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LEWIS COUNTY

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SUPERIOR COURT
CLERK'S OFFICE

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Declaration Affidavit
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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR LEWIS COUNTY**

CITY OF WINLOCK, a Washington Municipal Corporation,

Petitioner,

v.

STATE OF WASHINGTON BOUNDARY REVIEW BOARD FOR LEWIS COUNTY, et al.,

Respondents.

Case No. 23-2-00253-21

DECLARATION OF DAVID K. TOYER IN SUPPORT OF CITY OF WINLOCK'S REPLY

I, DAVID K. TOYER, do declare or certify under the laws of the state of Washington that the following is true and correct:

1. I am the President of Toyer Strategic Advisors, Inc., a land use and economic development consultancy in Lake Stevens, Washington.
2. I have over 20 years of experience in land use and economic development, which experience includes consulting on annexations.
3. On January 11, 2022, I received an email from Mindy Brooks, Senior Long Range Planner, Lewis County Community Development, which included two (2) attachments regarding the County's process for annexations. Attached hereto as Exhibit A and incorporated by this reference

Declaration of David K. Toyer in Support of City of Winlock's Reply.
Page | 1

ORIGINAL



Buzzard O'Rourke, P.S.
attorneys at law

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314 Harrison Avenue
Centralia
Washington
98531

Mailing Address
PO Box 59
Centralia
Washington
98531

Contact Information
Ph: (360) 736-1108
Fax: (360) 330-2078
buzzardlaw.com

1 as if fully set forth herein is a true and correct copy of the email and attachments received on such
2 date.

3 4. One of the attachments received on January 11, 2022, is titled "WASHINGTON STATE
4 BOUNDARY REVIEW BOARD FOR LEWIS COUNTY NOTICE OF INTENTION". The form
5 is dated March 3, 2016. This required form includes the following: "I certify that the above is true
6 and accurate and that I am an official or employee of the governmental jurisdiction seeking
7 boundary change action or the proponent for the incorporation or formation." This is the form – the
8 Notice of Intention – that was completed and submitted to the County September 28, 2022. The
9 Notice of Intention form, which is required by the County, requires a signature of an official or
10 employee of the governmental jurisdiction. I was informed by the County Planning Department
11 that any NOI signed by a non-governmental individual is improper and would not be accepted by
12 the BRB.
13

14
15 5. The other attachment received on January 11, 2022, is titled "WASHINGTON STATE
16 BOUNDARY REVIEW BOARD FOR LEWIS COUNTY EXHIBITS NEEDED FOR NOTICE
17 OF INTENTION". This document includes a list and states: "The following items must be
18 submitted as part of the Notice of Intention." All of the items listed were submitted to the County
19 Boundary Review Board and the Notice of Intention was deemed legally sufficient on November
20 28, 2022. Not once did the Boundary Review Board – which required the Notice of Intention to be
21 completed on their mandatory form – inform the City of Winlock the NOI was insufficient or
22 invalid because the City of Winlock signed the NOI, and not once did the Boundary Review Board
23 inquire whether the City of Winlock was, in fact, an Initiator.
24

25
26 6. The Washington State Boundary Review Board Association provides a similar document
27 for annexations on its website. Attached hereto as Exhibit B and incorporated by this reference as
28

Declaration of David K. Toyer in Support
of City of Winlock's Reply.
Page | 2



Buzzard O'Rourke, P.S.
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1 if fully set forth herein is a true and correct copy of the Washington State Boundary Review Board
2 Association Filing Instructions.

3 7. In personally consulting on six (6) annexations since 2018, I have been responsible for
4 preparing and submitting Notices of Intent to Annex ("NOI") on five (5) occasions, which NOIs
5 have been filed with boundary review boards in King, Snohomish, and Lewis counties. And on
6 two (2) occasions, I substantively contributed to the preparation of each NOI prior to each NOI
7 being filed by other parties in Snohomish and Lewis counties. In every one of those six (6)
8 annexations, the Mayor or other authorized city official was required to either sign the Notice of
9 Intention or include a signed cover letter for the Notice of Intention to be deemed complete.
10

11 8. The City of Winlock has invited public input throughout this annexation process.
12 Specifically, public comment was received at a regularly scheduled council meeting regarding the
13 10% petition on March 28, 2022. The City of Winlock held community open house on June 27,
14 2022, and invited the public and anyone interest in the annexation to attend, learn, and discuss. The
15 Winlock City Council held a public hearing regarding the 60% Petition on August 22, 2022. The
16 City of Winlock held a second community open house on November 17, 2022, and invited the
17 public and anyone interested in the annexation to attend, learn, and discuss. Prior to considering a
18 final ordinance to annex, the City of Winlock will hold another public hearing to receive public
19 input regarding the annexation.
20
21
22

23 DATED this 13th day of April, 2023. Signed at Lake Stevens, Washington.

24
25 

26 DAVID K. TOYER
27








DECLARATION OF DAVID K. TOYER IN SUPPORT OF Reply Draft-FINAL

Final Audit Report

2023-04-13

Created:	2023-04-13
By:	Marissa Jay (marissa@buzzardlaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAAABAoR3EQqbOKuGBW5YJ9IJK9RvjxmrGxjwn.

