



COUNTY COMMISSIONERS

Carolina Mejia
District One
Gary Edwards
District Two
Tye Menser
District Three

BOUNDARY REVIEW BOARD

Creating Solutions for Our Future

MEETING NOTICE & AGENDA

When: Tuesday, August 1, 2023– 6:00 p.m.
Where: Primarily through remote access. Members of the public who are unable to attend virtually can attend at:
Thurston Regional Planning Council, 2411 Chandler Ct SW, Olympia, WA 98502
Room B

For information contact: Casey Mauck, Chief Clerk
Thurston County Boundary Review Board
360. 971.7575, brbchiefclerk@trpc.org

Participation in the Boundary Review Board meeting will be primarily through remote access. For anyone without the ability to access the meeting remotely, TRPC will provide access to the meeting at 2411 Chandler Court SW, Olympia, WA 98502.

Join Zoom Meeting: <https://trpc-org.zoom.us/j/87012816503?pwd=Wm96bERhN0xZWUhfCjNxyYjZ6R3RsQT09>

Meeting ID: 870 1281 6503
Passcode: 034433

Dial by your location
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AGENDA

- A. **Call to Order**
 - 1. Attendance
 - 2. Review and Approval of Agenda
 - 3. Public Comment

- B. **Approval of Minutes**
 - 1. July 18, 2023

- C. **Decision**
 - 1. ANNEX2023-01: City of Yelm Vancil-Morris Rd Annexation
 - 2. ANNEX2023-03: City of Yelm 9819 Grove Rd Annexation

- D. **Announcement**
 - 1. WSABRB October Conference



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ENCLOSURES

- A. Minutes for July 18, 2023
- B. Draft ANNEX2023-01 Written Decision
- C. Draft ANNEX2023-03 Written Decision

The final agenda and meeting packet will be posted online at: <http://www.trpc.org/925/Meeting-Agendas-Minutes>.

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If you need special accommodations to participate in this meeting, please call us at 360.956.7575 by 10:00 a.m. three days prior to the meeting. Ask for the ADA Coordinator. For TDD users, please use the state's toll-free relay service, 711 and ask the operator to dial 360.956.7575.

MINUTES OF MEETING

THURSTON COUNTY BOUNDARY REVIEW BOARD

Tuesday, July 18, 2023 – 6:00 p.m.

Yelm City Hall

106 2nd St SE

Yelm, WA 98597

and REMOTE ACCESS

Chair Marchand called the meeting to order at 6:00 pm.

CALL TO ORDER

Attendance

- **Members Present:** Chair Michael Marchand, Vice-Chair Zahid Chaudhry, Mr. Lance Caputo, Mr. Todd Hughes, Mr. Gary Pearson
- **Members Excused:** None
- **Staff Present:** Chief Clerk Casey Mauck, Office Specialist IV Dorinda Merrill, Thurston County Prosecuting Attorney Rick Peters
- **Others Present:** Gary Cooper, City of Yelm; Cody Colt, City of Yelm; Jeremy Davis, Thurston County; Theresa Parsons, Thurston County

Review and Approval of Agenda

Mr. Chaudry moved to approve the agenda. Mr. Pearson seconded. Motion carried.

Public Comment

None given.

APPROVAL OF MINUTES

Mr. Chaudry moved to approve the minutes. Mr. Marchand seconded. Motion carried.

PUBLIC HEARINGS

ANNEX2023-01: City of Yelm Vancil-Morris Rd Annexation

Chair Marchand called the public hearing to order for ANNEX2023-01: City of Yelm Vancil-Morris Rd Annexation. Chair Marchand explained the purpose of the hearing is to hear testimony and gather facts on the proposed annexation area. Chair Marchand asked anyone with items not already in the record to please submit them to the chief clerk for numbering. He then asked if anyone else would like to speak that has not signed up.

Chief Clerk Mauck administered an oath to those who wished to testify.

Chair Marchand asked if there was any person in attendance who questions whether any member of the Board has any conflict of interest or bias in the matter before them. No question of conflict of interest or bias was stated.

Staff Presentation

Chief Clerk Mauck gave a brief overview of the annexation proposal before the Board. On April 7, 2023 the City of Yelm filed a notice of intention to annex 15.0 acres in the area of Vancil Rd SE and Morris Rd SE. Thurston County submitted a request for review of the annexation on May 22, 2023. Thurston County requested the annexation be expanded to an additional 11.6 acres to the north of the annexation area.

