

## Intermunicipal Dispute Resolution Initiative

# A TALE OF TWO ANNEXATIONS

Municipal District of Rocky View ↔ City of Airdrie ↔ Town of Cochrane

Recently, the Municipal District of Rocky View negotiated two annexation agreements with two very different results. Both annexation discussions engaged a facilitator, a neutral third party that helped the parties work out a solution they can both agree to.

With the City of Airdrie, discussions took the form of a mediation after initial attempts to negotiate between the two municipalities failed. With Cochrane, the two municipalities began their discussions with the assistance of a facilitator in the context of a facilitated negotiation. Both annexations took many people and many hours to find a workable agreement.

However, while the annexation agreement with the Town of Cochrane was put in place with no changes, the Municipal Government Board (MGB) overturned the annexation agreement with the City of Airdrie. How can two processes result in such different outcomes? Some of the players looked back to shed some light on this question.

“An annexation is always a sensitive and emotional issue,” says Julian deCocq, Chief Administrative Officer for the Town of Cochrane. “You have many different views to consider whether it’s from the municipalities, the landowners or the politicians. You try to make as many people as happy as possible but it’s a challenge.”

The MD of Rocky View first worked through the annexation agreement with the City of Airdrie and after that with the Town of Cochrane. As a result, there were lessons learned from the first mediation that definitely helped craft the second agreement.

### Mediation Introduced as Attempts at Negotiation Fail

The provincial Municipal Government Act states that municipalities that fail to negotiate a proposed annexation must go through mediation, then submit their agreement to the Municipal Government Board.

That’s what occurred between the MD of Rocky View and Airdrie. About a year of fruitless negotiations occurred before they came into mediation and by then there was some pressure to get an agreement in place. The two parties met and their first task was to choose an independent, professionally trained mediator to help facilitate the process of trying to find some common middle ground they could agree on.

Gail Sokolan, Senior Planner with the MD of Rocky View, participated in both annexation discussions. The Airdrie mediation was the first time she – and many of the other players – had been through an independently facilitated process.

“In hindsight, with the Airdrie process, I think we learned a couple of things that we then handled better in the Cochrane negotiation,” she says. “One was how to involve the public in the reporting and consultation process when you have confidentiality restrictions. The other thing we learned was that having an Intermunicipal Development Plan in place prior to the facilitation really helped the process. Success was better when we could tie the IDP into the annexation discussions and agreement.”

George Keen, Chief Administrative Officer for Airdrie, agrees. “Mediation is not the place to be working out planning issues. Although mediation is mandatory, if you cannot reach an annexation agreement on your own, you can’t ignore the fact that what you’re negotiating needs to be built on solid land and development planning principles.”

When it came to public consultation, Sokolan says that because most of the players in the Airdrie discussions were new to the mediation process, they were all a little unsure about what could be shared outside the mediation process and what couldn't. This was a tough balance because the parties must be seen as having transparency in government but they are also expected to negotiate solutions on behalf of their constituents. Consulting the public on every last detail could mean unmanageable delays.

"With the Airdrie annexation we had a less formalized public outreach plan," Sokolan says. "As a result some people didn't feel they had direct access to the committee, so, some members of the public felt they had not been heard. What we learned, and brought into the Cochrane negotiation, was that it was important to create an opportunity for affected parties to directly address the annexation committee with their concerns after the draft agreement was released by both Councils."

Norm Kent, Deputy Reeve of the MD of Rocky View at the time of both annexations, agrees. "Unfortunately, some of the key stakeholders didn't participate until after the MGB held a hearing. At that point, it's hard for those who didn't sit through the long hours of mediation to realize just how carefully crafted these agreements are. Once you start removing parts of it, it changes the whole balance of the agreement."

The objections received by the MGB, in this case, resulted in a very rare decision by the MGB to overturn the mediated agreement between MD of Rocky View and the City of Airdrie.

"When the mediated agreement was overturned, it took everyone on both sides by surprise," says Dan Oneil, Mayor of Airdrie, at the time of the mediation. "We had to wonder why we spent all that time coming to an agreement only to have it overturned."

