

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR KING COUNTY
SPECIAL MEETING AND PUBLIC HEARING MINUTES
CITY OF BURIEN NORTH HIGHLINE AREA ANNEXATION (FILE NO. 2281)
SEPTEMBER 2, 2008

The following Minutes are a summary of the Special Meeting/Public Hearing for the City of Burien North Highline Area Annexation (File No. 2281). Complete written transcripts are available from the Boundary Review Board.

I. CALL TO ORDER

Claudia Hirschey, Chair, convened the meeting of September 2, 2008 at 7:00 P.M.

II. ROLL CALL

The following members were present at the Special Meeting and Public Hearing:

Evangeline Anderson	Charles Booth
AJ Culver	Robert George
Lynn Guttman	Claudia Hirschey
John Holman	Roberta Lewandowski
Roger Loschen	Michael Marchand

Robert Cook has recused himself from this hearing as he owns property in the greater North Highline Area.

III. PUBLIC HEARING

A. Hearing Process:

Chair Hirschey called to order the Special Meeting/Public Hearing before the Boundary Review Board for King County. She stated that the purpose of this meeting is to review a Notice of Intention submitted by the City of Burien to the Boundary Review Board in June 2008 for the annexation of the North Highline Area.

Chair Hirschey reported that, at the conclusion of this hearing, the Boundary Review Board will determine whether it is necessary to extend the hearing to September 4, 2008.

Chair Hirschey opened the public hearing.

Chair Hirschey stated that the Boundary Review Board is charged with the task of providing independent review and decision-making with respect to applications for municipal annexation.

Chair Hirschey described the standards for a quasi-judicial public hearing and the scope of the hearing. A public hearing before this Board is a quasi-judicial review – that is the Board functions as a judicial body. A request for review before the Board has been filed by a party with standing. The Board acts collectively like a judge, and is empowered to hear testimony from the applicant, the party seeking review, and members of the community.

The Boundary Review Board is required to base its decision on several regulations and guidelines. Specifically, the Board must consider RCW 36.93, Sections 170 (Factors) and 180 (Objectives). This is the state law that creates and guides the board. These Factors and Objectives are printed on your agenda. The Board decision must also be consistent with the State Growth Management Act, with the King County Comprehensive Plan and with plans and policies adopted by the applicant, the City of Burien.

Chair Hirschey requested that Lenora Blauman provide an overview of the Notice of Intention for the North Highline Annexation

Mrs. Blauman reported that, on June 25, 2008, the applicant, the City of Burien filed a Notice of Intention with the Boundary Review Board. The City of Burien adopted a Potential Annexation Area in November 2006 to include the North Highline Area.

The City of Burien proposes the annexation of approximately 1705 acres of land, known as the North Highline Area. The site is located immediately adjacent to the northern boundary of the City of Burien. The Area's northernmost boundary is variously formed by South 107th Street, South 108th Street, South 116th Street, SW 112th Street and SW 116th Street. The western boundary of the site is variously formed by the City of Seattle corporate boundary (at approximately 29th Avenue SW) and by Ambaum Boulevard SW. The eastern boundary of the site is generally formed by SR 99 adjacent to the City of Tukwila. The southern boundary of the site is formed by South 128th Street and SW 128th Street.

Burien's City Council adopted a Resolution for Annexation in May of 2008 in order to support orderly, logical growth of governance and provision of coordinated public services/facilities to the North Highline Area.

The City of Burien Resolution for Annexation calls for an election to permit the citizens of the North Highline Area to ultimately decide whether or not to join the City of Burien.

Chair Hirschey stated that, ordinarily, the Board would now open the public hearing. She reported, however, that new information has been brought forward that may alter the hearing process before the Board. Chair Hirschey requested that Robert Kaufman, Assistant Attorney General for the Boundary Review Board, provide that new information and provide procedural guidance to the Board.

Robert Kaufman stated that, with the transmittal of the Notice of Intention to the Boundary Review Board, the City of Burien invoked jurisdiction seeking a public hearing before the Board in order to provide citizens with an independent venue for assessment of the proposed North Highline Annexation Area.

The City of Seattle subsequently invoked jurisdiction and tendered the fee of \$200.00. The Board returned the fee to the City of Seattle as the fee was not required owing to the prior invoking of jurisdiction by the City of Burien.

Based upon the Notice of Intention and the invoking of jurisdiction the Board would customarily now provide instructions and begin the formal hearing process for the North Highline Annexation.

However, the City of Burien on August 27, 2008, submitted a letter to the Board, pursuant to the Board's Rules (IV.B.7) seeking to withdraw the Notice of Intention for the proposed North Highline Annexation. A copy of that letter was reportedly mailed to Seattle Mayor Greg Nickels and Seattle City Councilmembers.

Under Boundary Review Board Rules (IV.B.7) Any Notice of Intention filed with the Board may be withdrawn by the initiator or entity filing the same at any time prior to invoking of the Board's jurisdiction. The Rule also states that Notices of Intention may be withdrawn only with the consent of the Board and of all persons or entities that have requested review (invoked jurisdiction) by the Board and paid the fee required to file such a request.

