

1 BEFORE THE WASHINGTON STATE
2 BOUNDARY REVIEW BOARD
3 FOR THURSTON COUNTY
4

5 CITY OF LACEY PROPOSED ANNEXATION OF 410 ACRES

6 FILE NO. ANNEX2018-05

7 FINDINGS AND FINAL DECISION OF THE BOUNDARY REVIEW BOARD
8

9 **I. PROCESS AND PROCEDURE**

10 The City of Lacey (“City”) submitted a Notice of Intention to the Washington State Boundary
11 Review Board for Thurston County (“Board”) on November 30, 2018 for the Steilacoom/Marvin
12 Rd Annexation (ANNEX2018-05) to annex approximately 259.1 acres of land in Thurston
13 County (“County”) located within the City’s Urban Growth Area. The Steilacoom/Marvin Rd
14 Annexation is located generally at the intersection of Steilacoom Road SE and Marvin Road SE.
15 Municipal annexations are subject to review by the Board under RCW 36.93.090. The proposal
16 for the annexation was initiated by the property owners through the 60% petition method
17 pursuant to RCW 35A.14.120. The Chief Clerk circulated the Notice of Intention to affected
18 jurisdictions for a 45-day period for review ending on January 14, 2019. RCW 36.93.100.

19 On January 14, 2019, County submitted a Petition for Review to invoke review by the
20 Boundary Review Board and requested that the boundaries of the annexation area be expanded to
21 include an additional 250 acres. This request was revised on February 22, 2019 to reduce the
22 expanded annexation area. The legal description for this revised area (Exhibit 9) shows that 150
23 additional acres are proposed to be included in the annexation, bringing the total area to 410
24 acres, more or less.

25 A decision is due by May 14, 2019, or 40 calendar days after the final public hearing,
26 whichever comes first. RCW 36.93.100 and 36.93.160. The Boundary Review Board has a
27 maximum of 120 calendar days after jurisdiction is invoked for the first time to hold a public
28 hearing and render a decision. RCW 36.93.100.

29 The Board set public hearing dates at their February 7, 2019 meeting for consideration of
30 the annexation itself and consideration of expanding the boundaries of the annexation area. The
31 public hearing to consider the annexation was duly noticed and held at 7:00 P.M. on Thursday
32 March 28, 2019 in Conference Room A at the offices of Thurston Regional Planning Council,
33 2424 Heritage Court SW Olympia, Washington 98502. The meeting was recessed and re-opened
34 on April 9, 2019. The public hearing to consider expanding the boundaries of the annexation
35 area to include an additional 120 acres was held at 7:00 P.M. on Tuesday, April 9, 2019 in the
36 cafeteria at Nisqually Middle School, 8100 Steilacoom Rd SE, Lacey Washington 98503.

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

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

43 Exhibit 1: Boundary Review Board Staff Memorandum dated March 22, 2019

44 Attachment A: Map of Annexation Area

45 Attachment B: Map of Expanded Annexation Area

46 Attachment C: Notice of Intention

47 Attachment D: Thurston County Review Request

- 48 Attachment E: Thurston County Revised Request
- 49 Attachment F: March 20, 2019 Thurston County Memorandum
- 50 Attachment G: Excerpts from State Law
- 51 Attachment H: Joint Planning Agreements
- 52 Attachment I: County-wide Planning Policies
- 53 Attachment J: Public Notice Information
- 54 Exhibit 2: Thurston County Position Statement Received March 20, 2019
- 55 Attachment a: Map of Annexation Area, as Amended
- 56 Attachment b: Joint Planning Agreements
- 57 Attachment c: County-Wide Planning Policies
- 58 Attachment d: Lacey/Thurston County 1990 Annexation Agreement
- 59 Attachment: Interlocal Cooperation Agreement for Mutual Aid Between
- 60 Thurston County Law Enforcement Agencies
- 61 Exhibit 3: FAQ: City of Lacey and Thurston County
- 62 Exhibit 4: Written Public Comment Received as of March 27, 2019
- 63 Exhibit 5: Lacey – Alternative #1 Summary
- 64 Exhibit 6: Lacey – Alternative #2 Summary
- 65 Exhibit 7: April 4, 2019 Memo from the Chief Clerk
- 66 Attachment A: April 3, 2019 Press Release
- 67 Attachment B: Affidavit of Posting for April 9, 2019 Public Hearing
- 68 Exhibit 8: April 4, 2019 Joint Zoning Memo from City of Lacey and Thurston County
- 69 Exhibit 9: Thurston County – Legal Description for Expanded Annexation Area
- 70 Exhibit 10: Written Public Comment Received as of April 8, 2019

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

73 (1) Approve the proposal as submitted;

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

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

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

81 (5) Disapprove the proposal (...)