"DECLARATION OF DAVID K. TOYER IN SUPPORT OF Reply Draft-FINAL" History

-  Document created by Marissa Jay (marissa@buzzardlaw.com)
2023-04-13 - 5:09:12 PM GMT- IP address: 73.11.145.105
-  Document emailed to David Toyer (david@toyerstrategic.com) for signature
2023-04-13 - 5:09:39 PM GMT
-  Email viewed by David Toyer (david@toyerstrategic.com)
2023-04-13 - 5:36:59 PM GMT- IP address: 174.164.174.247
-  Document e-signed by David Toyer (david@toyerstrategic.com)
Signature Date: 2023-04-13 - 5:37:44 PM GMT - Time Source: server- IP address: 174.164.174.247
-  Agreement completed.
2023-04-13 - 5:37:44 PM GMT

Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.

EXHIBIT A

Marissa Jay

From: David Toyer <david@toyerstrategic.com>
Sent: Tuesday, April 11, 2023 6:38 PM
To: Marissa Jay; Brandon Svenson; Robert Webster; Penny Jo Haney
Subject: FW: Winlock Annexation
Attachments: Handout - Exhibit List for Notice of Intention form.docx; Form - Notice of Intention.pdf

Here is a forward of what the County/BRB sent us at the outset of the annexation process, which NOI form specifically requires the city to sign it.

DAVID K. TOYER, PRESIDENT
TOYER STRATEGIC ADVISORS, INC.
10519 20th STREET SE, STE 3
LAKE STEVENS, WA 98258
425-344-1523
toyerstrategic.com

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From: Mindy Brooks <Mindy.Brooks@lewiscountywa.gov>
Sent: Tuesday, January 11, 2022 8:46 AM
To: Heather Toyer <heather@toyerstrategic.com>; Karen Witherspoon <Karen.Witherspoon@lewiscountywa.gov>; David Toyer <david@toyerstrategic.com>
Subject: Winlock Annexation

Heather –

I've included Karen here. All annexation questions should go to Karen and all UGA questions should go to me. I'm also including a couple of attachments related only to annexations. UGA changes have a different process and requirements.

Thanks

~

Mindy Brooks
Senior Long Range Planner
Lewis County Community Development
(360) 740-2610

**WASHINGTON STATE BOUNDARY REVIEW BOARD FOR LEWIS COUNTY
NOTICE OF INTENTION**

1. Name of City, Town, or Special Purpose District: _____
2. Action Sought: _____
3. Reason for seeking action: _____

4. Briefly describe proposal: _____

5. Method used to initiate the proposed action: _____
6. State statute under which action is sought: _____

FACTORS THE BOARD MUST CONSIDER

Please respond to the factors that the Board must consider as outlined in RCW 36.93.170.

POPULATION AND LAND USE

1. Please provide the following information:

Characteristics of Existing Entity		Characteristics of Proposed Annexation Area	
Existing	20-year Projection	Existing	20-year Projection
_____ People	_____ People	_____ People	_____ People
_____ Residences	_____ Residences	_____ Residences	_____ Residences
		_____ Businesses	_____ Businesses

2. What source is the basis for these projections? _____
3. Acres of the existing entity: _____ Acres of the proposed annexation area: _____
4. Assessed valuation of existing entity: \$ _____ of proposed annexation area: \$ _____
5. Existing land use of the proposed annexation area: _____

6. Existing land use of the area surrounding the proposal: _____

7. Existing Comprehensive Plan designation for the proposed annexation area: _____
8. Comprehensive Plan designation for the area surrounding the proposal: _____

9. Existing zoning designation for the proposed annexation area: _____
10. Zoning designation for the area surrounding the proposal: _____
11. If the proposal is approved, will any changes to the zoning or the Comprehensive Plan designations be required within the next 18 months? _____
12. Has any portion of this area been previously reviewed by the Boundary Review Board? _____
List BRB File Nos. _____

MUNICIPAL SERVICES

Please provide the following information about the provision of services to the area.

