World Dictionary, “detriment” means “damage, injury or harm” (or) “anything that causes damage or injury.” This basic definition or something very similar to it seems to have been generally accepted by the parties involved in this dispute. Clearly, detriment portends serious results. In the context of land use, detriment may be caused by activities that produce noxious odours, excessive noise, air pollution or groundwater contamination that affects other lands far from the site of the offending use. For example, the smoke plume from a refinery stack may drift many miles on the prevailing winds, producing noxious effects over a wide area. Intensive development near the shore of a lake might affect the waters in a way that results in detriment to a summer village miles away on the far shore. These are examples of detriment caused by physical influences that are both causally direct and tangible, some of which are referred to as “nuisance” factors (page 44/84).

But detriment may be less tangible and more remote, such as that arising from haphazard development and fragmentation of land on the outskirts of a city or town, making future redevelopment at urban densities both difficult and costly. According to Professor F. Laux, the adverse impact “could also be social or economic, as when a major residential development in one municipality puts undue stress on recreational or other facilities provided by another”. Similarly,

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the actions of one municipality in planning for its own development may create the potential for interference with the ability of a neighbouring municipality to plan effectively for future growth. In the present dispute before the Board, Edmonton and St. Albert have claimed that mere uncertainty arising from deficiencies in the County's MDP will result in detriment to them (page 44/84).

[4] The *Sturgeon* decision also noted the invasive nature of the remedy under section 690 of the *Act*, which is not to be imposed lightly or in circumstances where detriment cannot be clearly identified or will not have a significant impact:

If the Board is to exercise its power to reach into municipal bylaws and perform what amounts to legislative surgery by amending or repealing parts of them, it must be satisfied that the harm to be forestalled by so invasive a remedy is both **reasonably likely to occur**, and to have a **significant impact** on the appellant municipality should it occur (page 48/84; emphasis added).

There is also a functional or evidentiary component to the Board's ability to direct an effective remedy under s.690. Simply put, the Board must have **enough information before it**, and **of sufficient quality**, to establish a **reasonable likelihood of detriment**. Where the condition complained of appears to raise only a mere possibility rather than a **probability of detriment**, or if the **harm is impossible to identify** with a **reasonable degree of certainty**, or **may occur only in some far future**, the detriment complained of may be said to be too remote (page 48/84; emphasis added).

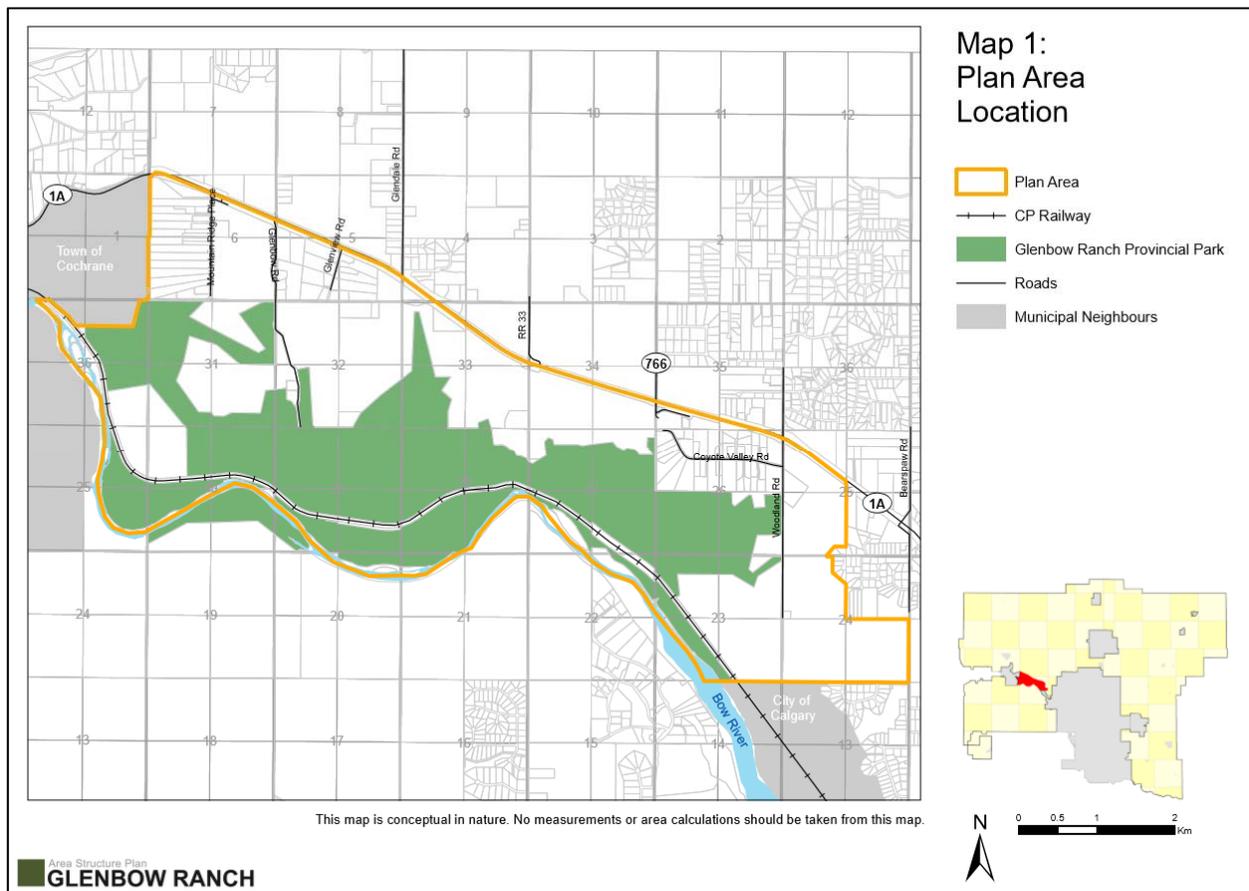
[5] Similar points were made in *Sunbreaker Cove v. Lacombe County*, MGB 007/11 [*Sunbreaker Cove*], with the MGB observing that there must be evidence

