



Land of Cheese, Trees and Ocean Breeze

MEMO

Date: June 24, 2022
To: Tillamook County Board of Commissioners
From: Sarah Absher, CFM, Director
Subject: June 27, 2022, Oceanside Incorporation Public Hearing

Included with this memorandum is a copy of the following:

- Petitioner's Hearing Presentation Packet
- Petitioner's Response to "The Capes" comments
- June 2022 Voter Registration Map for Unincorporated Community of Oceanside
- Public Comments Received June 18, 2022, through June 24, 2022

The record is available for inspection at the Department of Community Development and is also available for public inspection at on the Community Development webpage: [851-22-000224-PLNG | Tillamook County OR](https://www.tillamook.or.us/851-22-000224-PLNG) found on the Land Use Applications page under the Planning tab of the Community Development webpage: [Land Use Applications Under Review | Tillamook County OR](https://www.tillamook.or.us/Land-Use-Applications-Under-Review).

The Tillamook County Board of Commissioners will open a public hearing on June 27, 2022, at 8:30am following quasi-judicial hearing proceedings. The hearing will take place at the ATV Building Tillamook County Sheriff's Office located at 5995 Long Prairie Road, Tillamook, Oregon.

Additional hearings are scheduled for July 13, 2022, at 1:00pm and July 28, 2022, at 2:00pm. The hearings have been properly noticed according to the requirements of ORS 221.040(2).

Public testimony will be taken at the June 27, 2022, hearing. The Board will continue the hearing to July 13, 2022, where the Board may hear additional testimony from the public. A link to access the hearings virtually will be posted the Community Development website the day prior to each hearing: [Community Development | Tillamook County OR](https://www.tillamook.or.us/Community-Development).

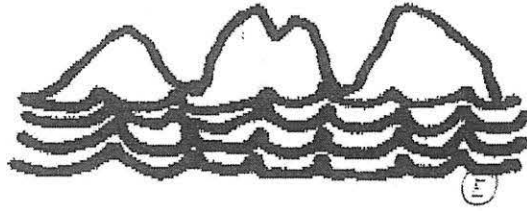
Community Development hearing and meeting general information- including how to provide testimony and methods for participating in public meetings can be found at the Community Development webpage: [Hearing & Meeting Information | Tillamook County OR](https://www.tillamook.or.us/Hearing-&Meeting-Information)

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Sarah Absher". The signature is written in a cursive style with a large initial "S" and a long horizontal flourish at the end.

PETITIONER'S
HEARING
PACKET



OCEANSIDERS UNITED
HEARING PRESENTATION PACKET

PETITION FOR OCEANSIDE INCORPORATION
#851-22-000224-PLNG
Before the Tillamook County Board of Commissioners

Submitted: June 24, 2022

OCEANSIDERS UNITED
HEARING PRESENTATION PACKET

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INTRODUCTION & OVERVIEW

“The Roadmap”

OUTLINE OF STATUTORY ELEMENTS (ORS 221.005 <i>et seq.</i>)		
ELEMENT	ALREADY ESTABLISHED?	TO BE ESTABLISHED
PETITION PROCESS		
FILING		
Prospective Petition Form	YES	N/A
Map with Boundary	YES	N/A
Economic Feasibility Statement ("EFS")	YES	N/A
SIGNATURES		
Valid Signatures	YES	N/A
NOTICE OF HEARING		
Published Notice of Hearing	YES	N/A
Community Notice of Hearing	YES	N/A
Postcard Notice to all property owners	YES	N/A
HEARING ISSUES		
BOUNDARY ADJUSTMENTS		
Addition of Potentially Benefitted Areas	NO	Issue needs to be determined by Commissioners
Exclusion of Potentially Non-Benefitted Areas	NO	Issue needs to be determined by Commissioners
LAND USE		
Likelihood and ability to comply with land use obligations	YES	N/A
ECONOMIC FEASIBILITY		
Due diligence in gathering revenue information	YES	N/A
Due diligence in identifying service costs	YES	N/A
Adequacy of Tax Rate: - Amount Raised - Comparison Data - Accommodation of Growth	NO	Adequacy needs to be determined by Commissioners
Roads program	NO	Adequacy needs to be determined by Commissioners
Reliance on Short Term Rental Revenue	NO	Adequacy needs to be determined by Commissioners
FINDINGS AND ORDER		
November 2022 General Election Deadline = August 6, 2022		

BEFORE THE BOARD OF COMMISSIONERS
OF TILLAMOOK COUNTY, OREGON

IN THE MATTER OF A PETITION FOR THE) INCORPORATION OF THE COMMUNITY OF) OCEANSIDE AND THE CREATION OF THE CITY OF) OCEANSIDE. PETITION INCLUDES A NEW TAX RATE) FOR PROPERTIES WITHIN THE PROPOSED CITY LIMITS) OF THE CITY OF OCEANSIDE AT 80 CENTS (0.80) PER) ONE-THOUSAND DOLLARS (\$1,000). PROPERTIES) PROPOSED TO BE INCLUDED IN THE CITY LIMITS FOR) THE CITY OF OCEANSIDE INCLUDE ALL PROPERTIES) CURRENTLY WITHIN THE OCEANSIDE) UNINCORPORATED COMMUNITY BOUNDARY WITH) THE EXCEPTION OF THOSE PROPERTIES LOCATED) WITHIN "THE CAPES" DEVELOPMENT.)))	FINDINGS OF FACT, CONCLUSIONS AND ORDER #851-21-000449-PLNG
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PETITIONERS: Oceansiders United, P.O. Box 338, Oceanside, Oregon 97134

This matter came before the Tillamook County Board of Commissioners at the request of the Petitioners.

The Board of Commissioners, being fully apprised of the representations of the above-named persons and the record in the file in this matter, finds as follows:



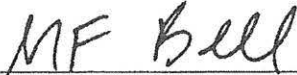
1. A prospective petition for an election on the incorporation of the City of Oceanside was filed by Oceansiders United ("Petitioners") on December 13, 2021, pursuant to ORS 221, and
2. On January 4, 2022, the Tillamook County Clerk certified that Petitioners submitted a sufficient number of valid signatures to refer the petition to the Board of County Commissioners ("the Board") for a hearing pursuant to ORS 221.040, and
3. The Tillamook County Department of Community Development arranged to provide advance public notice of such a hearing to property owners and residents within the proposed city boundary in the manner prescribed by ORS 221.040(1) on January 7, 2022, and
4. The Board conducted the required hearing in sessions convened on January 26, 2022, February 2, 2022, February 9, 2022, March 30, 2022, and May 11, 2022, and
5. In the course of the hearing, the Board and Petitioners mutually agreed that making a determination on the petition based on stipulated findings was in the best interest of the parties and the public, and
6. The Board and Petitioners mutually agreed to adopt the stipulated findings and conclusions set forth in the Decision attached as "Exhibit A" and incorporated by reference herein, and
7. After taking public testimony and conducting public deliberations, the Board closed the hearing on May 11, 2022.


NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON, ORDERS AS FOLLOWS:

- Section 1. The petition for an election on the proposed City of Oceanside is hereby denied.
- Section 2. Before the close of business on May 16, 2022, County Counsel shall mail a copy of this order to the chief petitioners and also notify participating parties of this decision.
- Section 3. This decision shall become effective upon the mailing of the documents listed in Section 2.
- Section 4. In support of the decision set forth in Section 1 of this order, the Board adopts the stipulated findings and conclusions set forth in the Decision attached as "Exhibit A" to this order and incorporated here by reference.


DATED this 11th day of May 2022.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

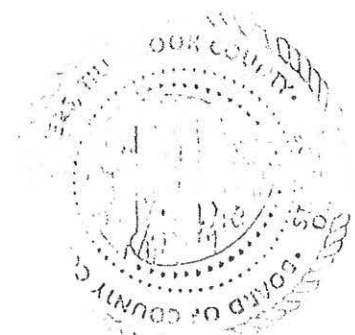
	Aye	Nay	Abstain/Absent
 _____ David Yamamoto, Chair	✓	_____	_____
 _____ Erin D. Skaar, Vice-Chair	✓	_____	_____
 _____ Mary Faith Bell, Commissioner	✓	_____	_____

ATTEST: Tassi O'Neil,
County Clerk


Special Deputy

APPROVED AS TO FORM:


William K. Sargent, County Counsel



“Exhibit A”

I. APPLICABLE CRITERIA AND STANDARDS

The Tillamook County Board of County Commissioners (“the Board”) adopts and incorporates the discussion of the applicable statutory and administrative rule standards and criteria set out in these documents in the record:

- (1) Department of Community Development (“DCD”) Staff Report (January 19, 2022) and appended documents;
- (2) DCD Supplemental Staff Report (January 26, 2022) and appended documents; and
- (3) Memorandum from DCD Director Sarah Absher (March 23, 2022) and appended documents.