Testimony

The following provided public testimony:

- Gary Cooper, City of Yelm; Cody Colt, City of Yelm
 - Mr. Cooper gave a brief overview of the annexation proposal. After the City of Yelm received water rights, they began processing annexation proposals from individual property owners. If this area is annexed into the City of Yelm, municipal services areas would remain unchanged with the exception of police service, which would be provided by Yelm PD instead of the Thurston County Sheriff's Office. Mr. Cooper indicated that the City of Yelm supports the expanded annexation, as proposed by Thurston County, and believes that this will create a more logical boundary. If the Board does not approve the entire expanded area, Yelm would still like to see the original area annexed.
- Jeremy Davis, Thurston County
 - Thurston County requests that the annexation area is expanded 11.6 acres to avoid leaving a small unincorporated peninsula and some rights-of-way in county jurisdiction. The expanded annexation proposal furthers the goals of Thurston County and the City of Yelm through their joint comprehensive plan and keeps the neighborhood intact. Yelm PD would now provide police services to the annexed area, resulting in a lower response time for emergency calls.
- Chief Clerk Mauck listed the Public Hearing exhibits received to date:
 - A. Chief Clerk Memo
 - B. City of Yelm Notice of Intention and Attachments
 - C. Thurston County Request for Review
 - D. Public Notice Documentation
 - E. City of Yelm Position Statement
 - F. Thurston County Position Statement
 - G. Countywide Planning Policies
 - H. City of Yelm and Thurston County Joint Comprehensive Plan
 - I. Schorno Public Comment
- Chief Clerk Mauck read aloud the Schorno written public comment (Exhibit I). Mr. Schorno requested that if the Boar does not approve the annexation of the 5 acres adjacent to Vancil Road in the original proposal, they still annex the 10 acres to the west that he owns.

Chair Marchand asked if any other member of the audience in-person or on Zoom desired to provide public testimony. Hearing none, Mr. Chaudry moved to close the first public hearing. Mr. Caputo seconded. Motion carried.

ANNEX2023-01: Expansion of City of Yelm Vancil-Morris Rd Annexation

Chair Marchand called the public hearing to order for the expansion of ANNEX2023-01: City of Yelm Vancil-Morris Rd Annexation.

Testimony

- Chief Clerk Mauck listed the Public Hearing exhibits received to date:
 - A. Chief Clerk Memo
 - B. City of Yelm Notice of Intention and Attachments
 - C. Thurston County Request for Review
 - D. Public Notice Documentation
 - E. City of Yelm Position Statement
 - F. Thurston County Position Statement
 - G. Countywide Planning Policies
 - H. City of Yelm and Thurston County Joint Comprehensive Plan
 - I. Schorno Public Comment
 - J. Bartel Public Comment

- Chief Clerk Mauck read aloud the Bartel written public comment (Exhibit J). Ms. Bartel is the executor of the 10.5 acres included in the expanded annexation area and objects to the annexation.

Chair Marchand asked if any other member of the audience in-person or on Zoom desired to provide public testimony. Hearing none, Mr. Chaudry moved to close the second public hearing. Mr. Caputo seconded. Motion carried.

ANNEX2023-03: City of Yelm 9819 Grove Rd Annexation

Chair Marchand called the public hearing to order for ANNEX2023-03: City of Yelm 9819 Grove Rd Annexation.

Staff Presentation

Chief Clerk Mauck gave a brief overview of the annexation proposal before the Board. On April 7, 2023 the City of Yelm filed a notice of intention to annex 12.5 acres in the area of Canal Rd SE and Grove Rd SE. Thurston County submitted a request for review of the annexation on May 22, 2023. Thurston County requested the annexation be expanded to an additional 7.8 acres to the north of the annexation area to connect to a City island (Longmire Park).

Testimony

The following provided public testimony:

- Gary Cooper, City of Yelm

Mr. Cooper gave a brief overview of the annexation proposal. As with the Vancil-Morris proposal, most service areas would not change if this area is annexed with the exception of police service. The City supports expanding the annexation area, as proposed by Thurston County, and believes that this will create a more logical boundary. Expanding the annexation area also supports a goal of the City to use of one of the expanded area parcels for parking for Longmire Park.

- Jeremy Davis, Thurston County

Thurston County requested that the annexation area is expanded 11.6 acres to provide a more regular boundary and normalized service areas for the City of Yelm and residents. It will join a City island and include adjacent right-of-way.

- Chief Clerk Mauck listed the Public Hearing exhibits received to date:
 - A. Chief Clerk Memo
 - B. City of Yelm Notice of Intention and Attachments
 - C. Thurston County Request for Review
 - D. Public Notice Documentation
 - E. City of Yelm Position Statement
 - F. Thurston County Position Statement
 - G. Countywide Planning Policies
 - H. City of Yelm and Thurston County Joint Comprehensive Plan

Chair Marchand asked if any other member of the audience in-person or on Zoom desired to provide public testimony. Hearing none, Mr. Chaudry moved to close the first public hearing. Mr. Caputo seconded. Motion carried.

ANNEX2023-03: Expansion of City of Yelm 9819 Grove Rd Annexation

Chair Marchand called the public hearing to order for the expansion of ANNEX2023-03: City of Yelm 9819 Grove Rd Annexation.