Water Service

1. Existing provider of water _____
2. Will the provider of water to the site change if the proposal is approved? ___Yes ___No
3. If the provider of water is proposed to be changed, is the annexation area included within their capital facilities plan? ___Yes ___No ___N/A
3. Please describe the water source (i.e. water rights and wells) that will serve the annexation area.

4. Will additional water rights be necessary to serve the area? ___Yes ___No
5. Please describe the water mains that serve the property, including their location and diameter (attach a map if necessary). _____

6. Will additional water line capacity be necessary to accommodate the proposed annexation? ___Yes ___No
7. Will additional water pressure be necessary to serve the area? ___Yes ___No
8. Please describe any reservoirs/water storage facilities that will serve the site. _____

9. Will additional storage capacity be necessary to accommodate the proposed annexation? ___Yes ___No
11. If additional capacity will be required to serve the annexation area (for water rights, water distribution, water storage, additional pressure, or other issues), please describe how and when these capacity increases will be provided. _____

Sewer Service

1. Existing provider of wastewater treatment _____
2. Will the provider of wastewater treatment for the annexation area change if the proposal is approved?
___ Yes ___ No
3. If the provider of wastewater treatment is proposed to be changed, is the annexation area included within their capital facilities plan? ___ Yes ___ No ___ N/A
4. Please describe the capacity of the existing wastewater treatment plant and the amount of wastewater anticipated to be generated by the annexation area (at present and at build out). _____

5. Will any additional wastewater treatment plant capacity be needed to accommodate the proposed annexation? ___ Yes ___ No
6. Please describe the wastewater treatment lines that serve the property, including the location and diameter (attach a map if necessary). _____

7. Will additional wastewater treatment lines be necessary to accommodate the proposed annexation?
___ Yes ___ No
8. Will a lift station be required to serve the proposed annexation area? ___ Yes ___ No
9. If additional capacity will be required to serve the annexation area (for wastewater treatment lines, plants or lift stations), please describe how and when these capacity increases will be provided. _____

Fire Service

1. Existing provider of fire service _____
2. Will the provider of fire service for the annexation area change if the proposal is approved? ___ Yes ___ No
3. Please describe the nearest station that will serve the proposed annexation area (and provide the station address). _____

4. Will the response time increase or decrease as a result of the proposed annexation? _____

5. Will the annexing agency require additional fire personnel or equipment to serve the proposed annexation area? ___ Yes ___ No
6. If additional personnel or equipment will be required to deliver fire service, please describe how and when these capacity increases will be provided. _____

Police Service

1. Existing provider of police service _____
2. Will the provider of police service for the annexation area change if the proposal is approved? ____ Yes
____ No
3. Will the annexing agency require additional police personnel or equipment to serve the proposed annexation area? _____

4. If additional personnel or equipment will be required to provide police service, please describe how and when these capacity increases will be provided. _____

ECONOMIC IMPACT

Please explain the financial impacts that are anticipated from the proposal (attach additional sheets and justification if necessary)

For the agency proposing annexation. What are some of the revenue and cost implications anticipated from the annexation (i.e. additional tax revenues, added police service to serve area, etc.)?

For the agencies being annexed. What are some of the revenue and cost implications anticipated for junior taxing districts and other agencies as a result of the annexation? As part of the response, please note any infrastructure investments (i.e. roads, sewer, water, etc.) that have been previously made that are proposed to be annexed. _____

LOCAL REVIEW

1. Describe the environmental review process completed for the proposed action. Attach a copy of the SEPA checklist and determination if complete. _____

2. Describe how the proposal is consistent with the Growth Management Act (RCW 36.70A) (attach additional sheets if necessary). _____

3. Describe the outreach conducted with affected jurisdictions. Please provide a copy of any notices to the jurisdictions. _____

4. Describe the effect of the proposal on adjacent areas. _____

OBJECTIVES OF THE BOUNDARY REVIEW BOARD

Please describe how the proposed annexation meets (or does not meet) the objectives of RCW 36.93.180 (attach additional sheets if necessary).

- 1. Preservation of natural neighborhoods and communities. _____

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

- 3. Creation and preservation of logical service areas. _____

- 4. Prevention of abnormally irregular boundaries. _____

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

- 6. Dissolution of inactive special purpose districts. _____
- 7. Adjustment of impractical boundaries. _____
- 8. Incorporation as cities or towns or annexation to cities and towns of unincorporated areas which are urban in character. _____

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

I certify that the above is true and accurate and that I am an official or employee of the governmental jurisdiction seeking boundary change action or the proponent for the incorporation or formation.