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

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

88 The Board may not make a decision under RCW 36.93.150(4) because the functions of the
89 Lacey Fire District 3 – by which the annexation area is served and the city of Lacey is annexed
90 to – do not change. Once the property it is annexed into the City, Lacey Fire District 3 will
91 continue to serve it. Pursuant to RCW 52.04.091, fire district boundaries automatically change
92 upon annexation by a city that has annexed into a fire district.

93

94 **II. FINDINGS**

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

96 In reaching its decision, the Board considered all factors listed in RCW 36.93.170. The Board
97 discussed the County and the City’s jointly-adopted common comprehensive plan for the Lacey
98 Urban Growth Area, including joint plan zoning designations under the Washington State
99 Growth Management Act (“GMA”). Looking at the GMA, the Board determined that the City is
100 a full municipal service provider, that the proposed annexation area is within the City’s sewer
101 and water service area, and that the City already provides services to this area. The City is part
102 of Fire District No. 3 to address fire and emergency services; and that the City will provide
103 police services, including the addition of three police officers to serve this area. Under the
104 GMA, the state legislature intends that cities are to be the primary provider of urban services.
105 From evidence provided and testimony given, the Board determines that the factors under RCW
106 36.93.170 are not adversely affected by this annexation proposal.

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

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

110 Having reviewed all of the objectives identified in RCW 36.93.180, the Board determined the
111 following objectives do not support or are not applicable to the proposal, as originally submitted
112 by the City of Lacey:

113 3. Creation and preservation of logical service areas.

114 The annexation area will be served by the City of Lacey Police and Fire District #3 via city
115 streets but will require Thurston County Sheriff’s deputies to travel through incorporated areas to
116 serve unincorporated Thurston County residents.

- 117 4. Prevention of abnormally irregular boundaries.
- 118 The annexation will result in abnormally irregular boundaries by leaving out neighborhoods
119 adjacent to the annexation area, resulting in unincorporated county peninsulas.
- 120 5. Discouragement of multiple incorporations of small cities and encouragement of
121 incorporation of cities in excess of ten thousand population in heavily populated urban areas.
122 No new cities are being incorporated with this action.
- 123 6. Dissolution of inactive special purpose districts.
124 No special purpose districts are being dissolved with this action.
- 125 7. Adjustment of impractical boundaries.
126 The annexation will result in an impractical boundary by creating unincorporated county
127 peninsulas.
- 128 9. Protection of agricultural and rural lands which are designated for long term productive
129 agricultural and resource use by a comprehensive plan adopted by the county legislative
130 authority.
131 Ostrom's Mushroom Farm, located within the annexation area is considered an agricultural use,
132 but it is a nonconforming use and is not designated for long term agricultural production. No
133 other agricultural lands or resource uses designated in the County's Comprehensive Plan are
134 included in the annexation area.
135 The Board determined the following six objectives are supported by the modified proposal, as
136 proposed by Thurston County:
- 137 1. Preservation of natural neighborhoods and communities.

138 The expanded annexation preserves the existing neighborhoods and communities of
139 Bicentennial, Hawksridge, Hawks Glen, Steilacoom Heights, and the Rainier Vista mobile home
140 park, as well as other smaller subdivisions in the area.

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

143 The boundary with the City lies to the north of the annexation. The expanded annexation
144 generally follows the current City boundaries south on the east and the west to Steilacoom Road,
145 and property lines to the south. The expanded annexation will prevent illogical boundaries
146 creating an unincorporated county peninsula.

147 3. Creation and preservation of logical service areas.

148 The expanded annexation area will be served by the City of Lacey Police and Fire District #3 via
149 city streets and will not need to travel through unincorporated County. The annexation area is
150 already served by the City of Lacey sewer and water utilities whether or not it is annexed by the
151 City.