Testimony

- Chief Clerk Mauck listed the Public Hearing exhibits received to date:
 - A. Chief Clerk Memo
 - B. City of Yelm Notice of Intention and Attachments
 - C. Thurston County Request for Review
 - D. Public Notice Documentation
 - E. City of Yelm Position Statement
 - F. Thurston County Position Statement
 - G. Countywide Planning Policies
 - H. City of Yelm and Thurston County Joint Comprehensive Plan
 - I. Mitchell Public Comment

- Chief Clerk Mauck read aloud the Mitchell written public comment (Exhibit I). Ms. Mitchell is the owner of one of parcels in the expanded annexation area (#64300600100). Ms. Mitchell and her mother bought the farmhouse in 2005 with the intention of passing the property and house down to the next generations of their family to enjoy a country lifestyle including raising livestock. The expanded annexation would take away their family's right to protect livestock and may end their farm and livelihood. After going to the Thurston courthouse, Ms. Mitchell was told that there were discrepancies in the acreage of the property and she should get a survey of her property done. Ms. Mitchell opposes the expanded annexation area and requests that consideration is taken of how annexation would change the style of farm living in the area.

Mr. Chaudry asked if annexation would prevent Ms. Mitchell from keeping livestock and farming on the property. Mr. Colt indicated that livestock is allowed in the City of Yelm.

Mr. Cooper mentioned that any issues in the property survey do not affect the annexation area and Ms. Mitchell's property boundaries would stay the same after annexation.

- Mike Kempinski
Mr. Kempinski owns the two parcels other than Ms. Mitchell's that make up the expanded area. Mr. Kempinski is in favor of annexation for his parcels and currently has livestock on his property.

Chair Marchand asked if any other member of the audience in-person or on Zoom desired to provide public testimony. Hearing none, Mr. Chaudry moved to close the second public hearing. Mr. Caputo seconded. Motion carried.

WORK SESSION – ANNEX2023-01: City of Yelm Vancil-Morris Rd Annexation

Chair Marchand read the factors and objectives and Growth Management considerations. The Board began their discussion of the factors and objectives. The Boundary Review Board has the authority to approve, modify or deny the annexation.

Chair Marchand appreciated the City and County working together to honor the urban growth planning of the City and adding in more territory where appropriate to avoid multiple smaller annexations. Chair Marchand found that the expanded area preserved natural neighborhoods, preserved logical service areas, and avoided an impractical boundary by improving on the first proposal.

Mr. Caputo asked if there are lands designated for long term productive agricultural and resource use in or near the area. Mr. Cooper and Mr. Davis indicated that this is a county designation not used in or near the annexation area.

Chair Marchand noted that there are no issues in debts or contractual obligations related to the proposal. The Board indicated support for the expanded annexation area.

DECISION

Chair Marchand made a motion to approve the alternative ANNEX2023-01, the Yelm Vancil-Morris Road Annexation as proposed by Thurston County and to reject the initial proposal brought forth by the City of Yelm. Mr. Chaudry seconded. Motion carried.

WORK SESSION – ANNEX2023-03: City of Yelm 9819 Grove Rd Annexation

Chair Marchand read the factors and objectives and Growth Management considerations. The Board began their discussion of the factors and objectives. The Boundary Review Board has the authority to approve, modify or deny the annexation.

Mr. Chaudry suggested modifying the expanded area to remove Ms. Mitchell's parcel and keeping the two parcels to the west to preserve natural neighbors and communities and historical uses. Mr. Pearson agreed with the sentiment of the comment but expressed he didn't feel like anything was being taken away from the residents in question as they can still continue farming if annexed. Mr. Chaudry mentioned that City municipal codes can change and at that

point the use may be prohibited. Mr. Caputo indicated that this property is included in the Urban Growth Area of the City and this designation was arrived at through a joint county and city process that included public outreach. Chair Marchand expressed he did not understand what use the property owner is losing by being annexed.

Chair Marchand clarified the Board can approve, deny, or modify the annexation as they see fit. Mr. Chaudry suggested annexing the original area and two western parcels in the proposed expanded area. Mr. Caputo noted that this would treat Mr. Kempinski's parcels differently than the neighboring one, which is also used for farming.

Mr. Rick Peters stated that the county can also change zoning and prohibit uses, just as the City can.

Chief Clerk Mauck read RCW 36.93.150 which only allows the Board to modify a proposal if it is inconsistent with one of the Boundary Review Board objectives. Mr. Caputo stated that he does not find the expanded proposal to be inconsistent with any of the objectives. Mr. Chaudry mentioned that annexation would take away the senior land use rights of the property owner. Mr. Caputo and Mr. Peters clarified that there is no distinction between junior and senior rights related to land uses. Mr. Peters stated that under state statute he does not believe there is a basis for modification, and the Board should approve or deny the proposal. Mr. Peters also noted that it's a slippery slope to make determinations based on what may happen in the future, and a decision made today does not have to be unanimous but rather just a majority.