Additionally, the record must demonstrate the proposed city’s ability and willingness to comply with applicable Oregon land use goals as set out in *1000 Friends of Oregon v. Wasco County*, 299 Or 244 (1985).

The Board also finds that, although this is a quasi-judicial land use decision, neither the 120-day nor the 150-day deadlines for a final decision prescribed in ORS 215.427(1) apply because this is not an application for a permit, limited land use decision or zone change.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. RECITALS

In discussions at the March 30, 2022, hearing session, the Board and Petitioners agreed it was in the best interest of the parties, the public and the tribunal for the Board to issue its Decision and Order based on stipulated findings of fact and conclusions of law, subject to appropriate public review and comment. The agreement was based on these factors and circumstances:

- (1) Petitioners filed and gathered signatures on a petition and economic feasibility analysis that were premised on an assumption that hearings would be completed and approval secured no later than February 13, 2022. That was the deadline for qualifying the measure for the May 17, 2022, Primary Election ballot pursuant to ORS 221.040(3).
- (2) Delaying an incorporation vote beyond the May 17, 2022, election would preclude the incorporated city (assuming voter approval) from meeting the July 15, 2022, notice deadline for participation in the 2022-2023 county tax collection cycle. Deferring such collections until the 2023-2024 cycle would result in a materially different revenue and expenditure program than that proposed in the original petition.
- (3) In deference to these time constraints, the Board worked to hear Petitioners’ presentation, take public comment, obtain staff input, complete deliberations and make a decision over the course of two hearing sessions on January 26, and February 2, 2022. (An additional hearing session that was scheduled and publicly noticed for January 19, 2022, was unexpectedly cancelled.) On February 2, 2022, the Board unanimously voted to deny the petition based on the record before it. On February 9, 2022, the Board granted petitioners’ motion for reconsideration and withdrew the decision but were unable to schedule further sessions until after the May Primary Election deadline.
- (4) In hearing sessions on February 9 and March 31, 2022, Petitioners and the Board entered into constructive dialogue over whether and how the proceedings and resulting deliberations had been hampered by factors such as the time constraints, the novelty of incorporation proceedings, the vagaries of the statutory provisions and a scarcity of guiding precedent. Petitioners also noted the uncertain legal ramifications of extending the Board’s consideration of the current petition, given the budget disparity described above.
- (5) At the hearing session on March 31, 2022, Petitioners advised the Board of their intent to continue their pursuit of an incorporation election, building on the experience and insights gained from the Board’s findings in this proceeding. To

that end, the Board and petitioners agreed to negotiate and abide by an order based on stipulated findings that are designed to provide specific guidance as to the perceived shortcomings in this record.

B. STIPULATED FINDINGS AND CONCLUSIONS

Accordingly, the Board and petitioners stipulate to the following findings and conclusions:

Threshold Requirements

1. The Board adopts and incorporates Oceansiders United's ("Petitioners") recital of the pre-hearing submissions and notice measures taken at pages 3-4 of Petitioners' Proposed Analysis and Findings ("Petitioners' Analysis") (January 18, 2022).
2. The Board adopts and incorporates the statement in the Supplemental Staff Report (page 4) indicating that "both the County and petitioners have met the notice of public hearing requirements for an incorporation proposal outlined in ORS 221.440(2)." It also accepts and adopts statements on the hearing record by DCD Director Absher and Counsel Joel Stevens that petitioners' actions and submissions, including a proposed tax rate, boundary map and Economic Feasibility Statement ("EFS"), satisfied both the procedural and content prerequisites for securing a hearing on the petition for incorporation.
3. The Board adopts County Clerk Tassi O'Neill's certification that Petitioners obtained sufficient, valid signatures on the petition from electors within the proposed city boundary.

Boundary Determinations

4. The Board deems the record insufficiently developed to support findings on the issue of whether areas seeking exclusion from the new city would "benefit" from incorporation under ORS 221.040(2).
5. The Board deems the record insufficiently developed to support findings on the issue of whether The Capes development would "benefit" from inclusion in the proposed city under ORS 221.040(2).
6. The Board and Petitioners mutually acknowledge that development of a complete record on the issue of such "benefits" was hampered by the belated discovery of information regarding the legal impact of exclusion on an area's legal right to access sewer services under Oregon land use laws.
7. The Board and Petitioners agree that the need to resolve such "benefits" issues areas in this proceeding was obviated as a practical matter by the Board's ultimate decision to deny the petition based on economic feasibility. They further stipulate that such findings may be deferred for consideration without prejudice in any future incorporation hearing.

Likely Compliance with Land Use Goals

8. The Board adopts and incorporates by reference the analysis and proposed findings in the section of Petitioners' Analysis entitled "Analysis of 'Likely' Compliance with Land Use Goals" (pages 15-24). The Board further adopts and incorporates DCD Director Absher's statements in the Supplemental Staff Report (page 3) describing factors relating to "the likelihood that Oceanside can and will comply with Oregon Statewide Planning Goals and the development of a land use program."
9. The Board adopts and incorporates Director Absher's hearing testimony concluding that an incorporated city of Oceanside would be likely and able to comply with the Oregon Statewide Planning Goals.

Economic Feasibility

10. Services: The Board adopts and incorporates by reference the description of services proposed to be provided by the city of Oceanside and the relationship of those services to existing services as outlined in the EFS (pages 4-9).
11. Projected Resources: Petitioners' representations that the "Projected Resources" discussion and accompanying "Notes" reflected in the EFS (pages 10-11) reflect financial estimates drawn from or calculated in good faith reliance on data provided to Petitioners by the County Assessor, DCD staff, Public Works officials and other authoritative sources, such as the League of Oregon Cities and United States 2020 Census reports.
12. Projected Expenditures: With the exception of the "Roads" allocations referenced below, the Board accepts Petitioners' estimates of "Projected Expenditures" and accompanying "Notes" in the EFS (pages 12-14) as a feasible projection drawn in good faith from information provided by County DCD and Public Works staff, published budget information from other cities and other authoritative sources.
13. Tax rate: The record reflects objections by some property owners to the adequacy of the proposed tax rate. As developed and presented in the limited time allowed, the Board finds that the record was insufficiently developed to persuasively establish that the tax rate of \$.80 per \$1000 of assessed value "would generate operating tax revenues sufficient to support an adequate level of municipal services" pursuant to ORS 221.031(2)(c). The Board bases this finding on the following evidence and considerations:
 - a. A city tax at what the Board deems to be a relatively low rate will require the city to rely on alternative revenue sources that are linked to short-term rental operations. In the time available, Petitioners did not present sufficiently persuasive analysis to address the risk that funding for city operations would be vulnerable to reductions in short-term rental operations caused by unanticipated economic or political developments.
 - b. While Petitioners' EFS reflected a balance of projected revenues and expenditures during the first three years after incorporation as required under ORS 221.035, the record was insufficiently developed as to how the city will be able to accommodate potential cost increases associated with long-term growth or inflation, given that the proposed, modest city tax rate will be permanent and that any increases in such tax revenue are strictly constrained by state law.
 - c. The record as presented lacked adequate information or analysis to establish the feasibility of Petitioners' hypothetical allocation of \$50,000 per year for road maintenance and improvements.

PROCEDURAL COMPLIANCE AND NOTICE

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Petition Compliance and Notice Timeline¹

- On May 6, 2022, Oceansiders United filed a new petition asking for a vote on incorporation in the November 8, 2022, General Election
- On June 6, 2022, Oceansiders United submitted signatures from 83 Oceanside residents supporting the petition for a vote on whether to incorporate.
- On June 7, 2022, Oceansiders United mailed 950 postcards to all Oceanside property owners notifying them of the new petition and hearings
- On June 13, 2022, the county certified that enough valid signatures were obtained to secure a hearing by the County Commissioners
- On June 13, 2022, the Community Development staff and representatives of Oceansiders United arranged for posted and published notices of hearings

Excerpts from Director Sarah Absher's June 20, 2022, Staff Report:

Tillamook County Clerk Tassi O'Neil has confirmed the petition filing process is valid.

- *Staff Report, page 2*

"Review of the petition materials included in "Exhibit B" and "Exhibit D" confirm the petitioners have complied with the filing and public hearing notification requirements outlined in ORS 221.031 and ORS 221.040."

- *Staff Report, page 3*

¹ This information is drawn from documents and statements by county staff that have been entered into the record.

PROPOSED CITY BOUNDARY

“Benefits”

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Proposed Boundary: "Benefits"

What is the issue?