Therefore, at this time, the Boundary Review Board must consider the letter of request by the City of Burien to withdraw this Notice of Intention. The Board is also responsible to consider a statement presented by the City of Seattle, based upon the invoking of jurisdiction by that government unit.

Consent by the Boundary Review Board to the City of Burien's request to withdraw the file would effectively terminate the Notice of Intention. Following that decision, there would be no proposal before the Board and, therefore, the Board would have no cause or authorization to conduct a public hearing on the merits of the proposed action.

B. Call for Presentation of Statements

Chair Hirschey called for presentation of statements from the City of Seattle concerning the Notice of Intention for the City of Burien Annexation of the North Highline Area.

Roger Wynne, Assistant City Attorney for the City of Seattle, provided a statement in this matter. Mr. Wynne stated that, as reported in a briefing of August 18, 2008, it is the determination of the City of Seattle that the City of Burien lacks standing to file a Notice of Intention with the Boundary Review Board for the North Highline Annexation.

Mr. Wynne stated that the City of Burien's annexation proposal fails to comply with: (1) the existing King County Comprehensive Plan/Countywide Planning Policies; and (2) a Growth Management Hearings Board ruling setting requirements for the determination of Potential Annexation Area boundaries for the North Highline Area.

Mr. Wynne reported, further, that the City of Burien has spurned collaboration with the City of Seattle which could have provided for an establishment of Potential Annexation Areas to promote good governance and the provision of local public services and facilities.

Mr. Wynne stated that, under Boundary Review Board Rules, the City of Seattle could decline to support the City of Burien's request to withdraw the Notice of Intention for the North Highline Annexation. In that event, Mr. Wynne stated his opinion that the Board would then be required to move forward with review of the Notice of Intention. In that circumstance, based upon RCW 36.93, *et seq.*, the Board would reportedly be required to deny the proposed annexation. That action would effectively prohibit the City of Burien from proceeding with efforts to annex North Highline for one year.

Mr. Wynne stated, in conclusion, that the City of Seattle had determined, however, to take no action to object to the request by the City of Burien to withdraw the Notice of Intention for the North Highline Area Annexation (File No. 2281).

Mr. Wynne reported that, rather, the City of Seattle recommends that, for the future, a spirit of cooperation among the various involved government jurisdictions is appropriate to establish the negotiation process that is a necessary precursor to the making of a just determination as to the most appropriate and workable governance for the citizens of the North Highline Area.

C. Call for the Question

Chair Hirschey stated that, based upon the letter from the City of Burien requesting to withdraw File No. 2281, at this time, the Boundary Review Board is authorized to consider the following options:

1. The Board can directly accept the City of Burien letter requesting withdrawal of the Notice of Intention and immediately close the public hearing.

Consent by the Boundary Review Board to the City of Burien's request to withdraw the file would effectively terminate the Notice of Intention. Following that decision, there would be no proposal before the Board and, therefore, the Board would have no cause or authorization to conduct a public hearing on the merits of the proposed action.

2. The Board can open the meeting to further statements pursuant to the City of Burien letter requesting withdrawal of the Notice of Intention.
3. The Board can deny (or hold in abeyance) the request to withdraw the Notice of Intention and proceed to open the hearing to undertake consideration of the Notice of Intention for the North Highline Annexation Area.

Chair Hirschey called for a motion with respect to the City of Burien Notice of Intention for the North Highline Annexation.

Action: Michael Marchand moved and Roger Loschen seconded a motion that the Boundary Review Board accept the City of Burien letter (dated August 27, 2008) to withdraw the Notice of Intention for the North Highline Area Annexation (File No. 2281) and direct the Executive Secretary to immediately close File No. 2281.

Chair Hirschey invited the Board members to begin discussion of the proposed annexation.

Board members offered the following statements:

- In recognition of the letter of withdrawal from the City of Burien, in combination with concerns expressed by the City of Seattle and Fire District No. 11, the termination of File No. 2281, it is prudent for the Board to take action to terminate the Notice of Intention.
- The City of Burien appears, based upon the record, to have proposed several opportunities for Seattle to come to the negotiation table. Burien has apparently been unsuccessful in gaining the consideration of the City of Seattle. The City of Seattle has a responsibility to participate with other jurisdictions in the planning process for the future of North Highline.
- The Growth Management Act of 1990 establishes local jurisdictions as the appropriate units to serve local communities. To that end, the Board encourages each of the affected jurisdictions (e.g., the City of Burien, the City of Seattle, the City of SeaTac, King County, Fire District No. 11) to participate in a mediation process to resolve issues of governance and service so that the citizens of North Highline may rely upon logical, orderly local government as envisioned in the Growth Management Act.

At the close of discussion, Chair Hirschey called for the question.

Action: Michael Marchand restated the motion and Roger Loschen seconded the motion that the Boundary Review Board accept the City of Burien letter (dated August 27, 2008) to withdraw the Notice of Intention for the North Highline Area Annexation (File No. 2281) and direct the Executive Secretary to immediately close File No. 2281.

The Board approved the motion by a unanimous vote.

IV. ADJOURNMENT

Action: Charles Booth moved and Michael Marchand seconded a motion to adjourn the Boundary Review Board Public Hearing/Special Meeting. The Board voted unanimously in favor of the motion. The meeting was adjourned at 7:55 P.M.