Chief Clerk Mauck noted that the current zoning of the property in question is Light Industrial, which is not intended for farming.

DECISION

Mr. Chaudry made a motion to approve ANNEX2023-03, the Yelm 9819 Grove Road Annexation as submitted originally by the City of Yelm. There was no second. Motion failed.

Chair Marchand made a motion to approve the alternative ANNEX2023-03, the Yelm 9819 Grove Road Annexation as proposed by Thurston County and to reject the initial proposal brought forth by the City of Yelm. Mr. Caputo seconded. Motion carried.

The Board set a meeting date for signing the Board's written decisions. Chair Marchand set a special meeting for Tuesday, August 1, at 6:00 pm on Zoom with an in-person option at the offices of Thurston Regional Planning Council, located at 2411 Chandler Ct SW Olympia, WA 98502.

ADJOURNMENT

Chair Marchand motioned to adjourn the meeting at 8:09pm. Mr. Hughes seconded. Motion carried.

Mr. Michael Marchand, Chair

Prepared by Dorinda Merrill for the
Washington State Boundary Review Board for Thurston County

26 has a maximum of 120 calendar days after jurisdiction is invoked for the first time to hold a
27 public hearing and render a decision. RCW 36.93.100.

28 The Board set public hearing dates at their June 13, 2023 meeting for consideration of the
29 annexation itself and consideration of expanding the boundaries of the annexation area. The
30 public hearings to consider the annexation, and consider expanding the boundaries of the
31 annexation area to include an additional 11.6 acres, were duly noticed and held at 6:00 P.M. on
32 Tuesday July 18, 2023 in the Council Chambers at Yelm City Hall, 106 Second Street SE Yelm,
33 Washington 98597 and on Zoom webinar.

34 The Board does not review the validity of a review request until after a public hearing has
35 been held. RCW 36.93.100 and 36.93.160. No rule or provision of state law allows for the
36 Board to review the validity of a request for review when jurisdiction is invoked pursuant to state
37 law. The Board may reject a request for review when the request does not meet the thresholds for
38 requesting review in state law. RCW 36.93.100.

39 Ten exhibits were submitted and made part of the record including:

40 Exhibit A: Chief Clerk Memo

41 Exhibit B: City of Yelm Notice of Intention

42 Exhibit C: Thurston County Request for Review

43 Exhibit D: Public Notice Documentation

44 Exhibit E: City of Yelm Position Statement

45 Exhibit F: Thurston County Position Statement

46 Exhibit G: Countywide Planning Policies

47 Exhibit H: City of Yelm and Thurston County Joint Comprehensive Plan

48 Exhibit I: Schorno Public Comment

50 The Board has limited discretion in state law regarding its decision-making authority. According
51 to RCW 36.93.150, the Board may:

52 (1) Approve the proposal as submitted;

53 (2) Subject to RCW 35.02.170, modify the proposal by adjusting boundaries to add or delete
54 territory.

55 (3) Determine a division of assets and liabilities between two or more governmental units where
56 relevant.

57 (4) Determine whether, or the extent to which, functions of a special purpose district are to be
58 assumed by an incorporated city or town, metropolitan municipal corporation, or another existing
59 special purpose district.

60 (5) Disapprove the proposal (...)

61 The board shall not modify or deny a proposed action unless there is evidence on the record to
62 support a conclusion that the action is inconsistent with one or more of the objectives under
63 RCW 36.93.180. (...)

64 The Board may make a decision under RCW 36.93.150 (1), (2), (3), and (5). In order to add
65 area, the Board had to include this area in a public hearing notice and notify affected property
66 owners, which occurred.

67 The Board may not make a decision under RCW 36.93.150(4) because the functions of the SE
68 Thurston Fire Authority – by which the annexation area is served and the City of Yelm is
69 annexed to – do not change. Once the property it is annexed into the City, SE Thurston Fire
70 Authority will continue to serve it. Pursuant to RCW 52.04.091, fire district boundaries
71 automatically change upon annexation by a city that has annexed into a fire district.

72

73

II. FINDINGS

74 **A. FACTORS TO BE CONSIDERED BY THE BOARD (RCW 36.93.170):**

75 In reaching its decision, the Board considered all factors listed in RCW 36.93.170.

76 From evidence provided and testimony given, the Board determines that the factors under RCW
77 36.93.170 are not adversely affected by this annexation proposal.

78 **B. OBJECTIVES TO BE CONSIDERED BY THE BOARD (RCW 36.93.180)**

79 RCW 36.93.180 sets out nine objectives which the Board is to “attempt to achieve” by its
80 decision.

81 Having reviewed all of the objectives identified in RCW 36.93.180, the Board determined the
82 following objectives do not support or are not applicable to the proposal, as originally submitted
83 by the City of Yelm:

84 4. Prevention of abnormally irregular boundaries.