From ORS 221.040(2):

"The [Board] may alter the boundaries as set forth in the petition to include all territory which may be benefited by being included within the boundaries of the proposed incorporated city, but shall not modify boundaries so as to exclude any land which would be benefited by the formation of the proposed city. No land shall be included in the proposed city which will not, in the judgment of the [Board] be benefited."

Under the statutory test, the Board must determine whether there are areas to which the benefits of incorporation will not be available, not merely whether some residents will not use them or do not believe they would be worth incurring the city tax. The latter issues are for voters to weigh in casting their vote in an incorporation election.

What are "benefits"?

From the DCD Staff Report (6/20/22):

"Benefit" is not specifically defined within ORS 221.040 however the Petitioners have provided examples of how properties within the proposed city boundary could be "benefitted" by incorporation (Exhibit F). Discussion of what constitutes a "benefit" was also discussed throughout the previous petition hearing proceedings contained within #851-21-000449-PLNG and made part of the record for these proceedings.

Benefits are explored within the Petitioner's submittal included as "Exhibit B" and "Exhibit F" and include:

- Strategic use of Transient Lodging Tax (TLT) revenue generated by Oceanside properties for facility improvement projects that address tourism capacity needs in Oceanside.
- Use of 30% of TLT revenue generated by Oceanside for city improvement projects (i.e., roads).
- Stronger regulatory administration of short-term vacation rentals.

- More control of land use review and regulatory administration for development proposals.
- Opportunity to develop and implement a robust enforcement program to better address community concerns largely related to transient lodging and tourism.
- Enhanced opportunities developed by the city for emergency preparedness and emergency response.

Specifically, it is recognized that Oceanside continues to grow and evolve. Those community residents supportive of the proposed incorporation feel incorporation will afford community residents more local control over decisions that determine rate of growth, how growth is to occur and further define what growth will look like through implementation of updated land use regulations (Exhibits B &F).”

Have representatives or residents of any area outside of the proposed boundary requested to be included?

Not to petitioners' knowledge.

What areas have requested to be excluded?

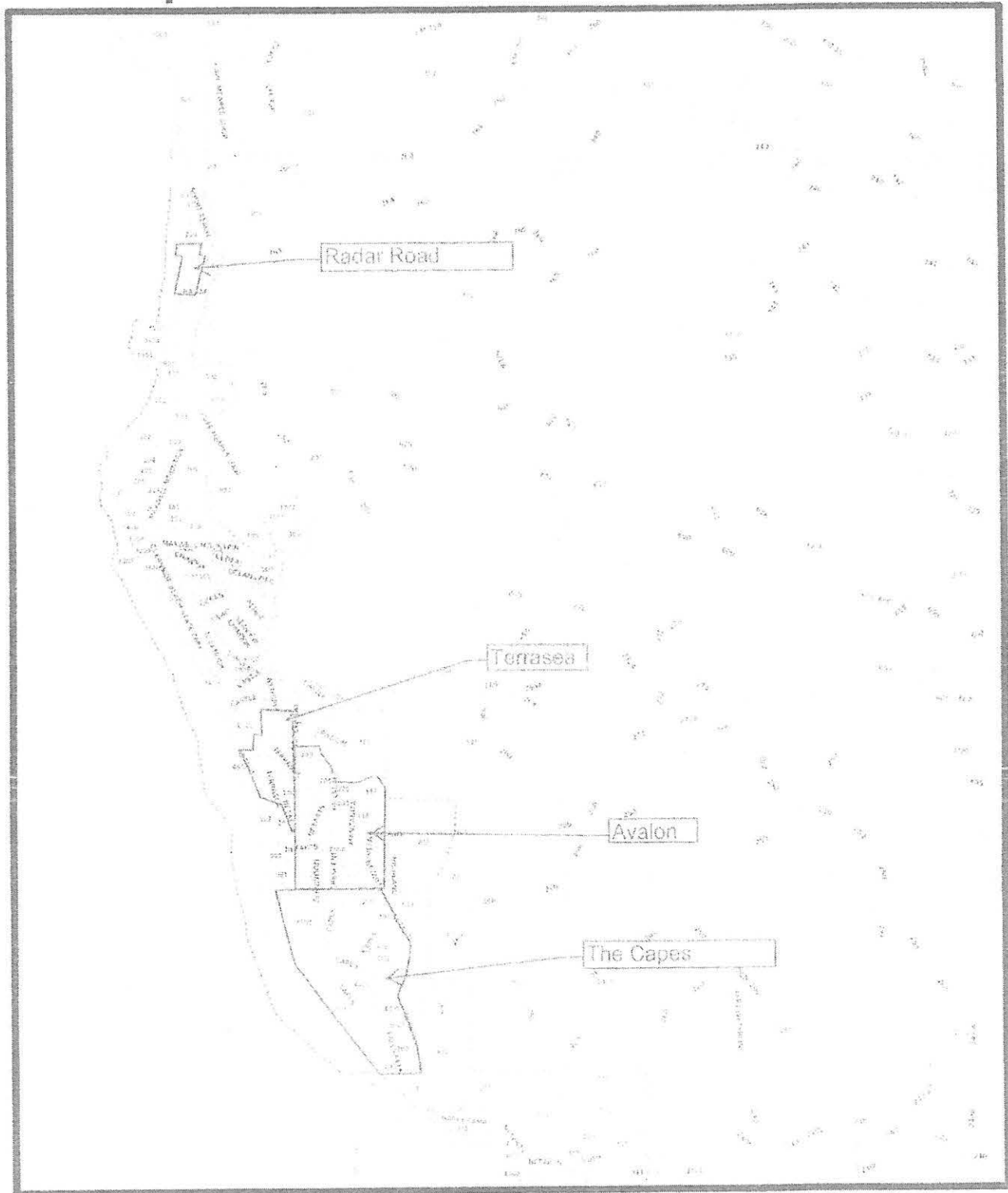
At the previous incorporation hearings, DCD staff prepared a map identifying the following areas where property owners had voiced opposition during public comment:

Radar Road
Terrasea
The Capes
Avalon East and Avalon West (identified jointly as “Avalon”)

Of these, only The Capes sought exclusion through an established Homeowners Association. Representatives of the “Trillium” development also voiced opposition to incorporation late in the first proceedings but it was unclear whether they had an association or that it had taken a formal position.

The map is reproduced on the next page.

Requested Exclusion Area



AVAILABILITY OF PROJECTED CITY SERVICES TO OCEANSIDE NEIGHBORHOODS

	Land Use Services	Road Maintenance	Code Enforcement	Sewer Hookup	City Amenities	Emerg. Prep.
Central Village	YES	YES	YES	YES	YES	YES
Avalon East/Camelot	YES	YES	YES	YES	YES	YES
Radar Road	YES	YES	YES	YES	YES	YES
Avalon West	YES	YES	YES	YES	YES	YES
Terrasca	YES	NO	YES	YES	YES	YES
The Capes	LIMITED	NO	LIMITED	YES	YES	LIMITED

Land Use Services

Property owners in the area will have the benefit of land use standards that are formulated, interpreted and administered by locally-elected officials and their staff. Property owners and residents will have access to complaint process for noncompliant structures and uses.

Road Maintenance

Area includes at least one county road or local access road that will be eligible for improvement and/or maintenance in municipal roads program.

Code Enforcement

Residents of the area will have access to locally funded program for reporting and redressing 'nuisance' violations, such as noise, unlawful parking and disruptive conduct, by day visitors, short-term rental occupants and neighbors – separate from county law enforcement.

Sewer Eligibility

Area property owners will retain eligibility for connection to sanitary disposal facilities (sewer) under state land use goals.

City Amenities

Area residents are anticipated to benefit from enhanced municipal and recreational amenities available for funding under the local TLT tourism facilities program.

Emergency Preparedness

Area residents and property owners will benefit from anticipated municipal emergency preparedness measures and programs.

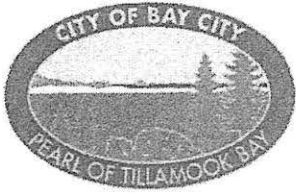
ECONOMIC FEASIBILITY

- Feasibility of Overall Plan
- Adequacy of Tax Rate (Growth)
- Feasible Roads Program
- Informed Reliance on STR Revenue

Feasibility of Overall Plan

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June 22, 2022

To Whom It May Concern:

I was asked to review the Economic Feasibility Statement prepared by the Petitioners for the Oceanside Petition for Incorporation.

In considering the EFS, I compared the Projected Revenues and Expenditures with the adopted budgets of the City of Bay City, as well as other small cities in Tillamook County. It is clear to me that the most significant differences in these budgets, when compared to Oceanside's projections, is that our cities provide services such as water, sewer, and fire, which are covered by service districts for Oceanside.