...of sufficient quantity and quality to convince the MGB that the detriment is both likely to occur and to have a significant impact (at para. 71).

Generally, the onus rests with the initiating party to show a detrimental effect rather than with the respondent to refute the allegation of detriment. In this case, the MGB weighed the evidence and submissions of the parties to determine if harm was reasonably likely to occur and if it would have a significant impact on Calgary. Under the subject circumstances, the MGB considered this in relation to the joint agreement.

BACKGROUND TO THIS INTERMUNICIPAL DISPUTE

[6] Section 690 of the *Act* states that if a municipality is of the opinion that a statutory plan, or land use bylaw, or an amendment adopted by an adjacent municipality has or may have a detrimental effect on it, the municipality may file an intermunicipal dispute. In this case, on August 23, 2017, Calgary provided notice of appeal (as required by section 690 of the *Act*) regarding Rocky View’s Bylaw C-7667-2017 (Glenbow Ranch Area Structure Plan) and Bylaw C-7665-2017 (County Plan Amendment). Rocky View gave first council reading regarding the bylaw amendments on April 25, 2017, followed by the second and third reading on July 25, 2017.



[7] The Glenbow Ranch ASP encompasses 7,359 acres of land south of Highway 1A, between Cochrane and Haskayne Legacy Park in Calgary. The subject area contains Glenbow Ranch Provincial Park, environmentally significant features, viewsapes, and three existing country residential communities – Coyote Valley, Glenview, and Mountain Ridge. The Glenbow Ranch ASP and County Plan amendments, as passed on July 25, 2017, propose significant residential

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development within the Bearspaw area that borders Calgary along the Trans Canada Highway (Highway 1) and 12 Mile Coulee Road. The portions of the Glenbow Ranch ASP area bordering Calgary are also subject to the policy area of the Rocky View County/ City of Calgary Intermunicipal Development Plan.

[8] As outlined in *The City of Calgary and the Town of Cochrane v Rocky View County*, MGB 058/17, Calgary has concerns with policies in the Glenbow Ranch ASP regarding transit, transportation, recreation and water protection, and with County Plan amendments that provide residential development within the Glenbow Ranch ASP area that reflect the appearance of a hamlet.

[9] Rocky View and Calgary worked in collaboration, participating in interest based mediation from December 11, 2017 to December 15, 2017. This resulted in an agreement on a number of issues to the Glenbow Ranch ASP that would eliminate possible detrimental effects to Calgary.

[10] On December 15, 2017 both, Rocky View and Calgary reached a Mediation Settlement Agreement (Agreement) that was ratified by both councils on January 23, 2018 and February 26, 2018 respectively.

JOINT SUBMISSION ON MEDIATED SETTLEMENT AGREEMENT AND AMENDMENTS

Mutual Cooperation and Joint Planning Initiatives

[11] On March 19, 2018, the parties submitted the Agreement to the MGB, and published it on the parties' municipal websites. The Agreement was approved by both councils, and the proposed amendments are intended to cure any potential detrimental effects on Calgary.

Amendments

[12] The mediation process yielded a list of amendments to the Glenbow Ranch ASP, which Calgary and Rocky View identified as satisfying Calgary's concerns regarding detriment. As specified in Section 2 of the Agreement, they request that the MGB order the following amendments to the Glenbow Ranch ASP:

- Recreation, Culture, and Community
 - Replace Policy 14.4
- Regional Transportation Network
 - Replace Policy 19.3
- Local Transportation Network
 - Replace Policy 19.16

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- Replace Map 9 (Schedule “A”)
- Stormwater Objectives
 - Remove bullet point 3 of Objectives on page 82
- Local Stormwater Management
 - Add new Policy after 21.10, renumber subsequent Policies accordingly
- Stormwater Ponds, Constructed Wetlands, and Wetlands
 - Replace Policy 21.13
- Implementation Policies – Local Plan Preparation, Redesignation, Subdivision, and Development Applications
 - Add new subset a) to Policy 24.5
- Implementation Policies – Actions
 - Add new Action Item 7, renumber the subsequent actions accordingly
 - Replace Action 8 (which will be renumbered as Action 9)
 - Add new Action

[13] Furthermore, at the hearing, the parties agreed to amend the Agreement to include a revised “Map 9: Transportation” and revise paragraph 11 of the Implementation Policies – Actions section, to specify “new action 10” instead of “new action”.