85 The annexation will result in abnormally irregular boundaries by leaving out a parcel adjacent to
86 the annexation area to the north, resulting in an unincorporated county peninsula.

87 5. Discouragement of multiple incorporations of small cities and encouragement of
88 incorporation of cities in excess of ten thousand population in heavily populated urban areas.

89 No new cities are being incorporated with this action.

90 6. Dissolution of inactive special purpose districts.

91 No special purpose districts are being dissolved with this action.

92 7. Adjustment of impractical boundaries.

93 The annexation will result in an impractical boundary by creating an unincorporated county
94 peninsula.

95 8. Incorporation as cities or towns or annexation to cities or towns of unincorporated areas
96 which are urban in character.

97 Though the annexation area is located within the City’s planned Urban Growth Area, it is not
98 urban in character.

99 9. Protection of agricultural and rural lands which are designated for long term productive
100 agricultural and resource use by a comprehensive plan adopted by the county legislative
101 authority.

102 There are no lands designated for long term productive agricultural and resource use in the
103 annexation area.

104 The Board determined the following five objectives are supported by the modified proposal, as
105 proposed by Thurston County:

106 1. Preservation of natural neighborhoods and communities.

107 The expanded annexation preserves the existing neighborhood in the area.

108 2. Use of physical boundaries, including but not limited to bodies of water, highways, and
109 land contours.

110 The boundary with the City lies to the north and west of the expanded annexation. The expanded
111 annexation generally follows the current City boundaries east to Morris Road and south to
112 property lines on the south. The expanded annexation will prevent illogical boundaries by
113 preventing an unincorporated county peninsula.

114 3. Creation and preservation of logical service areas.

115 The expanded annexation area will be served by the City of Yelm Police via city streets which
116 should lower response time compared to current police services from the Thurston County

117 Sheriff. The expanded annexation area is already served by the City of Yelm sewer and water
118 utilities whether or not it is annexed by the City.

119 4. Prevention of abnormally irregular boundaries.

120 The expanded annexation will prevent abnormally irregular boundaries by including an adjacent
121 parcel in the annexation area.

122 7. Adjustment of impractical boundaries.

123 The expanded annexation will prevent an impractical boundary by including an adjacent parcel
124 that would otherwise be bypassed, creating an unincorporated county peninsula.

125 All parties were permitted to comment on whether or not the proposed annexation meets or does
126 not meet the above objectives. No party at the public hearing contested that the proposed
127 annexation meets one or more of the objectives above.

128 C. GMA CONSIDERATIONS

129 The Board is required to ensure its decisions are consistent with sections of the Growth
130 Management Act (GMA) including the goals of the GMA in RCW 36.70A.020, the location of
131 the annexation is in an Urban Growth Area in RCW 36.70A.110, and whether the decision is
132 consistent with the County-Wide Planning Policies in RCW 36.70A.210, which are addressed
133 below.

134 The Board does not make land use decisions and does not make decisions on whether or not an
135 adopted Comprehensive Plan is consistent with the Growth Management Act and its goals. This
136 is the purview of the Growth Management Hearings Board. RCW 36.70A.280 & 36.70A.320.

137 The City and County plans under the GMA and adopted plans must be consistent with GMA
138 goals. RCW 36.70A.020. Comprehensive plans adopted by the City and County are valid upon

139 adoption. RCW 36.70A.320. The Board determined that the following state planning goals
140 under RCW 36.70A.020 are applicable:

141 1. Urban growth. Encourage development in urban areas where adequate public facilities
142 and services exist or can be provided in an efficient manner.

143 12. Public facilities and services. Ensure that those public facilities and services necessary to
144 support development shall be adequate to serve the development at the time the development is
145 available for occupancy and use without decreasing current service levels below locally
146 established minimum standards.

147 The Board determined that the comprehensive plans for Urban Growth Areas adopted by the
148 City and County under RCW 36.70A.110 are applicable:

- 149 • RCW 36.70A.110(1): Each county that is required or chooses to plan under RCW
150 36.70A.040 shall designate an Urban Growth Area or areas within which urban growth shall be
151 encouraged and outside of which growth can occur only if it is not urban in nature.

152 The GMA requires the adoption of countywide planning policies that address, among other
153 things, policies for promotion or contiguous and orderly development of urban services.

154 Thurston County has adopted county-wide planning policies that were last updated in 2015
155 (Exhibit G). The Board determined that the county-wide planning policies under RCW
156 36.70A.210(1) are applicable to this decision, and that the decision is consistent with the county-
157 wide planning policies.