Initial staffing will require a special skillset to support the City Council as the city sets up. It is my opinion that the Economic Feasibility Statement prepared by the lead petitioners provides a reasonable and rational scenario for financial and administrative functionality if the voters of Oceanside should choose to incorporate.

Sincerely,

David McCall
Mayor
dmcCall@ci.bay-city.or.us
Cell: (503) 801-7866

Adequacy of Tax Rate

Tax Rate Comparison Table

	Perm. Tax Rate (per \$1000)	Assessed Value	Prop. Tax Revenue	Population 2020 Census	Revenue Per Capita	TLT Revenue
Manzanita	.4233	\$579,995,350	\$245,512	598	\$411	\$540,000*
Oceanside (proposed)	.8000	\$303,723,512	\$250,000	366	\$683	\$315,000
Rockaway Beach	.9880	\$478,233,376	\$472,494	1441	\$328	\$470,000*
Nehalem	1.4658	\$ 39,398,898	\$ 57,751	270	\$214	\$ 1,200
Bay City	1.5400	\$155,814,135	\$379,797	1389	\$273	\$45,000
Wheeler	2.2213	\$ 59,087,354	\$131,251	422	\$311	\$49,500
Garibaldi	2.8500	\$120,857,671	\$507,215	830	\$611	\$300,000
Yachats	0.1717	\$282,993,805	\$ 48,590	994	\$ 49	\$700,000

* Includes Hotel Room Taxes

Oceanside Tax Rankings Out of Seven (7) Tillamook County Cities

Permanent Tax Rate	6 th
Assessed Value	3 rd
Property Tax Revenue	3 rd
Per Capita Tax Revenue	1 st
TLT Revenue	3 rd

COPING WITH GROWTH COSTS

Like all cities, an incorporated Oceanside will be subject to with a permanently capped tax rate and an annual valuation increase of 3%. What factors will enable Oceanside to cope with increases in the costs of services and infrastructure expansion that will accompany growth over time?

1. **Population Growth Costs.** Oceanside's residential population growth rate was only .02% between 2010 and 2020 per the Census. Its growth has largely taken the form of new homes intended for part-time or short-term rental use. Other than planning services and code compliance, growth in the population of part-time homeowners is not expected to materially increase the costs of the limited services the new city plans to provide.
2. **Residential Infrastructure Growth Costs.** Oceanside is expected to experience significant growth home construction. Nearly all of the other increased services and infrastructure costs of future residential construction will be absorbed almost entirely by existing special districts, which will require developers to fund them as a condition of approval. The same is true of road construction costs, although the new city will take on the maintenance costs.
3. **Revenue Growth Beyond the Tax Rate and Valuation Caps**

Avalon Heights. A recently-approved subdivision in Avalon Heights will potentially accommodate 60 new homes. The lots were recently appraised at an average value of \$175,000 apiece. The developer, William Hughes, has just completed negotiations with the local sewer and water district and is already proceeding phased-in construction and home sales that he expects to complete within a decade. Based on current trends, these homes will enter the tax rolls with an average value of at least \$400,000-\$500,000, increasing city revenue beyond the caps with virtually no increase in service costs to the city.

Commercial Growth (Hotels). Oceanside has three commercial lots suitable in size, topography and location for multi-unit construction. The new owner of one site is currently exploring construction of a hotel. The other two lots are currently on the market. An incorporated Oceanside will be in the position to adopt a room tax of 5% to 10%, comparable to the rates in other coastal communities. Given Oceanside's popularity and the premium locations of these properties, the additional property tax and room tax revenue from each of these properties as they come on line will further enhance Oceanside's revenue beyond the rate and valuation caps.

[Excerpted from the May 2022 Economic Feasibility Statement]

IV. PROPOSED FIRST AND THIRD YEAR BUDGETS

Pursuant to ORS 221.035(2), Petitioners must propose “first and third year budgets for the new city to demonstrate its feasibility.” Petitioners have elected to project all three of the initial annual budgets to provide additional context for the feasibility determination. These calculations assume the new city will be established in November 2022 and will operate based on a July 1 to June 30 fiscal year.

A. Projected Resources

The new city will initially enjoy minimal revenue during the first fiscal year because the timing of the November 2022 election will not allow it to certify a city tax to the County Assessor in time to meet the yearly July 15 deadline. As a result, city tax collections will not begin until November 2023.

Aside from city tax revenues, Petitioners project that the new City Council will take the necessary administrative steps to commence collection of revenue in the first half of calendar year 2023 from a 9% Transient Lodging Tax and a Short Term Rental Operator’s Fee program (both of which will be initially be modeled on comparable Tillamook County ordinances). While some grant funding may also be available during the first three years, Petitioners opted not to include such funds as resources to fund general operations despite a high degree of confidence they can be obtained. The other allocations are broad projections by the Petitioners based on research and advice from contacts with local cities in Tillamook County and County officials. They will not be binding on the new City Council, should incorporation be approved by voters.

PROJECTED RESOURCES

	Fiscal Year 11/2022-6/2023	Fiscal Year 7/2023-6/2024	Fiscal Year 7/2024-6/2025
(1) City Tax		225,000	230,000
(2) Previous Year City Tax			25,000
(3) Transient Lodging Tax	126,000	315,000	325,000 /\$360,000
(4) STR Operator’s Fees	36,000	80,000	80,000
(5) State Revenue Sharing			35,000
(6) Misc. Fees and Taxes		30,000	30,000
(7) Donations (cash and In kind)	10,000		
TOTAL	172,000	650,000	750,000 725,000/\$760,000

NOTES REGARDING RESOURCE LINE ITEMS

- (1) The item reflects a tax rate of \$.80 per \$1000 as applied to a total assessed value of \$303,723,512 for Oceanside (including The Capes) as of April 21, 2022 based on data from the County Assessor. The total assessed value was also supplemented to include two annual increases of 3% each anticipated before Oceanside collects its first city tax in November 2023. Per guidance from the Oregon Department of Revenue, the resulting tax revenue has been discounted to 95.5% to reflect reductions due to early payment discounts and non-collected funds. This revenue figure is deemed conservative because (1) it does not reflect anticipated increases that will result from new property developments currently underway (such as the 60-lot Avalon Heights subdivision approved in 2021 and a proposed oceanfront hotel at the current site of Oceanside Cabins), and (2) it contains no adjustments for new revenue generated when properties with outdated tax valuations are sold or transferred to new owners.
- (2) The Assessor's Office advises that approximately 90% of taxpayers usually pay their entire annual tax bill by mid-November each year to take advantage of the prepayment discount, with the remaining 10% making payments during the ensuing year. This item reflects the delayed receipt of tax revenue originally levied in the previous year.
- (3) These amounts assume the new City Council will enact an ordinance within the first six months of incorporating that levies an annual tax of 9% levied on gross income by Oceanside short term rentals. Per DCD data, the county's current TLT tax of 10% generated roughly \$350,000 from Oceanside's STRS in 2021. Oceanside's 9% tax would generate \$315,000 – and this is the figure used in the table. (The county TLT ordinance specifies that it will reduce its TLT assessment by the amount that an STR pays in TLT to a municipality – up to a 9% maximum. These projections do not include future increases in the number of individual STRs licensed in Oceanside or potentially significant revenue from impending commercial development. They do reflect a likely 3% increase (inflation) in STR lodging fees, and therefore TLT revenues based upon them, in the 2024-2025 fiscal year.

Note: After this EFS was prepared and filed in May 2022, Community Development Staff provided petitioners with updated information reflecting that the base TLT revenue generated by Oceanside short term rentals during 2021 was \$636,000. This far exceeds the \$350,000 in base TLT petitioners utilized to project Oceanside's TLT in the original EFS. The trend has apparently continued in that TLT generated by Oceanside STRs in the first quarter of 2022 was \$101,000 – which again puts the annual projected return at over \$600,000 for the year (first quarter TLT collections historically make up 15%-20% of annual receipts). To remain conservative, however, petitioners have updated the anticipated amount of base TLT revenue for 2023-2024 and 2024-2025 \$400,000 per year, which translates to \$360,000 if Oceanside adopts a 9% city TLT program.