[14] Calgary and Rocky View provided support in their request for an amendment of the Glenbow Ranch ASP. Acknowledging that the MGB is not bound by previous decisions, the MGB has previously dealt with intermunicipal disputes that were resolved by the municipalities through negotiation or mediated agreements. In previous decisions, the MGB determined that a finding of detriment is a precondition to any order under section 690(5) of the *Act*.

[15] In *Sundance Beach v Leduc County* (MGB 065/03), the MGB found that where two municipalities have found resolution to the question of detriment through mediation, that serves as proof that parts of the bylaw under appeal as initially adopted were detrimental to the appealing municipality. Furthermore, in *City of Calgary v. Rocky View County* (MGB 020/17) the MGB determined that the amendments to the appealed ASP agreed to by the municipalities through a mediated agreement corrected policies in the area structure plan that were detrimental to the appealing municipality and resolved the claim of detriment.

[16] Calgary and Rocky View request that the MGB accept the parties’ Agreement, as it represents a consensus reached between the municipalities in an effort to find the proverbial “middle-ground” and a resolution that both municipalities are prepared to accept for the purpose of preserving and facilitating an ongoing positive and constructive intermunicipal relationship. The Agreement does not represent a capitulation by either municipality or admission of detriment as originally claimed in the notice of appeal.

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[17] Similarly, in *Sturgeon (MGB 77/98)*, it was determined that a mediated settlement represents recognition that the action of one municipality could affect another. Calgary and Rocky View submitted that they were able to reach an agreement that wholly resolves the issues raised in the appeal indicating that there was a mutual acceptance and recognition that the Glenbow Ranch ASP, as drafted, could negatively impact Calgary. Thus, the MGB may find detriment for the purpose of section 690(5) of the *Act* and order an amendment of the Glenbow Ranch ASP. The parties submitted that the proposed amendments are the least intrusive amendments required to resolve detriment, and would provide certainty to the Municipalities and affected landowners.

Response to Landowner Concerns

[18] Respecting landowner concerns, Rocky View stated that the Glenbow Ranch ASP had undergone a two-year process, including meetings with landowners and public open houses where landowners were able to raise their concerns. Concerns raised during this period were considered when drafting the Glenbow Ranch ASP. Furthermore, it was noted that while landowners raised objections to the development, their participation would be voluntary.

Appeal of Amendments to Bylaw C7665-2017 – County Plan

[19] At the merit hearing, Calgary withdrew its appeal of the County Plan amendments.

SUMMARY OF AFFECTED PARTIES' POSITIONS

Affected Party Submission – Glenbow Ranch Park Foundation

[20] The Glenbow Ranch Park Foundation submitted a letter of support for the mediated settlement between Calgary and Rocky View. It affirmed its desire and willingness to assist in studies, reviews, and planning where appropriate.

Affected Party Submission – Town of Cochrane

[21] The Town of Cochrane reviewed the Agreement between Calgary and Rocky View, and supports the request that the MGB issue an order directing the implementation of the amendments.

SUMMARY OF LANDOWNER'S POSITION

Landowner Position – T. Bancroft

[22] C. Bancroft submitted a letter representing her family's position to the MGB to be considered during the intermunicipal dispute. The letter noted that the Bancroft Family has been living on the land for 113 years and wish it to remain as agriculture. They are stewards of their

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land and seek to provide undisturbed green space habitat for humans and wildlife to enjoy. Ms. Bancroft stated that residents within the subject area are opposed to the Glenbow Ranch ASP, as the lands have been earmarked to remain in agricultural operation, yet they are being prepared for development. Council is driven by private interest even though the focus should be on preserving agricultural lands.

FINDINGS

1. The amendments requested in the Mediation Settlement Agreement address the detrimental impact to Calgary.
2. Landowners and the public had the opportunity to raise concerns regarding the Glenbow Ranch ASP and the Agreement.

DECISION

[23] The appeal is allowed, and the MGB orders the amendments to the Glenbow Ranch ASP as outlined in the Agreement (Appendix E) and varied to include an updated “Map 9:Transportation” (Appendix F). Additionally, Paragraph 11 of the Implementation Policies – Actions sections within Agreement is varied to specify “new action 10” instead of “new action”.

REASONS

Mediated Settlement Agreement

[24] Based on the joint submission, the MGB accepts the parties’ position that the Glenbow Ranch ASP as initially drafted results in detrimental impacts to Calgary in four general categories – 1) transportation; 2) recreational, community, social, and culture facilities; 3) inconsistency with the Rocky View County Plan; and 4) water supply. The MGB finds that the Agreement illustrates awareness that the actions of one municipality can have detrimental effect on a neighbouring municipality. Although not bound by previous decisions, in this case, the MGB agrees with the panel’s findings in *Sturgeon (MGB 77/98)* that:

... a proposed settlement of an intermunicipal dispute is not a case of one municipality abdicating its authority in favour of another, but rather an example of intermunicipal cooperation. The fact that the agreement is the result of negotiations between equals suggests that the changes recommended are the least intrusive, and reflect what the parties are prepared to live with.