158 D. DIVISION OF ASSETS AND LIABILITIES

159 The Board may determine the division of assets and liabilities between two governmental units
160 pursuant to RCW 36.93.150(3). In the present case, this would include the City and the County.

161 The Board did not determine a division of assets and liabilities between the City and the County.

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III. DECISION

164

The Board has considered all of the facts, testimony and exhibits offered at the public hearings

165

and the meeting as well as the material contained in said Yelm Vancil-Morris Road Annexation

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File (ANNEX2023-01). According to the findings above, the Board may approve, modify, or

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deny the annexation. Modification and denial are only allowed if there is evidence in the record

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that the annexation is inconsistent with one or more of the objectives in RCW 36.93.180. RCW

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36.93.150. Based upon the above findings, and having weighed the statutory factors and

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objectives deemed relevant to the proposed annexation, a motion was made and seconded, and

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passed by a vote of 5 to 0 to reject the initial annexation proposed by the City of Yelm for the

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reasons described above in the Findings and to approve the modified City of Yelm Vancil Morris

173

Road annexation proposed by Thurston County for the reasons described above in the Findings

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to add 11.6 acres of territory for a total of approximately 26 acres, the legal description of which

175

is as follows (as evidenced in Exhibit F):

176

Parcel 22730410300 including the adjacent Vancil Road right of way, Parcel 22730410000

177

including the adjacent Morris Rd SE right of way, and Parcel 22730140800 including the

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adjacent Morris Rd SE right of way extending north to the existing City of Yelm limits.

179

Containing 27 +/- acres.

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The Board further determined that the modified annexation proposal is consistent with the intent

181

of RCW 36.93 and the Growth Management Act as described above in the Findings.

182

THEREFORE, BE IT RESOLVED BY THE WASHINGTON STATE BOUNDARY REVIEW

183

BOARD FOR THURSTON COUNTY that the City of Yelm proposal, as modified by the Board,

184 to annex approximately 26.6 acres in Thurston County, File No. ANNEX2023-01, is hereby
185 APPROVED.
186 ADOPTED BY THE BOUNDARY REVIEW BOARD by a vote of 5 to 0 in favor of the motion
187 to approve on the 18th day of July 2023 and signed in authentication on the 1st day of August
188 2023.
189

APPROVED AS TO FORM:

JON TUNHEIM
PROSECUTING ATTORNEY

FOR THE WASHINGTON BOUNDARY
REVIEW BOARD FOR THURSTON
COUNTY

Rick Peters
Deputy Prosecuting Attorney

Michael Marchand, Chair

FILED BY ME ON THIS _____ DAY OF
AUGUST 2023

Zahid Chaudry, Vice-Chair

CASEY MAUCK, CHIEF CLERK

Lance Caputo, Member

Gary Pearson, Member

Todd Hughes, Member

190 Pursuant to RCW 36.93.160 (5), the decision of the Boundary Review Board regarding this proposal shall be final
191 and conclusive unless within thirty (30) days from the date of the Board's action a governmental unit affected by the
192 decision or any person owning real property or residing in the area affected by the decision files in Superior Court a
193 notice of appeal.
194 NOTE: The 30-day appeal period expires on August 31, 2023.

26 has a maximum of 120 calendar days after jurisdiction is invoked for the first time to hold a
27 public hearing and render a decision. RCW 36.93.100.

28 The Board set public hearing dates at their June 13, 2023 meeting for consideration of the
29 annexation itself and consideration of expanding the boundaries of the annexation area. The
30 public hearings to consider the annexation, and consider expanding the boundaries of the
31 annexation area to include an additional 7.8 acres, were duly noticed and held at 6:00 P.M. on
32 Tuesday July 18, 2023 in the Council Chambers at Yelm City Hall, 106 Second Street SE Yelm,
33 Washington 98597 and on Zoom webinar.

34 The Board does not review the validity of a review request until after a public hearing has
35 been held. RCW 36.93.100 and 36.93.160. No rule or provision of state law allows for the
36 Board to review the validity of a request for review when jurisdiction is invoked pursuant to state
37 law. The Board may reject a request for review when the request does not meet the thresholds for
38 requesting review in state law. RCW 36.93.100.

39 Nine exhibits were submitted and made part of the record including:

40 Exhibit A: Chief Clerk Memo

41 Exhibit B: City of Yelm Notice of Intention

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45 Exhibit F: Thurston County Position Statement

46 Exhibit G: Countywide Planning Policies

47 Exhibit H: City of Yelm and Thurston County Joint Comprehensive Plan

48 Exhibit I: Mitchell Public Comment

49 The Board has limited discretion in state law regarding its decision-making authority. According
50 to RCW 36.93.150, the Board may:

51 (1) Approve the proposal as submitted;

52 (2) Subject to RCW 35.02.170, modify the proposal by adjusting boundaries to add or delete
53 territory.