- (4) These amounts assume Oceanside will act expeditiously to impose short term rental operator's fees at rates comparable to those which Tillamook County currently assesses in unincorporated areas. DCD staff provided this projection for fees anticipated from Oceanside's short-term rentals in 2022-2023.
- (5) At Petitioners' request, the League of Oregon Cities projected that an incorporated Oceanside could reasonably expect cumulative state revenue sharing revenue of at least \$92.00 per capita commencing in FY 2024-2025 for taxes on gas, tobacco, and marijuana. The amount shown is based on a population of 367 per the U.S. Census. No such revenue is reflected before 2024 because cities are not eligible for state revenue sharing unless and until it has assessed and collected a city property tax during the preceding year. The gas tax portion of this revenue (approximately \$28,000) must be used for roads or similar transportation construction or maintenance. This is reflected as a discrete expenditure (transfer) in the following "Projected Expenditures" table.
- (6) This amount reflects as-yet unspecified revenue sources available to the new city, such as development charges, business receipts taxes, utility franchise fees and other permit fees.
- (7) During its initial year, it is anticipated that City Councilors will primarily work without staff utilizing equipment, space and services made available or donated by themselves or other city residents.
- (8) In a meeting with County Treasurer Blanchard to review these projections, petitioners discovered that the total Resources projected for FY 2024-2025 were overstated by \$25,000 due to an addition error. The revision is reflected on the table. The red figure further adjusts the Total Revenue to include the additional TLT revenue discussed in Note No. 3 above.

(continued)

PROJECTED EXPENDITURES

	FY 2022-2023	FY 2023-2024	FY 2024-2025
1. Staff Salary/Benefits		125,000	250,000
2. Election Costs	6,000		
3. Office Rent, Equipment, Supplies, Utilities	10,000	15,000	15,000
4. Fees, Training, Dues, Subscriptions, Travel		5,000	5,000
5. Insurance	10,000	15,000	15,000
6. Professional Services/Legal	30,000	50,000	25,000
7. Land Use Consult. Services		25,000	25,000
8. Transfer to Roads Maint. Fund (includes state gas Tax allotment)		50,000	50,000
9. Transfer to Roads Capital Reserve			30,000
10. Code Compliance/Mun. Ct.		50,000	50,000
11. Emergency Preparedness (may be allocated from TLT Tourism Reserve)		20,000	10,000
12. Transfer to TLT Tourism Reserve	88,000	220,000	225,000
13. Contingency Reserve	28,000	75,000	50,000 60,000
TOTAL	\$172,000	\$650,000	\$750,000 \$760,000

NOTES REGARDING EXPENDITURES LINE ITEMS

- Salary/benefit amounts reflect an assumption that one full-time manager will be employed at a maximum salary of \$80,000 commencing in Fiscal Year 2023-2024 supplemented by part-time or contracted clerical support as needed. The budget projection also allocates staffing funds based on the likelihood that a part-time or full-time assistant manager may be added in the 3rd year at an annual salary of \$50,000. The staffing projection anticipates benefits for full-time staff estimated at 30-35% subject to negotiation at hire.
- This expenditure reflects the estimated election costs to be invoiced by the County Clerk for the incorporation election pursuant to ORS 221.061(1).

3. This amount includes allotments, including use of in-kind donations, rent, furniture, computer, printer, supplies and utilities for a modest office to serve as a center of operations and communications. Subject to further negotiations and approvals, Petitioners have secured provisional agreement to locate a job trailer/office, serviced by existing utility hook-ups, on the Netarts-Oceanside Sanitary District waste treatment compound for a nominal charge. Public meeting space will also be made available without charge in the public meeting room at the Netarts-Oceanside Sanitary District.
4. This item reflects expenditures for association dues, subscriptions and fees to access education programs, training, group insurance programs and consulting offered by organizations such as the League of Oregon Cities. They anticipate participation in such training, not only by staff, but also by elected and appointed officials on issues such as municipal operations, liability, public meetings and public budgeting.
5. This allocation is a placeholder for any property/casualty/liability or workers' compensation insurance premiums to cover city officials and, eventually, staff. Actual quotes or even broad estimates were refused by insurers we contacted unless an application was completed. This estimate is based on a review of comparable expenditures budgeted for such insurance in other Tillamook County cities.
6. This item reflects an allocation for accounting, legal services and other professional service. The outsized estimates for FY1 and FY2 anticipate the likely need for extra legal assistance during the process of drafting and implementing the city's baseline ordinances, policies and procedures.
7. The Petitioners anticipate that the city will retain a land use planning consultant/services provider to assist with initial training, staff reports on appealed applications and the baseline work to prepare for drafting the city's Comprehensive Plan. Officials with LCDRC has indicated it is likely their agency will also offer financial support for such preparation.
8. This amount reflects a proposed, regular allotment for roads repair and maintenance to be contracted by staff with outside vendors. The allotment represents the anticipated gasoline tax portion of revenue sharing allotments from the State of Oregon combined with a direct allocation from the general fund. Petitioners project this as a baseline allocation and anticipate that the road maintenance and capital reserve funds will be the highest priority targets for any unanticipated revenue or other surplus revenues.
9. This amount reflects an annual transfer to a reserve fund for capital road projects and improvements.

10. This amount represents an undifferentiated allocation for "code compliance" or "code enforcement" services aimed at providing an effective patrol, warning and sanction regime for misconduct or infractions too minor to warrant interventions by county law enforcement. Petitioners have left it to the City Council and staff to determine whether this will best be accomplished by staff assignments or third-party service providers. The city will also contract for periodic services from a private Municipal Judge.
11. This expenditure reflects an anticipated transfer of 70% of TLT revenues to a reserve for future expenditures for "tourism promotion" or "tourism facilities" pursuant to state law. The remaining 30% will be retained in general funds.
12. This amount reflects transfers to a reserve for unanticipated contingencies that will be converted to a cash carryover to the following fiscal year if not expended.
13. In a meeting with County Treasurer Shawn Blanchard to review these projections, it was discovered the amount allocated to a contingency reserve in FY 2022-2023 (\$28,000) was inadvertently omitted from the table. It has been added in. This did not affect the projection for Total Expenditures for 2022-2023.

The amount originally projected for the contingency reserve for FY 2024-2025 has been increased by \$10,000 to reflect additional funds resulting from the updated TLT projection discussed in Note 3 of the Projected Expenditures table.

Feasible Roads Program

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MEMORANDUM

FROM: Chris Laity, Tillamook County Public Works Director
TO: Oceansiders United
RE Feasibility of Roads Allocations for an Incorporated Oceanside,
DATE: June 21, 2022

I have generally reviewed the data and analysis underlying the road allocations projected by Oceansiders United in its petition for incorporation. In my view, the petition proposes a feasible and realistic municipal road program, given the modest amount of lightly-used road surfaces the city would manage. This conclusion is based on the following key considerations:

1. The proposed city would encompass roughly 4.5 miles of road or road sections that average only about 1/10 of a mile each. This will facilitate the scheduling and budgeting of work in affordable segments.
2. The petition projects initial annual allocations of least \$80,000 for roads, consisting of:
 - \$50,000 to maintenance costs
 - \$30,000 to a road improvement reserve.

It also anticipates that the city's road fund will be assigned top priority for any unanticipated or surplus revenue that arises.

3. This \$80,000 allocation is conservative in that it does not yet include grant funding that is readily available to small cities, but not to the county or unincorporated communities.¹

¹ For example, ODOT's "Small City Allotment Program" annually awards more than \$5 million in competitive grants for small city transportation projects, including paving. The cap for each grant was recently increased from \$100,000 to \$250,000.) In 2022, the program awarded \$5.3 million in response to applications totaling \$9 million.

4. The proposed allocation of \$50,000 for road maintenance would nearly double the average county expenditure of \$27,000 per year for maintenance and associated expenses over the past decade (in 2035 inflation adjusted dollars).²
5. If sustained over time and adjusted for inflation, such an annual allocation would be sufficient to not only repair defects in existing surfaces as they arise, but also to gradually fund, incremental upgrades of its graveled road segments to chip sealing or, where indicated, to asphalt.
6. Over half of the annual maintenance allocation would be covered by annual state revenue sharing disbursements (gas tax) of approximately \$28,000 commencing in 2024. That figure will probably rise over time.
7. The petition contemplates the use of contracted vendors for roadwork in its initial years. This is a feasible and realistic approach that will insulate the new city from labor and equipment costs in the near term. The limited scope of the work may feasibly be accomplished through contracting with outside vendors, particularly if the city makes use of the additional bargaining leverage that will result from reliably scheduling contract work on an annual basis. The petition allocation of .25 city staff FTE for such contract management is realistic and adequate.
8. Over the long term (20-30 years or so), Oceanside will likely face the prospect of funding engineering and construction work to update its stormwater drainage system – especially on Maxwell Mountain. This would be true for the city or the county, but the grants for such work by federal and state agencies are more readily available to incorporated cities than they are to the county or unincorporated communities.

² This figure was drawn from Public Works records. The historical county “maintenance” expenditures included culvert installation, inspections, mowing and brush cutting, permits, signage and spraying. Capital expenditures (paving) were excluded from this data.

Informed Reliance on
Short Term Rental Income

**OCEANSIDE’S INFORMED RELIANCE ON
SHORT-TERM RENTAL-RELATED INCOME**

Q&A

How much STR-related revenue is Oceanside anticipated to realize annually once the required ordinances are fully implemented?