[25] The MGB finds that the amendments will require further studies to be conducted to yield findings and recommendations, which will have to be abided by the parties. The Agreement was reached in mutual collaboration, illustrating intermunicipal respect and willingness to participate

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in long-term joint planning initiatives. The MGB finds that no significant concerns were raised by affected parties regarding the amendments to the Glenbow Ranch ASP. As such, the MGB accepts the Calgary and Rocky View's positions that the proposed amendment to the Glenbow ASP will cure the detrimental impact to Calgary.

Landowner Concerns

[26] The MGB acknowledges the concerns raised by the Bancrofts; however, it is emphasized that development of existing properties, including the Bancrofts', is voluntary. There is no obligation to the existing landowners within the Glenbow Ranch ASP area to develop the land once it becomes subject to the Glenbow Ranch ASP. The MGB finds that the Agreement was reached between two autonomous municipalities, which are acting in the best interest of their ratepayers, and the overall land use planning vision of their municipalities.

Amendments to Agreement – Map 9 and Paragraph 11

[27] The MGB accepts the proposed amendments to the Agreement, as outlined in the decision, as both parties agreed to the changes during the hearing.

DATED at the City of Edmonton, in the Province of Alberta, this 24th day of April 2018.

MUNICIPAL GOVERNMENT BOARD

(SGD) H. Kim, Presiding Officer

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APPENDIX "A"

PERSONS WHO WERE IN ATTENDANCE OR MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

NAME	CAPACITY
D. Mercer	Legal Counsel – City of Calgary
N. Younger	Representative – City of Calgary
J. Klauer	Legal Counsel, MLT Aikins LLP– Rocky View County
A. Zaluski	Representative – Rocky View County
S. Baers	Representative – Rocky View County
S. Parker	Representative – Glenbow Ranch Park Foundation
C. Van Hell	Observer, MLT Aikins LLP
A. Vanderputten	Observer - Landowner
H. Hirschmanner	Observer - Landowner
C. Bancroft	Observer - Landowner
R. Weston	Observer
C. Crawford	Observer
B. Kendall	Observer

APPENDIX "B"

DOCUMENTS RECEIVED PRIOR TO THE HEARING:

NO.	ITEM
1A	City of Calgary Intermunicipal Dispute Application And Statutory Declaration
2R	Rocky View County Statutory Declaration
3R	Certified Copies of Bears paw ASP Amendments Bylaw 7664-2017
4R	Certified Copies of Rocky View MDP Amendments Bylaw 7665-2017
5R	Certified Copies of Glenbow Ranch Area Structure Plan, Bylaw 7667-2017
6AP	Request for Affected Party Status – Glenbow Ranch Park Foundation
7	Proposed timeline for Glenbow Ranch Bylaws IMD appeals
8A	City of Calgary, Objection to Glenbow Ranch Park Foundation as Affected Party
9AP-G	Email from Alberta Environment and Parks, M. Storie, Regional

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10A	Director re: Role of Glenbow Ranch Park Foundation Mediation Update
11AP-C	Letter from Town of Cochrane re: mediation
12	Mediation Agreement--Calgary and Rocky View
13-AP-G	Motion from Glenbow Ranch Park Foundation
14-AP-C	Letter of Support for Mediated Settlement from Town of Cochrane
15-AP-G	Letter of Support for Mediated Settlement from Glenbow Ranch Park Foundation
16	Joint Submission of Calgary and Rocky View re: Mediation Agreement
17-L	Submission of Carol Bancroft

APPENDIX "C"

DOCUMENTS RECEIVED AT THE HEARING:

NO.	ITEM
18A	Revised Map 9: Transportation

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APPENDIX "D"

LEGISLATION

The *Act* contains criteria for intermunicipal disputes filed under section 690. While the following list may not be exhaustive, some key provisions are reproduced below.

Municipal Government Act

Section 617 is the main guideline from which all other provincial and municipal planning documents are derived. Therefore, in determining an intermunicipal dispute, each decision must comply with the philosophy expressed in 617.

617 The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted

- (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and*
- (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta*

without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

Section 690 governs the process and procedure for intermunicipal disputes. In addition to these sections, the MGB utilizes the Intermunicipal Dispute Procedure Rules

Intermunicipal disputes

690(1) If a municipality is of the opinion that a statutory plan or amendment or a land use bylaw or amendment adopted by an adjacent municipality has or may have a detrimental effect on it and if it has given written notice of its concerns to the adjacent municipality prior to second reading of the bylaw, it may, if it is attempting or has attempted to use mediation to resolve the matter, appeal the matter to the Municipal Government Board by

- (a) filing a notice of appeal and statutory declaration described in subsection (2) with the Board, and*
- (b) giving a copy of the notice of appeal and statutory declaration described in subsection (2) to the adjacent municipality*

within 30 days after the passing of the bylaw to adopt or amend a statutory plan or land use bylaw.