Printed Name of Person Completing Notice

Signature of person completing this form

Date

Title

Telephone

Mailing Address

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR LEWIS COUNTY EXHIBITS NEEDED FOR NOTICE OF INTENTION

The following items must be submitted as part of the Notice of Intention, and shall be labeled as follows:

EXHIBIT A

A copy of the legal description of the boundaries of the area involved in the proposed action, certified by a registered engineer or land surveyor.

EXHIBIT B

A Lewis County Assessor's map, certified by a registered engineer or land surveyor, on which the boundary of the area involved in the proposal and the size in acres is clearly indicated. Include a list of parcel numbers for all lots in the proposed area.

EXHIBIT C

A vicinity map or maps no larger than 8.5 x 11 and reproducible on a non-color photocopier displaying:

1. The boundary of the area involved in the proposal and the size in acres.
2. The current corporate boundaries of the proposing entity.
3. The current BRB-approved water and sewer service area of the proposing entity.
4. Major physical features such as streets and highways, railways, public facilities, etc.
5. The boundaries of cities or special-purpose districts having jurisdiction in or near the proposed area.
6. The location of the nearest service point(s) for the required utility services to the area, including existing and proposed water lines and sewer lines, and their diameter.
7. The Lewis County zoning, Comprehensive Plan designations, Urban Growth Area and future water and sewer service areas and, if available, proposed city planning and zoning plan designations.

EXHIBIT D

Documentation of the process including:

1. Certified copy of the petition(s).
2. Certified copy of assessed valuation.
3. Affidavit of publication of the public hearing notice.
4. Certified copy of minutes of the public hearing.
5. Signed and certified copy of the resolution accepting the proposal as officially passed.

EXHIBIT E

A copy of the Threshold Determination and completed SEPA checklist pertaining to the proposed BRB action (when necessary). Include the list of persons who were sent the checklist and all written comments from governmental agencies and the general public.

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR LEWIS COUNTY EXHIBITS NEEDED FOR NOTICE OF INTENTION

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5. Signed and certified copy of the resolution accepting the proposal as officially passed.

EXHIBIT E

A copy of the Threshold Determination and completed SEPA checklist pertaining to the proposed BRB action (when necessary). Include the list of persons who were sent the checklist and all written comments from governmental agencies and the general public.

EXHIBIT B

WASHINGTON STATE BOUNDARY REVIEW BOARD ASSOCIATION

FILING INSTRUCTIONS

Please submit this Notice of Intention form and the exhibits listed below to the Boundary Review Board Office, (Your County Address, Zip Code) for determination of sufficiency by the Board Planner. When deemed sufficient by the Board Planner, the **original**, an additional number of copies specified by the Board Planner, and a **filing fee of \$50.00** is required for filing.

The Notice of Intention is to be completed by an elected official or employee of the governmental jurisdiction that is seeking the boundary change action or the proponent in the case of incorporation or formation.

The following items must be submitted and labeled as follows:

EXHIBIT A. A copy of the legal description of the boundaries of the area involved in the proposed action certified by a registered engineer or land surveyor.

EXHIBIT B. (Your County) Assessor's map certified by a registered engineer or land surveyor on which the boundary of the area involved in the proposal and the size in acres must be clearly indicated. Include a list of all parcel numbers for lots in proposed area.

EXHIBIT C. A vicinity map or maps no larger than 8.5 x 11 and reproducible on a non-color photocopier displaying:

- 1) The boundary of the area involved in the proposal and the size in acres.
- 2) The current corporate boundaries of the proposing entity.
- 3) The current BRB-approved water and sewer service area of the proposing entity.
- 4) Major physical features such as streets and highways, railways, public facilities, etc.
- 5) The boundaries of cities or special purpose districts having jurisdiction in or near the proposed area.
- 6) The location of the nearest service point(s) for the required utility services to the area. Show existing and proposed water/sewer lines and diameter.
- 7) (Your County) zoning, Comprehensive Plan designations, Urban Growth Area, and future water and sewer service areas and, if available, proposed city planning and zoning plan designations.

EXHIBIT D. Documentation of the process: certified copy of the petition(s); certified copy of assessed valuation; affidavit of publication of public hearing notice; certified copy of minutes of public hearing; a signed and certified copy of the resolution accepting the proposal as officially passed. Interlocal Agreement Annexations (RCW 35A14.460 or RCW 35A14.480) must include the same documentation (except for the petition) and a copy of the Interlocal Agreement.

EXHIBIT E. A copy of the Threshold Determination and completed SEPA checklist pertaining to the proposed BRB action with full explanations. Include the list of persons who were sent the checklist and all written comments from governmental agencies and the general public.

MUNICIPAL INCORPORATIONS Exhibits A, B, C, a certified copy of assessed valuation and a certified copy of the petition calling for the incorporation are required.