Transient Lodging Tax: \$325,000 in 2024

- \$108,000 to the General Fund
- \$217,000 to the Tourism Facilities Reserve

STR Operator’s Fee: \$80,000 in 2024.

Note: Recently updated data from the Department of Community Development indicates that Oceanside’s short-term rentals generated \$636,000 in TLT revenue during calendar year 2021 and are on track to do the same in 2022. If this surge continues, Oceanside’s municipal TLT revenue would be nearly double the amount projected in the Economic Feasibility Statement.

What percentage of the overall operations budget will be dependent on STR-related revenue after transferring 70% of the TLT revenue to a “tourism facilities” reserve? Roughly 37%.

STR-related revenue for 2023-2024 (\$108,000 + \$80,000): \$188,000
All other projected revenue for 2023-2024: \$320,000

How does this compare to other comparable cities and vacation communities?

It’s difficult to say exactly, but here is a table that reflects recent TLT and Property Tax revenues for other Tillamook County cities in other Tillamook County cities..

City	Prop. Tax Revenue	TLT Revenue
Manzanita	\$245,512	\$540,000*
Oceanside (proposed)	\$250,000	\$315,000
Rockaway Beach	\$472,494	\$470,000
Nehalem	\$ 57,751	\$1,200
Bay City	\$379,797	\$45,000
Wheeler	\$131,251	\$49,500
Garibaldi	\$507,215	\$300,000*

* with hotels

What factors render Oceanside's reliance on STR revenues feasible in light of the county's recent "pause" in STR licensing and recent moves to ban or limit such rentals in neighboring counties?

1. Incorporation would legally insulate the city of Oceanside from the financial impact of pauses, "caps" or bans on STRs that would apply to unincorporated areas.
2. Oceansiders actively debated and considered the implications of reliance on STR-related revenue before convincingly voting to endorse incorporation at a meeting of more than 200 ONA members. If a majority of Oceanside residents vote to approve incorporation, it will be with full appreciation of those risks.
3. Those few Oceansiders who have not followed the issue so far will have ample opportunity and information to make an informed decision during the four months of debate that will precede the election in November.
4. Given the high degree of budget literacy Oceansiders have and will develop during the debate preceding a majority vote in favor of incorporation, it is not realistic to assume that a majority would follow up that vote anytime soon by banning or capping STRs without a full appreciation for the financial ramifications and the availability of ways to adjust for them.
5. Moves to ban short term rentals elsewhere have not historically gained traction in Oceanside, where roughly half of the homes have STR licenses. Instead, attention has focused on efforts to render STR owners and managers accountable for misconduct by their visitors.
6. A significant amount of the revenue generated by STR operations would be expended on efforts to manage the impact of STR customers. If STRS were limited or banned, the resources required for such management would also be reduced.
7. Petitioners and other political observers anticipate that the Legislature will face increasing pressure to relax TLT spending constraints and permit small towns to allocate more than 30% to general fund uses. If that happens, it will significantly offset the impact of any cap or slowdown in STR licensing Oceanside voters might decide to adopt.

PETITIONER'S
RESPONSE TO
"THE CAPES"
COMMENTS

Oceansiders United
P.O. Box 341
Oceanside, OR 97134

June 21, 2022

Sarah Absher, Director
Tillamook County,
Department of Community Development
Via e-mail: sabsher@co.tillamook.or.us

Re: Petition for Incorporation of Oceanside
No. 851-22-000224-PLNG

Director Absher:

Please accept this as petitioner Oceansiders United (“petitioners”) response to the requests conveyed by attorney David Phillips on behalf of The Capes Homeowners Association (“the Association”) in their letter of June 17, 2022.¹

Response to Request for Dismissal of Petition

The Association seeks a dismissal on the basis that consideration of the current incorporation petition would violate Section 10.020(6)(d) of the Land Use Ordinance (“LUO”). That provision bars re-submission of a land use “application” within six months after a permit for “the same or similar action” is denied by a final order.

I. Incorporation petitions do not constitute “applications” under the Land Use Ordinance

The Association contends that the incorporation petition constitutes such an “application” for purposes of LUO 10.020(6)(d). The Board should reject that argument based on the following points and authorities.

1. Article X of the LUO outlines “approval procedures” for the “land use and development permit applications” listed in “Table 10.1.” LUO 10.010(1), (2). That Table appears in LUO 10.010(6), which unambiguously states, “Table 10.1 below provides a list of *all application types* and their associated review procedure, review authority and appeal authority (*emphasis added*).” Incorporation petitions do not appear on that list and, therefore, do not constitute “applications” within the intended meaning of Article X. See also LUO 10.010(4) (“A *complete list of applications* and their associated review type and review authority is provided in Table 10.1 (*emphasis added*).”) Because the ordinance identifies the relevant “applications” in plain and exclusive terms, there is no need to resort to the ordinary meaning or dictionary definition.

¹ For purposes of this request, petitioners assume without conceding that the Association has standing to make these requests.

2. Article X further prescribes specific forms, ownership documentation, completeness reviews, filing procedures and fees and notice requirements for such "applications." LUO 10.020(5), (6); LUO 10.050. None of these requirements relate to incorporation petitions, which instead are subject to the discrete timelines, procedures and forms applicable to incorporation petitions and hearings under ORS 221.030, 221.040.
3. The Board has already determined that incorporation petition hearings are not subject to the "decision deadlines and time limits" that otherwise apply to quasi-judicial review of land use "applications" under LUO 10.010(4) and ORS 215.427(1). In its previous Order in No. 851-21-000449-PLNG (the first three pages of the Order are attached as Exhibit A) the Board entered this finding (at page 1):

"The Board also finds that, although this is a quasi-judicial land use decision, neither the 120-day nor the 150-day deadlines for a final decision prescribed in ORS 215.427(1) apply because this is not an application for a permit, limited land use decision or zone change."

This determination was consistent with the similar finding entered by the Deschutes County Board of Commissioners in its August 7, 2006, Decision approving the incorporation petition for La Pine (the first page of the Order is attached as Exhibit B). The reasoning underlying these findings logically compels a finding incorporation petitions do not constitute "applications" subject to the resubmission time limit contained LUO 10.010(6)(c).

II. 1000 Friends did not rule that incorporation petitions are subject to the same procedural rules or limitations as land use applications.

The Association alternatively argues (at page 2) that the court's decision in *1000 Friends of Oregon v. Wasco County Court*, 299 Or 344 (1985), overrides the limiting provisions of the ordinance because it determined that a county hearing approving an incorporation election "is a land use process resulting in a land use decision" to which procedural requirements of ORS Chapter 197 and the county's procedural land use ordinances necessarily apply in full force. Neither the reasoning nor the ruling in *1000 Friends* supports this overbroad proposition.

The *1000 Friends* court was concerned with substantive jurisdiction, not procedure. More specifically, it addressed the question of whether incorporation petitions implicate Oregon's land use goals and must therefore comport with them. The court ruled that county approval of an incorporation petition "sets in motion" a process that ultimately affects the use of land and therefore falls within is a "category of planning responsibilities" that must be exercised "in accordance with the applicable land use goals." To this end, it ruled (1) the county's review of a petition must include a review of whether the "proposed incorporation" is "in accordance with the goals," and (2) LUBA has jurisdiction to review the county's determination. *1000 Friends*, 299 Or at 354-359. The court did not hold that incorporation petitions themselves necessarily constitute land use applications to which a county's *procedural rules and timelines* apply, but

merely that they fall into the "category of planning responsibilities" to with the land use goals apply.

The court reinforced the limited nature of its ruling by explaining exactly how "county courts" could comply with it, consistent with ORS Chapter 197 and the land use goals:

"In deciding whether incorporation of an area would be 'in accordance ORS 197.005 to 107.430 and 197.605 to 197.650 and the [land use] goals,' as required by ORS 197.175(1), a county court would not undertake the type of inquiry that a city would make incident to the preparation of a comprehensive plan. A county discharges its planning and zoning responsibilities with regard to whether a proposed incorporation is 'in accordance with the goals' if the county is satisfied that after a successful incorporation election it is reasonably likely that the newly incorporated city can and will comply with the goals once the city assumes primary responsibility for comprehensive planning in the area to be incorporated. The county's determination must be supported in the record like any other county land use decision."

The Board discharged this responsibility in the previous incorporation hearing by entertaining evidence and making the requisite findings. Nothing in *1000 Friends* supports placing a time constraint on its ability to discharge this responsibility in this proceeding.