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(2) When appealing a matter to the Municipal Government Board, the municipality must state the reasons in the notice of appeal why a provision of the statutory plan or amendment or land use bylaw or amendment has a detrimental effect and provide a statutory declaration stating

- (a) the reasons why mediation was not possible,*
- (b) that mediation was undertaken and the reasons why it was not successful, or*
- (c) that mediation is ongoing and that the appeal is being filed to preserve the right of appeal.*

(3) A municipality, on receipt of a notice of appeal and statutory declaration under subsection (1)(b), must, within 30 days, submit to the Municipal Government Board and the municipality that filed the notice of appeal a statutory declaration stating

- (a) the reasons why mediation was not possible, or*
- (b) that mediation was undertaken and the reasons why it was not successful.*

(4) When the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), the provision of the statutory plan or amendment or land use bylaw or amendment that is the subject of the appeal is deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date the Board receives the notice of appeal and statutory declaration under subsection (1)(a) until the date it makes a decision under subsection (5).

(5) If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), it must, subject to any applicable ALSA regional plan, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may

- (a) dismiss the appeal if it decides that the provision is not detrimental, or*
- (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.*

(6) A provision with respect to which the Municipal Government Board has made a decision under subsection (5) is,

- (a) if the Board has decided that the provision is to be amended, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date of the decision until the date on which the plan or bylaw is amended in accordance with the decision, and*
- (b) if the Board has decided that the provision is to be repealed, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from and after the date of the decision.*

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(6.1) Any decision made by the Municipal Government Board under this section in respect of a statutory plan or amendment or a land use bylaw or amendment adopted by a municipality must be consistent with any growth plan approved under Part 17.1 pertaining to that municipality.

(7) Section 692 does not apply when a statutory plan or a land use bylaw is amended or repealed according to a decision of the Board under this section.

(8) The Municipal Government Board's decision under this section is binding, subject to the rights of either municipality to appeal under section 688.

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APPENDIX "E"

MEDIATION SETTLEMENT AGREEMENT

THIS AGREEMENT first written as of the 15 day of December, 2017.

BETWEEN:

ROCKY VIEW COUNTY

Being a municipal corporation pursuant to the *Municipal Government Act*, R.S.A. 2000 Chapter M-26

(the "County")

- and -

THE CITY OF CALGARY

Being a municipal corporation pursuant to the *Municipal Government Act*, R.S.A. 2000 Chapter M-26

(the "City")

MEDIATION SETTLEMENT AGREEMENT

WHEREAS the County Council gave third reading to County Bylaw C-7667-2017 (the Glenbow Ranch Area Structure Plan) and Bylaw C-7665-2017 (amendments to the Rocky View County Municipal Development Plan) on July 25, 2017;

AND WHEREAS the City filed an appeal with the Municipal Government Board (MGB) pursuant to Section 690 of the *Municipal Government Act*, R.S.A. 2000 Chapter M-26 with respect to the bylaws having Municipal Government Board File Number 17/IMD-01 (the "Appeal");

AND WHEREAS, as a result of interest-based mediation carried out between the parties from December 11 to 15, 2017, the County and the City have reached an agreement with respect to amendments to the Glenbow Ranch Area Structure Plan (ASP) that will resolve the issues raised in the Appeal if approved by the MGB;

AND WHEREAS the County and the City have also reached agreement on certain inter-municipal matters that are related to the ASP and MDP but which do not require direction from the MGB;

AND WHEREAS the terms of this agreement have been ratified by both County Council and City Council on Jan 23, 2018 and Feb 26, 2018;

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NOW THEREFORE in consideration of the mutual obligations and covenants contained herein, and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the County and the City hereby agree as follows:

1. MUTUAL COOPERATION

- 1.01 In reaching this agreement, the County and the City worked through an interest-based mediation to create a mutually beneficial arrangement whereby ASP Amendments were agreed to and joint planning initiatives and studies were identified, and mutual cooperation will form the basis of the ongoing relationship to address planning and development issues in the ASP area and adjacent lands within the City which have inter-municipal significance.
- 1.02 The City and the County agree to use all reasonable efforts and to fully cooperate with one another to ensure that the terms and conditions of this agreement are fulfilled including, without limitation, the ASP Amendments.
- 1.03 "Reasonable efforts" and "cooperation" referenced in Paragraph 1.02 include, but are not limited to:
 - (1) the parties' provision of all information reasonably required by the other party with respect to the ASP Amendments for submission to the MGB;
 - (2) the preparation and presentation of joint submissions to the MGB regarding the ASP Amendments in accordance with this agreement;
 - (3) any further assistance that the parties may reasonably request; and
 - (4) the proper and timely performance of all things required to give effect to this agreement.
- 1.04 The parties specifically acknowledge and agree that:
 - (1) the ASP Amendments are jointly agreed to by both the County and the City;
 - (2) the contents of this agreement reflect the results of the mediation between the parties and the approval of the respective Councils; and
 - (3) the ASP Amendments and other terms set out in this agreement shall fully resolve all matters related to the Appeal.
- 1.05 If the MGB affects, alters, amends or in any way impacts the terms of this agreement, this agreement will continue to govern; however, the parties shall, in good faith, enter into renewed negotiations with respect to the implementation of the agreement to the extent that it is impacted by order of the MGB.
- 1.06 The County and the City agree that they shall each fully support and recommend to the MGB the matters set forth in this agreement, and the County and the City

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shall use reasonable efforts to convince the MGB to order the ASP Amendments without amendment or alteration.