152 4. Prevention of abnormally irregular boundaries.

153 The expanded annexation will prevent abnormally irregular boundaries by including adjacent
154 neighborhoods in the annexation area.

155 7. Adjustment of impractical boundaries.

156 The expanded annexation will prevent an impractical boundary by including adjacent
157 neighborhoods that would otherwise be bypassed, creating unincorporated county peninsulas.

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

160 The expanded annexation area is located within the City’s planned Urban Growth Area, is
161 already largely developed at urban densities, and is urban in character.

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

165 C. GMA CONSIDERATIONS

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

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

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

- 178 1. Urban growth. Encourage development in urban areas where adequate public facilities
179 and services exist or can be provided in an efficient manner.
- 180 2. Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling,
181 low-density development.

182 3. Transportation. Encourage efficient multimodal transportation systems that are based on
183 regional priorities and coordinated with county and city comprehensive plans.

184 4. Housing. Encourage the availability of affordable housing to all economic segments of
185 the population of this state, promote a variety of residential densities and housing types, and
186 encourage preservation of existing housing stock.

187 9. Open space and recreation. Retain open space, enhance recreational opportunities,
188 conserve fish and wildlife habitat, increase access to natural resource lands and water, and
189 develop parks and recreation facilities.

190 11. Citizen participation and coordination. Encourage the involvement of citizens in the
191 planning process and ensure coordination between communities and jurisdictions to reconcile
192 conflicts.

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

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

199 • RCW 36.70A.110(1): Each county that is required or chooses to plan under RCW
200 36.70A.040 shall designate an Urban Growth Area or areas within which urban growth shall be
201 encouraged and outside of which growth can occur only if it is not urban in nature.

202 • RCW 36.70A.110(3): Urban growth should be located first in areas already characterized
203 by urban growth that have existing public facility and service capacities to serve such
204 development, and second in areas already characterized by urban growth that will be served by

205 combination of both existing public facilities and services and any additional needed public
206 facilities and services that are provided by either public or private sources. Further, it is
207 appropriate that urban government services be provided by cities, and urban government services
208 should not be provided in rural areas.

209 • RCW 36.70A.110(4): In general, cities are the units of local government most
210 appropriate to provide urban governmental services.

211 • RCW 36.70A.110(6): Each county shall include designations of Urban Growth Areas in
212 its comprehensive plans.

213 Here, the annexation is located entirely within the City's Urban Growth Area. The joint land use
214 and zoning designation within the annexation was adopted by both the City and the County. No
215 evidence has been provided that the City and County comprehensive plans are not compliant
216 with the GMA. The City provided sufficient documentation that the City has the obligation to
217 provide an adequate range of urban services and utilities to the subject properties in a timely and
218 efficient manner.

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

221 Thurston County has adopted county-wide planning policies that were last updated in 2015
222 (Exhibit 1, Attachment I). The Board determined that the county-wide planning policies under
223 RCW 36.70A.210(1) are applicable to this decision, and that the decision is consistent with the
224 county-wide planning policies.

225 D. DIVISION OF ASSETS AND LIABILITIES

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

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

229

230

III. DECISION

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

232 and the meeting as well as the material contained in said Lacey Steilacoom/Marvin Rd

233 Annexation File (ANNEX2018-05). According to the findings above, the Board may approve,

234 modify, or deny the annexation. Modification and denial are only allowed if there is evidence in

235 the record that the annexation is inconsistent with one or more of the objectives in RCW

236 36.93.180. RCW 36.93.150. Based upon the above findings, and having weighed the statutory

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

238 seconded, and passed by a vote of 3 to 0 (William Kilpatrick absent) to reject the initial

239 annexation proposed by the City of Lacey for the reasons described above in the Findings and to

240 approve the modified City of Lacey Steilacoom/Marvin Rd Annexation proposed by Thurston

241 County for the reasons described above in the Findings to add 150 acres of territory for a total of

242 approximately 410 acres, the legal description of which is as follows:

243 BEGINNING at the Northwest corner of the Northeast Quarter of Section 14, Township 18

244 North, Range 1 West, W.M.; thence easterly along the north line of said subdivision to the

245 Northeast corner of said section; thence easterly along the north line of the Northwest Quarter of

246 Section 13, Township 18 North, Range 1 West to the Northeast corner of said subdivision;

247 thence southerly along the east line of said Northwest Quarter to the southerly right of way of