Response to Request for Postponement

Petitioners oppose the request for a postponement. A three-month postponement will delay the Board's decision beyond the August 6, 2022, deadline for including incorporation on the general election ballot on November 8, 2022.² Because primary and general elections only occur in even-numbered years, granting the three-month postponement would effectively postpone the election for nearly *two years*, until May 2024. The Association has not acted with sufficient diligence to justify derailing the statutory petition process that petitioners have meticulously followed. Indeed, the Association filed this motion for a postponement on a Friday afternoon, barely a week before the scheduled hearings after more than *six months* of actively advocating exclusion from the incorporation without engaging counsel.

The Association has been aware of the incorporation initiative since at least November 2021, when it surveyed its members for their position on it. Thereafter, on December 2, 2021, Association President Gene Mitchell wrote lead petitioner Jerry Keene to convey its opposition to being included in the proposed city. (Ex. C). During this time, a number of Association member/property owners likewise registered such opposition in the course of the incorporation forums sponsored by the ONA. The hearing record from February and March 2022 reflects that HOA President Mitchell thereafter engaged in meetings and correspondence with DCD Director Sarah Absher discussing the prospect of The Capes being included in the incorporation proposal. During this time, the Association was apprised that being excluded from the new city would

² Under ORS 221.040, the incorporation election may not occur until the next primary or general election that is not sooner than the 90th day after the date of the order approving it.

likely deprive them of eligibility for new sewer connections under the land use goals. In response, Ms. Absher and President Mitchell explored the legal option of initiating an application to expand The Netarts unincorporated community boundary in order to preserve The Capes' access to such services. (See Exhibit D).

In ONA e-mail newsletters shared with the Association and also during the March 2022 hearing sessions, petitioners publicly confirmed their intention to resubmit a petition for incorporation that included The Capes. On April 26, 2022, lead petitioner Keene personally confirmed this in an email to President Mitchell. (Exhibit E). In late May 2022, Director Absher alerted President Mitchell that hearings on the renewed petition were tentatively scheduled to commence on June 27, 2022. On May 27, 2021, President Mitchell advised Keene that The Capes was engaged in "internal discussions" of how to proceed. (Exhibit F). On May 31, 2022, petitioners mailed notice of the petition and upcoming hearing to all property owners in the proposed city, including those in The Capes. (Exhibit G). Notwithstanding its awareness of and continuous engagement in these developments over a period of six months, the Association apparently opted not to involve counsel or land use experts until earlier this month.

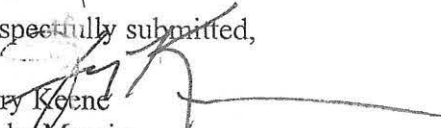
While the Association correctly notes that Petitioners did not include The Capes in its original proposal, that did not excuse it from exercising due diligence. The decision to include or exclude them at the hearing lay with the Board in the exercise of their de novo review, not petitioners. See ORS 221.040(2). From the outset of the previous hearings in February 2022, the Commissioners repeatedly voiced strong doubts about whether The Capes should be excluded – specifically emphasizing the same sewer access issue that will likely be raised in this proceeding. They certainly gave the Association no reason to believe it was unnecessary to protect their interests.

Finally, the Association maintains that it cannot prepare public comments for the record before June 27, 2022. It does not have to. The hearings are scheduled to continue through July 28, 2022, with opportunity for public comment likely to continue during the interim. Given that the Association has already been actively engaged in opposing its inclusion for more than six months, six weeks provides ample time to organize and present its position during public comment.

Conclusion

For the reasons outlined above, petitioners respectfully request that Board deny the Association's requests to dismiss the petition or postpone the scheduled hearings.

Respectfully submitted,


Jerry Keene
Blake Marvis
Sharon Brown
Oceansiders United Lead Petitioners




cc via email: Joel Stevens, Tillamook County Counsel


NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR TILAMOOK COUNTY, OREGON, ORDERS AS FOLLOWS:


- Section 1. The petition for an election on the proposed City of Oceanside is hereby denied.
- Section 2. Before the close of business on May 16, 2022, County Counsel shall mail a copy of this order to the chief petitioners and also notify participating parties of this decision.
- Section 3. This decision shall become effective upon the mailing of the documents listed in Section 2.
- Section 4. In support of the decision set forth in Section 1 of this order, the Board adopts the stipulated findings and conclusions set forth in the Decision attached as "Exhibit A" to this order and incorporated here by reference.

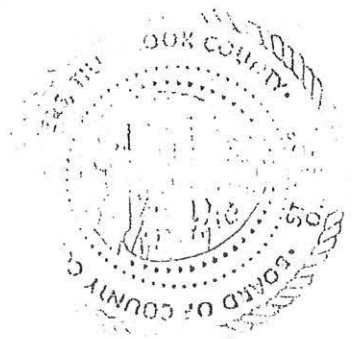
DATE this 11th day of May 2022.

BOARD OF COUNTY COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON

	Aye	Nay	Abstain/Absent
 David Yamamoto, Chair	✓		
 Erin D. Skaar, Vice-Chair	✓		
 Mary Faith Bell, Commissioner	✓		

ATTEST: Tassi O'Neil,
County Clerk

Special Deputy

APPROVED AS TO FORM:

William K. Sargent, County Counsel



“Exhibit A”

I. APPLICABLE CRITERIA AND STANDARDS

The Tillamook County Board of County Commissioners (“the Board”) adopts and incorporates the discussion of the applicable statutory and administrative rule standards and criteria set out in these documents in the record:

- (1) Department of Community Development (“DCD”) Staff Report (January 19, 2022) and appended documents;
- (2) DCD Supplemental Staff Report (January 26, 2022) and appended documents; and
- (3) Memorandum from DCD Director Sarah Absher (March 23, 2022) and appended documents.

Additionally, the record must demonstrate the proposed city’s ability and willingness to comply with applicable Oregon land use goals as set out in *1000 Friends of Oregon v. Wasco County*, 299 Or 244 (1985).

The Board also finds that, although this is a quasi-judicial land use decision, neither the 120-day nor the 150-day deadlines for a final decision prescribed in ORS 215.427(1) apply because this is not an application for a permit, limited land use decision or zone change.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. REASONABLE ALTERNATIVES

In discussions at the March 30, 2022, hearing session, the Board and Petitioners agreed it was in the best interest of the parties, the public and the tribunal for the Board to issue its Decision and Order based on stipulated findings of fact and conclusions of law, subject to appropriate public review and comment. The agreement was based on these factors and circumstances:

- (1) Petitioners filed and gathered signatures on a petition and economic feasibility analysis that were premised on an assumption that hearings would be completed and approval secured no later than February 13, 2022. That was the deadline for qualifying the measure for the May 17, 2022, Primary Election ballot pursuant to ORS 221.040(3).
- (2) Delaying an incorporation vote beyond the May 17, 2022, election would preclude the incorporated city (assuming voter approval) from meeting the July 15, 2022, notice deadline for participation in the 2022-2023 county tax collection cycle. Deferring such collections until the 2023-2024 cycle would result in a materially different revenue and expenditure program than that proposed in the original petition.
- (3) In deference to these time constraints, the Board worked to hear Petitioners’ presentation, take public comment, obtain staff input, complete deliberations and make a decision over the course of two hearing sessions on January 26, and February 2, 2022. (An additional hearing session that was scheduled and publicly noticed for January 19, 2022, was unexpectedly cancelled.) On February 2, 2022, the Board unanimously voted to deny the petition based on the record before it. On February 9, 2022, the Board granted petitioners’ motion for reconsideration and withdrew the decision but were unable to schedule further sessions until after the May Primary Election deadline.
- (4) In hearing sessions on February 9 and March 31, 2022, Petitioners and the Board entered into constructive dialogue over whether and how the proceedings and resulting deliberations had been hampered by factors such as the time constraints, the novelty of incorporation proceedings, the vagaries of the statutory provisions and a scarcity of guiding precedent. Petitioners also noted the uncertain legal ramifications of extending the Board’s consideration of the current petition, given the budget disparity described above.
- (5) At the hearing session on March 31, 2022, Petitioners advised the Board of their intent to continue their pursuit of an incorporation election, building on the experience and insights gained from the Board’s findings in this proceeding. To

REVIEWED
JL
LEGAL COUNSEL

Ex. B, A

For Recording Stamp Only

DECISION OF THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

FILE NO. PA-06-04
APPLICANT: La Pine Political Action Committee
SUBJECT: Incorporation of the City of La Pine
APPLICANT'S ATTORNEY: Edward H. Trompke
Jordan Schrader PC
PO Box 230669
Portland, OR 97281

I. APPLICABLE STANDARDS AND CRITERIA:

The Deschutes County Board of County Commissioners ("Board") adopts and incorporates by reference herein the Staff Report listing of standards and criteria on Page 3, SECTION 2: INCORPORATION REQUIREMENTS, Incorporation Criteria, first paragraph and page 6, SECTION 3: LAND USE REQUIREMENTS, Land Use Criteria, first paragraph, sub-paragraphs A through F.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. ADOPTION OF FINDINGS.