- 1.07 The parties agree that, in their joint submissions to the MGB, they will request that the MGB give the parties prior notice if the MGB intends to alter, amend, or in any way impact the terms of this agreement in its order, and allow the parties to make submissions to the MGB on any such proposed alterations, amendments, or impacts to this agreement including, but not limited to, the submission of evidence and oral argument.
- 1.08 The County shall work with the City of Calgary, and other stakeholders as required, to evaluate the feasibility of the development of an East-West road parallel to Highway 1A between Calgary and Cochrane as a part of the review of the Bearspaw Area Structure Plan, recognizing that regional public consultation is required with the neighbouring municipalities.
- 1.09 The County shall participate in a task force with the City of Calgary, and other relevant stakeholders, to discuss opportunities to collaborate on issues of mutual interest regarding the Bearspaw Reservoir as source water for drinking water utilities.
- 1.10 Within 30 days of receiving a decision from the Province with respect to the grant application, made by the City for a Province of Alberta Community Partnership grant, for funding for the Joint Recreation Study, the City and County shall establish a working group to facilitate intermunicipal discussions with respect to recreation including:
 - (1) If the grant application is not approved, what is the availability of alternative funding for the Joint Recreation Study, and
 - (2) If grant funding or alternative funding is secured, the administration of the Joint Recreation Study process set out in Paragraph 1.11.
- 1.11 The Joint Recreation Study process is as follows:
 - (1) Within 90 days of confirming a funding source for the Joint Recreation Study, develop Terms of Reference and issue a Request for Proposal for the Joint Recreation Study (the "RFP"),
 - (2) Within 60 days of the RFP closing date, select the successful proponent for the Joint Recreation Study,
 - (3) Within 180 days of completion of the Joint Recreation Study, the City and County shall use the data provided in the Joint Recreation Study to:
 - (a) Determine impact and/or benefit of facilities for communities, regardless of jurisdiction;
 - (b) Identify appropriate intermunicipal service delivery options;

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- (c) Identify mechanisms for appropriate cost sharing; and
 - (d) Evaluate the appropriateness of developing an intermunicipal recreational plan.
- (4) Within 90 days of completion of 1.11(3)(c), present recommendations to respective Councils and request direction.
- 1.12 The parties agree that the matters set out in Paragraphs 1.01 to 1.11 shall not form a part of the MGB order.
- 1.13 No later than January 1, 2019 the County and the City Administrations shall meet to discuss the progress of Paragraphs 1.01 to 1.11 and determine appropriate next steps.
- 1.14 Concurrent with the filing of the joint submission to the MGB, Calgary will formally withdraw the Municipal Development Plan appeal of Bylaw C-7665-2017. City Administration will recommend withdrawal of the MDP appeal as part of the Mediation Settlement Agreement approval via Committee and Council.
- 1.15 Parties hereby agree to have the agreement brought before their respective Councils for a decision by March 15, 2018.

2. JOINT SUBMISSIONS TO THE MGB – ASP AMENDMENTS

- 2.01 In furtherance of attaining the objectives contained within this agreement, the County and the City agree to jointly request that the MGB order the following ASP Amendments as a full and final resolution and determination of the Appeal. The balance of the amended ASP Policy sections shall be re-numbered as required to accommodate the following amendments:

Recreation, Culture, and Community

- (1) Delete policy 14.4 which currently states:

The County shall assess and consult with The City of Calgary, the Town of Cochrane, applicable provincial agencies, and other stakeholders to identify community recreation, culture, and community service needs within the Plan area through collaborative planning and agreement.

And replace with:

The County shall consult with The City of Calgary, the Town of Cochrane, applicable provincial agencies, and other stakeholders to deliver community recreation, culture, and community service needs as identified through collaborative planning, studies, and agreements. (See Action item 7 p 97).

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Regional Transportation Network

- (2) Delete policy 19.3 which currently states:

The County shall collaborate with the Government of Alberta regarding regional road connections and interchange / intersection design with respect to Highway 1A.

And replace with:

The County shall collaborate with the Government of Alberta regarding regional road connections and interchange / intersection design with respect to Highway 1A. A future functional study to determine ultimate cross section and intersection/interchange requirements for Highway 1A is anticipated.