54 (3) Determine a division of assets and liabilities between two or more governmental units where
55 relevant.

56 (4) Determine whether, or the extent to which, functions of a special purpose district are to be
57 assumed by an incorporated city or town, metropolitan municipal corporation, or another existing
58 special purpose district.

59 (5) Disapprove the proposal (...)

60 The board shall not modify or deny a proposed action unless there is evidence on the record to
61 support a conclusion that the action is inconsistent with one or more of the objectives under
62 RCW 36.93.180. (...)

63 The Board may make a decision under RCW 36.93.150 (1), (2), (3), and (5). In order to add
64 area, the Board had to include this area in a public hearing notice and notify affected property
65 owners, which occurred.

66 The Board may not make a decision under RCW 36.93.150(4) because the functions of the SE
67 Thurston Fire Authority – by which the annexation area is served and the City of Yelm is
68 annexed to – do not change. Once the property it is annexed into the City, SE Thurston Fire
69 Authority will continue to serve it. Pursuant to RCW 52.04.091, fire district boundaries
70 automatically change upon annexation by a city that has annexed into a fire district.

71

72 **II. FINDINGS**

73 **A. FACTORS TO BE CONSIDERED BY THE BOARD (RCW 36.93.170):**

74 In reaching its decision, the Board considered all factors listed in RCW 36.93.170.

75 From evidence provided and testimony given, the Board determines that the factors under RCW
76 36.93.170 are not adversely affected by this annexation proposal.

77 **B. OBJECTIVES TO BE CONSIDERED BY THE BOARD (RCW 36.93.180)**

78 RCW 36.93.180 sets out nine objectives which the Board is to “attempt to achieve” by its
79 decision.

80 Having reviewed all of the objectives identified in RCW 36.93.180, the Board determined the
81 following objectives do not support or are not applicable to the proposal, as originally submitted
82 by the City of Yelm:

83 4. Prevention of abnormally irregular boundaries.

84 The annexation will result in abnormally irregular boundaries by not connecting to a City island
85 to the north of the annexation area.

86 5. Discouragement of multiple incorporations of small cities and encouragement of
87 incorporation of cities in excess of ten thousand population in heavily populated urban areas.
88 No new cities are being incorporated with this action.

89 6. Dissolution of inactive special purpose districts.

90 No special purpose districts are being dissolved with this action.

91 7. Adjustment of impractical boundaries.

92 The annexation will not adjust the impractical boundary to the north of the annexation area
93 where there is a City island.

94 8. Incorporation as cities or towns or annexation to cities or towns of unincorporated areas
95 which are urban in character.

96 Though the annexation area is located within the City’s planned Urban Growth Area, it is not
97 urban in character.

98 9. Protection of agricultural and rural lands which are designated for long term productive
99 agricultural and resource use by a comprehensive plan adopted by the county legislative
100 authority.

101 There are no lands designated for long term productive agricultural and resource use in the
102 annexation area.

103 The Board determined the following five objectives are supported by the modified proposal, as
104 proposed by Thurston County:

105 1. Preservation of natural neighborhoods and communities.

106 The expanded annexation preserves the existing neighborhood in the area.

107 2. Use of physical boundaries, including but not limited to bodies of water, highways, and
108 land contours.

109 The boundary with the City lies to the south and west of the expanded annexation, and there is a
110 City island to the north of the expanded annexation area. The expanded annexation generally
111 follows the current City boundaries northeast to connect to the City island of Longmire Park and
112 southeast to the intersection of Canal Road and Grove Road and to the current City boundary on
113 Grove Road. The expanded annexation will prevent illogical boundaries connecting to a City
114 island.

115 3. Creation and preservation of logical service areas.

116 The expanded annexation area will be served by the City of Yelm Police via city streets which
117 should lower response time compared to current police services from the Thurston County
118 Sheriff. The expanded annexation area is already served by the City of Yelm sewer and water
119 utilities whether or not it is annexed by the City.

120 4. Prevention of abnormally irregular boundaries.

121 The expanded annexation will prevent abnormally irregular boundaries by connecting to a City
122 island north of the expanded annexation area.

123 7. Adjustment of impractical boundaries.

124 The expanded annexation will prevent an impractical boundary by connecting to a City island
125 north of the annexation area that would otherwise remain a City island.

126 All parties were permitted to comment on whether or not the proposed annexation meets or does
127 not meet the above objectives. No party at the public hearing contested that the proposed
128 annexation meets one or more of the objectives above.

129 C. GMA CONSIDERATIONS

130 The Board is required to ensure its decisions are consistent with sections of the Growth
131 Management Act (GMA) including the goals of the GMA in RCW 36.70A.020, the location of
132 the annexation is in an Urban Growth Area in RCW 36.70A.110, and whether the decision is
133 consistent with the County-Wide Planning Policies in RCW 36.70A.210, which are addressed
134 below.