248 Steilacoom Road Southeast; thence southwesterly along said right of way to the east line of Tract

249 X of the Plat of Madrona Park 5, recorded under Auditor's File No. 3417425, records of

250 Thurston County, Washington; thence southerly along said east line of said Tract X to the north

251 line of the Northwest Quarter of the Southwest Quarter of said Section 13; thence easterly along
252 said north line to the Northeast corner of said subdivision; thence southerly along the east line of
253 said subdivision to the south line thereof; thence westerly along said south line to the west line of
254 said subdivision; thence westerly along the south line of the Northeast Quarter of the Southeast
255 Quarter and Northwest Quarter of the Southeast Quarter of Section 14, Township 18 North,
256 Range 1 West, W.M. to the west line of said Southeast Quarter; thence westerly along the south
257 line of the Northeast Quarter of the Southwest Quarter of said Section 14, to the Southwest
258 corner of Lot 2 of the Amended Boundary Line Adjustment BLA-1732, recorded on April 4th,
259 1996, under Auditor's File No. 3022894, records of Thurston County, Washington; thence
260 northerly along the west lines of Lot 1 and 2 of the above said BLA-1732 and the extension
261 thereof to the northerly right of way line of Steilacoom Road Southeast; thence northeasterly
262 along said right of way to the north-south center line of said section 14; thence northerly along
263 said north-south center line to the point of beginning.

264 Containing 410 +/- acres.

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

267 EXCEPTING THEREFROM the south 30 feet of the west 245 feet of said Northeast Quarter of
268 the Southeast Quarter of Section 14.

269 THEREFORE, BE IT RESOLVED BY THE WASHINGTON STATE BOUNDARY REVIEW
270 BOARD FOR THURSTON COUNTY that the City of Lacey proposal, as modified by the
271 Board, to annex approximately 490.1 acres in Thurston County, File No. ANNEX2018-05, is
272 hereby APPROVED.

273 ADOPTED BY THE BOUNDARY REVIEW BOARD by a vote of 3 to 0 in favor of the motion
274 to approve on the 9th day of April 2019 and signed in authentication on the 22nd day of April
275 2019.
276

APPROVED AS TO FORM:

JON TUNHEIM
PROSECUTING ATTORNEY



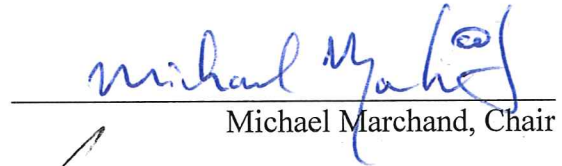
Rick Peters
Deputy Prosecuting Attorney

FILED BY ME ON THIS 23rd DAY OF
APRIL 2019

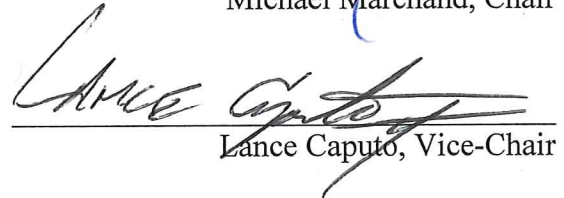


KATRINA VAN EVERY, CHIEF CLERK

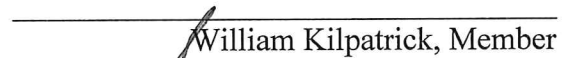
FOR THE WASHINGTON BOUNDARY
REVIEW BOARD FOR THURSTON
COUNTY



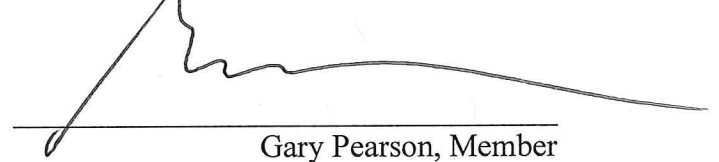
Michael Marchand, Chair



Lance Caputo, Vice-Chair



William Kilpatrick, Member



Gary Pearson, Member

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

281 NOTE: The 30-day appeal period expires on May 22, 2019.