Local Transportation Network - General

- (3) Delete policy 19.16 which currently states:

A Transportation Impact Assessment shall be required as part of the local plan preparation and / or subdivision application process to determine if potential off-site road improvements are required to support a proposed development

And replace with:

A Transportation Impact Assessment shall be required as part of the local plan preparation and / or subdivision application process to determine if potential off-site road improvements are required to support a proposed development, including consideration of the two potential interchanges as per Map 9. In addition to the requirements of the County's Servicing Standards, each Traffic Impact Assessment prepared to support Local Plans in Cells G, I, and J shall include the following:

- (a) Statement of current status of regional transit planning affecting the plan area and anticipated completion dates of ongoing studies;
- (b) Evaluation of current use and impacts on existing City of Calgary Park and Ride facilities and proposed mitigating measures, to the County's satisfaction;
- (c) Estimate of potential mode share for transit based upon comparisons in City of Calgary forecast model, field measurements of other sites, and other methods as appropriate;
- (d) Funding sources and status for required upgrades; and

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- (e) Evaluation of impact on Highway 1A intersections and identification of any appropriate mitigation measures.
- (4) Delete Map 9 and replace it with the map attached hereto as Schedule "A".

Stormwater Objectives

- (5) Page 82 – Objectives – remove bullet point 3 "Ensure the design of stormwater systems in TDC Build Areas G, I, and J address subsurface connections to the Bearspaw Reservoir."

Local Stormwater Management

- (6) Add new policy after 21.10 under heading "Local Stormwater Management" renumber subsequent policies accordingly

Stormwater systems design should address subsurface connections to the Bearspaw Reservoir for TDC Build Areas G, I, and J, in accordance with the Glenbow Ranch ASP Master Drainage Plan.

Stormwater Ponds, Constructed Wetlands, and Wetlands

- (7) Policy 21.13, add the following to the end of the policy:

Delete Policy 21.13

Stormwater ponds or constructed wetlands constructed within Conservation Areas or Glenbow Ranch Provincial Park should be designed to enhance the natural environment.

And replace with:

Stormwater ponds or constructed wetlands constructed within Conservation Areas or Glenbow Ranch Provincial Park should be designed to enhance the natural environment. These ponds or wetlands must be designed in accordance with Sections 5.3 and 7.2 of the Glenbow Ranch ASP Master Drainage Plan.

Implementation Policies – Local Plan Preparation, Redesignation, Subdivision, and Development Applications

- (8) In policy 24.5, add subset a) to the following at the end of the policy:

Applications for redesignation, subdivision, development and local plans shall comply with the policies and requirements of the following master plans and servicing standards, unless otherwise directed by the policies of this Plan:

- i. Glenbow Ranch Network Study,

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- ii. Glenbow Ranch ASP Servicing Strategy,
- iii. Glenbow Ranch ASP Master Drainage Plan,
- iv. Rocky View County Solid Waste Master Plan,
- v. Rocky View County Recreation Master Plan,
- vi. Rocky View County Servicing Standards.

Implementation Policies – Actions

- (9) In the Actions following policy 24.18 add the following action as action 7 and renumber the subsequent actions:

Subject to funding availability, the County will work with the City of Calgary and, where appropriate, the Town of Cochrane, to conduct a joint study to assess the regional recreation and community service needs of residents in northwest Calgary, Bearspaw, Glenbow Ranch, and surrounding area (the "Joint Recreation Study"). The intent of the Study is to identify the needs of residents, regardless of jurisdiction, and identify mechanisms for appropriate cost sharing and complimentary service provision.

- (10) In the Actions following policy 24.18 replace action 8 (which will be renumbered as action 9) with the following:

Delete Action item

Establish a working group with Alberta Environment and Parks to manage issues related to the Glenbow Ranch Provincial Park as development proceeds.

And replace with

Establish a working group with Alberta Environment and Parks to manage issues related to the Glenbow Ranch Provincial Park as development proceeds. Where agreed to by Alberta Environment and Parks, the City of Calgary will be invited to participate in working group discussions with respect to issues related to stormwater, source water protection, and public access to the reservoir.

- (11) In the Actions following policy 24.18 add the following as a new action to the list of actions:

The County will participate in a potential Sub-Regional Transit Feasibility Study for Highway 1A including partners; City of Calgary, Cochrane, and Alberta Transportation, unless the Calgary Metropolitan Region Board has already initiated this work.

The Sub Regional Transit Feasibility Study should include:

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- Estimate of ridership in the plan area
- Phasing plan to introduce transit service, if appropriate
- Capital and Operating Cost of the service
- Recommendations on Park and Ride demand, phasing need, location, sizing, and transit priority treatments, if appropriate.
- Identification of regulatory requirements

3. DISPUTE RESOLUTION

- 3.01 If the parties cannot agree on the interpretation, application or operation of certain provisions of this agreement, the parties will follow the dispute resolution provisions in this agreement unless otherwise agreed to by the parties.
- 3.02 Once a disagreement has been identified by either of the parties, conciliatory discussions must commence within thirty (30) calendar days of the identification of the issue.
- 3.03 If the issue is not resolved within three (3) months of the commencement of conciliatory discussions, the issue shall proceed to mediation. Mediation will be before a single mediator agreed to by both parties, the cost of which shall be bourn equally between the parties.