135 The Board does not make land use decisions and does not make decisions on whether or not an
136 adopted Comprehensive Plan is consistent with the Growth Management Act and its goals. This
137 is the purview of the Growth Management Hearings Board. RCW 36.70A.280 & 36.70A.320.

138 The City and County plans under the GMA and adopted plans must be consistent with GMA
139 goals. RCW 36.70A.020. Comprehensive plans adopted by the City and County are valid upon
140 adoption. RCW 36.70A.320. The Board determined that the following state planning goals
141 under RCW 36.70A.020 are applicable:

142 1. Urban growth. Encourage development in urban areas where adequate public facilities
143 and services exist or can be provided in an efficient manner.

144 The Board determined that the comprehensive plans for Urban Growth Areas adopted by the
145 City and County under RCW 36.70A.110 are applicable:

146 • RCW 36.70A.110(1): Each county that is required or chooses to plan under RCW
147 36.70A.040 shall designate an Urban Growth Area or areas within which urban growth shall be
148 encouraged and outside of which growth can occur only if it is not urban in nature.

149 The GMA requires the adoption of countywide planning policies that address, among other
150 things, policies for promotion or contiguous and orderly development of urban services.

151 Thurston County has adopted county-wide planning policies that were last updated in 2015
152 (Exhibit G). The Board determined that the county-wide planning policies under RCW
153 36.70A.210(1) are applicable to this decision, and that the decision is consistent with the county-
154 wide planning policies.

155 D. DIVISION OF ASSETS AND LIABILITIES

156 The Board may determine the division of assets and liabilities between two governmental units
157 pursuant to RCW 36.93.150(3). In the present case, this would include the City and the County.

158 The Board did not determine a division of assets and liabilities between the City and the County.

159

160

III. DECISION

161 The Board has considered all of the facts, testimony and exhibits offered at the public hearings
162 and the meeting as well as the material contained in said Yelm 9819 Grove Road Annexation
163 File (ANNEX2023-03). According to the findings above, the Board may approve, modify, or
164 deny the annexation. Modification and denial are only allowed if there is evidence in the record
165 that the annexation is inconsistent with one or more of the objectives in RCW 36.93.180. RCW
166 36.93.150. Based upon the above findings, and having weighed the statutory factors and
167 objectives deemed relevant to the proposed annexation, a motion was made and seconded, and
168 passed by a vote of 4 to 1 to reject the initial annexation proposed by the City of Yelm for the
169 reasons described above in the Findings and to approve the modified City of Yelm 9819 Grove
170 Road annexation proposed by Thurston County for the reasons described above in the Findings
171 to add 7.8 acres of territory for a total of approximately 20 acres, the legal description of which is
172 as follows (as evidenced in Exhibit F):

173 Parcel 64303500100 including the adjacent Grove Rd SE right of way extending north to Canal
174 Rd SE, Parcel 64300600101, Parcel 64300600102, and Parcel 64300600100 including the Canal
175 Rd SE right of way extending southeast from the existing City of Yelm limits (south corner of
176 Parcel 64300500504) to, and including, the intersection of Canal Road SE and Flume Rd SE.
177 Containing 20 +/- acres.

178 The Board further determined that the modified annexation proposal is consistent with the intent
179 of RCW 36.93 and the Growth Management Act as described above in the Findings.

180 THEREFORE, BE IT RESOLVED BY THE WASHINGTON STATE BOUNDARY REVIEW
181 BOARD FOR THURSTON COUNTY that the City of Yelm proposal, as modified by the Board,
182 to annex approximately 20.3 acres in Thurston County, File No. ANNEX2023-03, is hereby
183 APPROVED.

184 ADOPTED BY THE BOUNDARY REVIEW BOARD by a vote of 4 to 1 in favor of the motion
185 to approve on the 18th day of July 2023 and signed in authentication on the 1st day of August
186 2023.

187

APPROVED AS TO FORM:

FOR THE WASHINGTON BOUNDARY
REVIEW BOARD FOR THURSTON
COUNTY

JON TUNHEIM
PROSECUTING ATTORNEY

Rick Peters
Deputy Prosecuting Attorney

Michael Marchand, Chair

Zahid Chaudry, Vice-Chair

FILED BY ME ON THIS ____ DAY OF
AUGUST 2023

Lance Caputo, Member

CASEY MAUCK, CHIEF CLERK

Gary Pearson, Member

Todd Hughes, Member

188 Pursuant to RCW 36.93.160 (5), the decision of the Boundary Review Board regarding this proposal shall be final
189 and conclusive unless within thirty (30) days from the date of the Board's action a governmental unit affected by the
190 decision or any person owning real property or residing in the area affected by the decision files in Superior Court a
191 notice of appeal.

192 NOTE: The 30-day appeal period expires on August 31, 2023.