Oneil says that perhaps there was too much pressure to come to an agreement since the talks had gone on for some time before going into mediation and the annexation was needed to secure additional industrial land for Airdrie. "If I was to do anything differently, maybe it would be to take the pressure off coming to an agreement quickly."

### **Engaging a Facilitator Has Its Definite Benefits**

Even if they had difficulties accepting the Airdrie agreement was overturned, the players all saw benefits in the process of having an independent facilitator involved in the process.

"The process itself is very good," says Keen. "It helps you understand and explore each other's ideas in a more thorough way than you would without an independent facilitator. It enhances communication and whenever that happens that's always a beneficial thing."

Sokolan and Oneil both commented on the fact that the independent mediator helped the teams stay focused on their interests rather than their positions. "As municipalities, we have to deal with each other on an ongoing basis," Sokolan says. "Whenever you get two parties, with a history, there are always hot buttons with some tracing back 15 years. But the mediator helped us remain objective and reminded us about respecting each other's opinions. That meant we could successfully leave our baggage at the door."

Perhaps Kent sums it up in the most colorful way: "You have to work together and stay fresh," he says. "When we were in mediation, we spent more time together as a group than we probably did with our husbands and wives, and we engaged in some pretty deep conversations. I'm sure any wife would like to have that level of conversation with her husband!"

### **Why Not Start with a Facilitator, Rather than End with One?**

Sokolan says that the decision to start with facilitated negotiations in the beginning, when negotiating an annexation agreement, with Cochrane was partly due to the lessons learned from the Airdrie annexation and partly because the process itself was beneficial.

“We liked the process and we also knew that if negotiation attempts on our own failed, we would end up in mediation anyway,” she says, “so we thought it would be a good place to start.”

Although the players at Cochrane weren't part of the Airdrie discussions, it's a small world, municipally speaking. They knew enough of the Airdrie process to understand that some of the suggestions brought to the table were learned from the MD of Rocky View's previous experience.

Regarding the public consultation, deCocq echoes Sokolan's comments that this annexation agreement accommodated better processes for public consultation. “We set up a pretty comprehensive mechanism for public consultation in the form of a joint Town Hall meeting. We were able to hear where people were coming from while being seen as working together not as battling entities. I think the public felt it was a very mature way to handle the annexation discussions.”

Mayor Ken Bech, who was a Cochrane Councilor at the time of the facilitation, also felt the facilitated process was invaluable. “I think the biggest thing was that it gave us a forum where we could talk openly and not be afraid to express our fears and concerns. It allowed us to work on the issues, not just the personalities and positions, and that helped us to stay open-minded.”

That was critical, because there is no black and white to these situations, says deCocq. “It wasn't just about annexation but about blending in a whole lot of other issues as well. There will always be some difference of opinion but when you try to approach the issues with mutual respect a lot of trust is built in the meantime.”

That's not to say that the process was entirely without bumps. In deCocq's view, a facilitated discussion is not necessarily the most inexpensive way of approaching the problem. “From a strictly monetary point of view,” he says, “I suspect the costs were equal to or greater than the traditional method.”

The other disappointment was that once the negotiated agreement between the MD of Rocky View and Cochrane went to the MGB it took nearly a year to work its way through the Board. During this time, the Board held another public hearing even though Cochrane and the MD of Rocky View were careful to include that as part of the original process. In the end, though, the agreement withstood the test and was approved in September, 2004 without changes.

Cochrane Mayor, Ken Bech, says he couldn't be happier with the outcome and the way the facilitation process built stronger relationships. When asked if he would recommend facilitated negotiations to other jurisdictions, he replied, “I think you'd be crazy if you didn't use this process. We are a stronger group as a result. It was amazing to watch. Even when we were butting heads we found a way to get it done. After all, it's our responsibility as elected officials to get along and find solutions and that's been one of the big benefits of a facilitated negotiation process. It's certainly given me a totally different outlook on how I now negotiate with others in every situation.”