4. GENERAL PROVISIONS

- 4.01 All references to legislation contained herein, including without any limitation any references to statutes, regulations or bylaws, shall include amendments thereto, and any legislation in *pari materia* therewith, and any successor legislation enacted in replacement thereof.
- 4.02 Each of the parties hereto shall at all times undertake all such further acts and execute and deliver all such further documents as shall be reasonably required to fully perform the terms and conditions of this agreement.
- 4.03 The headings and paragraph numbers contained in this agreement are for convenience and reference only and in no way define or limit the scope or intent of this agreement or any provision hereof.
- 4.04 This agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and this agreement shall not be amended, modified or discharged except by an instrument in writing executed under the authority of each of the parties hereto.
- 4.05 No waiver by or on behalf of either party hereto of any breach of the covenants or conditions herein contained shall take effect or be binding upon that party unless the same be expressed in writing under the authority of that party and any waiver

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so give shall extend only to the particular breach so waived and shall not limit or affect any rights with respect to any other breach.

- 4.06 The Recitals and Schedule attached hereto form part of this agreement.
- 4.07 Nothing in this agreement shall be construed as fettering or restricting the lawful authority of any board, tribunal, other quasi-judicial entity, or elected municipal Council (or member thereof), in the exercise of jurisdiction vested in it by law.
- 4.08 This agreement is binding upon both the County and the City and their successors and assigns.
- 4.09 If any provision of this agreement is found to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have hereunder affixed their respective corporate seals and signatures by duly authorized representatives, as of the date above first written.

APPROVED	
As To Content	
Nel Younger, Manager, IC3	NT
As To Form	
LAW (Solicitors)	
David McEwen	DM

PB/30

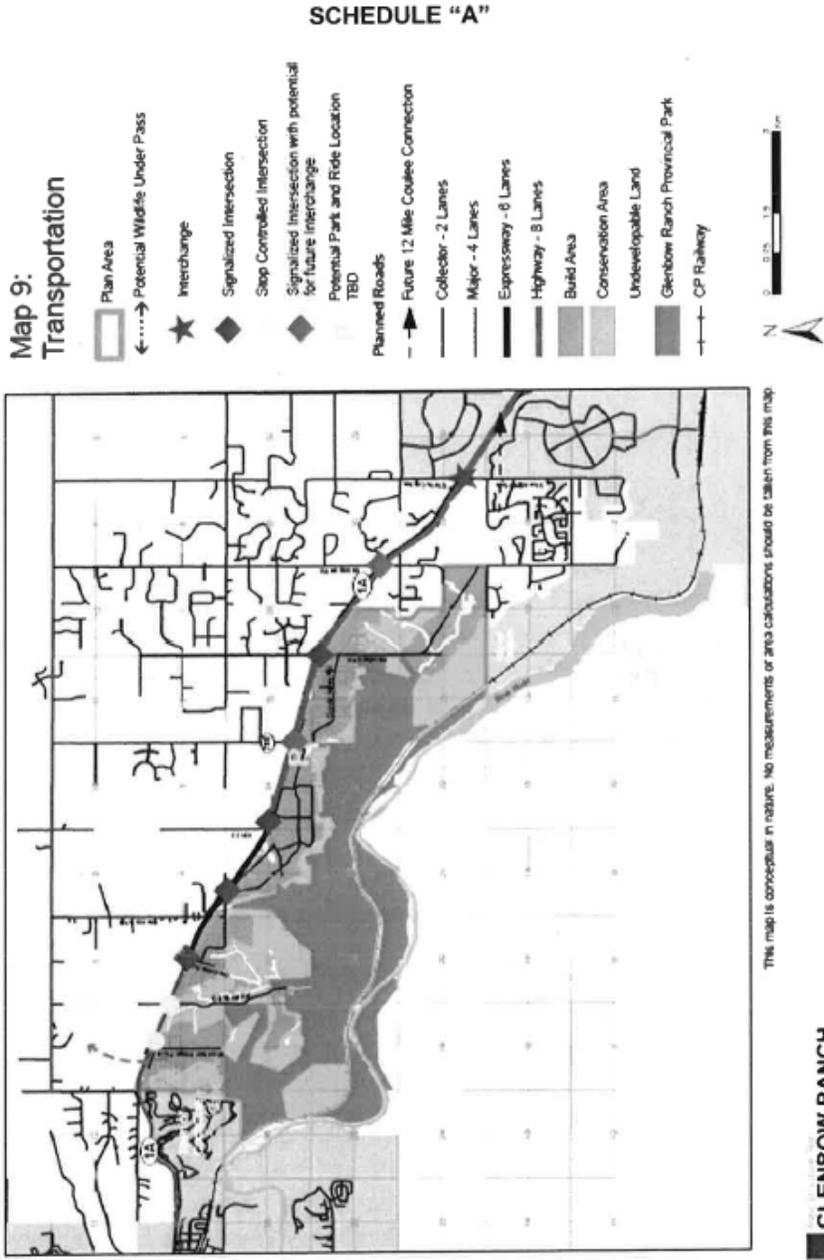
THE CITY OF CALGARY


JEFF FIELDING, CITY MANAGER

CITY CLERK

ROCKY VIEW COUNTY


ACTING COUNTY MANAGER



APPENDIX "F"

REVISED MAP 9: Transportation