The Board approves the petition for the incorporation of the City of La Pine, attached and incorporated herein. Except where noted below, the Board adopts and incorporates by reference herein the Staff Report, dated July 31, 2006, and adopts and incorporates by reference herein the "Findings Related to the Proposed Incorporation of La Pine, July 25, 2006" ("Findings") and the Economic Feasibility Statement ("EFS"), dated July 28, 2006 submitted by the La Pine Political Action Committee.

In addition to those findings, the Board finds that, although this is a quasi-judicial land use decision, neither the 120-day nor the 150-day deadlines for a final decision found in ORS 215.427(1) apply because this is not an application for a permitted, limited land use decision or zone change.

///

¹ All references to the Staff Report are to the Deschutes County Community Development Department Staff Report dated August 7, 2006.



Ex. C

December 2, 2021

Jerry Keene, President
Oceanside Neighborhood Association
PO Box 338
Oceanside, OR 97134

Dear Jerry,

As you know, the Capes HOA sent out a survey to our owners to obtain feedback on whether or not they are in favor of being included in the Oceanside incorporation boundary. Based on early results, the overwhelming majority do not want to be included. That is, the preference is that The Capes remain in unincorporated Tillamook County and should be excluded from the proposed Oceanside City boundary. We believe that this represents the majority of The Capes owners, and we would encourage the ONA task force to look into revising the proposed boundary to exclude The Capes.

This appears to reflect the comments you have received to date from our owners. As we had discussed, we agree that the benefits to the Capes are negligible; however, we do want to express our continued desire to work with the ONA in functional areas such as safety, emergency preparedness, county roads, and future development in our larger area.

If the task force decides to move to redo the proposed boundary to exclude The Capes, please let us know and we will send an update to our owners.

Best Regards,

Gene Mitchell
President, The Capes Homeowners Association

Ex. D

Sarah Absher

From: Gene Mitchell <gene.mitchell@comcast.net>
Sent: Tuesday, January 25, 2022 9:04 AM
To: Sarah Absher; Jenny Green
Subject: RE: Oceanside Incorporation Discussion

Sarah

Thanks for spending some time with us to go over the possible impact of the Oceanside incorporation on the Capes. In the event that Oceanside is incorporated, the Capes would want to become part of the Netarts boundary and keep the urban benefits you described. That seems to be a very reasonable solution and will then allow the development of our lots under the current practices of sewer and water hook-ups.

Sincerely

Gene Mitchell
Capes HOA president

Sent from Mail for Windows



Ex. E, p. 1

Jerry Keene <oceansidefriends@gmail.com>

Oceanside Incorporation - Second Try

11 messages

Jerry Keene <oceansidefriends@gmail.com>
To: Gene Mitchell <gene.mitchell@comcast.net>

Tue, Apr 26, 2022 at 1:15 PM

Gene -

I wanted to alert you to new developments in our incorporation initiative. As you may be aware, the County Commissioners took an oral vote in early February to deny placing our original proposal on the ballot. We successfully requested reconsideration and the chance to submit additional information, but there was no room on their docket for them to finalize a new decision in time to place the matter before the voters in May 2022. That, in turn, rendered our proposed budget timeline void. Accordingly, we agreed to issuance of a formal denial of the first petition based on stipulated findings that we would use to guide a revised presentation in a second petition and a new budget timeline targeted for the November 2022 General Election. We are still in negotiations on the wording of the order.

Meanwhile, you should know that one of the key issues that complicated and prolonged the hearing beyond our deadline was the decision to exclude The Capes from the proposed city boundary. While we believe our decision was the right one based on the information we had at the time, the Commissioners were uncomfortable with it. They raised many questions about our criteria and methodology, especially as it implicated the question of whether other neighborhoods should also be excluded.

The primary problem, however, was that the county and state land use staff belatedly realized that excluding The Capes from incorporation would deprive property owners of the legal right to connect to sewer service. There's a longer explanation that you can pursue from them, but the bottom line is that the land use goals require property to be part of either an incorporated city or an acknowledged unincorporated community in order to be eligible for sewer service. I believe Sarah Absher met with you to explain this, and that plans were explored for extending the Netarts Community Boundary to include The Capes.

The Commissioners were very concerned, however, that there is no guarantee that the Netarts boundary would successfully be extended. Extending the Netarts boundary would require a public process subject to public input and objections that cannot be foreseen. Viewed in that light, maintaining guaranteed access to sewer services is a "benefit" of incorporation for The Capes under the relevant statutes, which means they should be included in the proposal. That reasoning, along with the other concerns about criteria and process, made it clear that the Commissioners would prefer that we include The Capes in the proposal the second time around.

We wanted to alert you that we are, in fact, proceeding with the submission of another incorporation petition - this time including The Capes and all other areas currently within the

Ex. E, p. 2

unincorporated Oceanside Community Boundary. If we succeed in obtaining enough valid signatures, there will be another round of hearings at which we anticipate the Commissioners would entertain objections to being included by The Capes or other neighborhoods. The schedule we are pursuing would place those hearings in June and July of this year, with a final decision by early August. We also plan to send a postcard notice to all property owners in the proposed City of Oceanside alerting them of this second effort.

I imagine that you and other folks at The Capes may have questions about how to participate in the hearings and have input into the ultimate decision. I recommend that you convey these to Sarah Absher at the County since we will essentially be following their lead as to procedure and criteria.

Best regards,

Jerry Keene
Oceansiders United



Ex. F

Jerry Keene <oceansidefriends@gmail.com>

Status of Petition

2 messages

Gene Mitchell <gene.mitchell@comcast.net>
To: Jerry Keene <oceansidefriends@gmail.com>

Fri, May 27, 2022 at 7:52 AM

Hi Jerry:

Can you tell me the status of the new petition to incorporate Oceanside? We have been talking with Sarah and having internal discussions on how to proceed. She tells us the first hearing is scheduled for June 27th, which does not give us a lot of time to review and comment.

Thanks

Gene Mitchell

Capes HOA

Sent from Mail for Windows

Oceanside NA <oceansidefriends@gmail.com>
To: Gene Mitchell <gene.mitchell@comcast.net>
Cc: Blake Marvis <blakemarvis1@gmail.com>, Sharon Brown <sharbrown@aol.com>
Gene -

Fri, May 27, 2022 at 8:28 AM

We have been gathering signatures on the renewed petition and anticipate turning in the required amount by the end of the first week of June. The proposed tax rate, city services and boundary are the same as before except that we have included The Capes. The proposed budget is the same except that it includes The Capes properties in its city tax revenue estimate - about \$60,000 annually. We have designated most of estimated The Capes revenue as a "reserve" fund in case the Commissioners exclude The Capes.

Assuming the County Clerk verifies the signatures, we have three hearings reserved on the docket and will ask that the first hearing be devoted to whether the boundary should be altered - which is essentially when you and any other areas that dispute being benefited will make their case for exclusion from the new city.

To prepare, I recommend that you look at the materials we presented to the Commissioners during the first hearing - especially the Economic Feasibility Statement and Petitioners' Proposed Findings and Analysis, which we will resubmit with supplemental materials the second time around. They are still posted on the County website.

At this point, we have no basis to challenge the county and land use department's determination that exclusion may terminate, at least temporarily, the rights of undeveloped property owners in The Capes to connect to sewer. As I indicated in my previous email to you, the Commissioners seemed strongly inclined to find that avoiding that possibility was a benefit of incorporation for The Capes.

Feel free to contact me to talk further.

Jerry

Ex. G

Some important information about
Oceanside's future paid for by:

Oceansiders United PAC
P.O. Box 341
Oceanside, OR 97134



Side 1

NOTICE OF PETITION TO INCORPORATE OCEANSIDE, OREGON

Oceansiders United is a local group working to provide residents with an opportunity to vote on whether to formally "incorporate" Oceanside as an Oregon city pursuant to ORS Chapter 221. We are sending this card to all owners of property within the boundaries of the proposed "City of Oceanside" to announce that we have gathered sufficient signatures on our petition for the Tillamook County Commissioners to hold public hearing(s) on whether to allow an incorporation vote in the November 8, 2022 General Election. Only those residents registered to vote in Oceanside would be able to cast votes.




The incorporation proposal is based on a plan endorsed by members of the Oceanside Neighborhood Association in December 2021. Assuming voters approve, it would form a new city of roughly 650 full-and part-time residents within the boundaries of what is now the unincorporated community of Oceanside, including The Capes, with some minor variations. Further details about how city operations will be funded, a Map and an Economic Feasibility Statement are available at www.oceansidefriends.org and the "Oceansiders United" Facebook page.

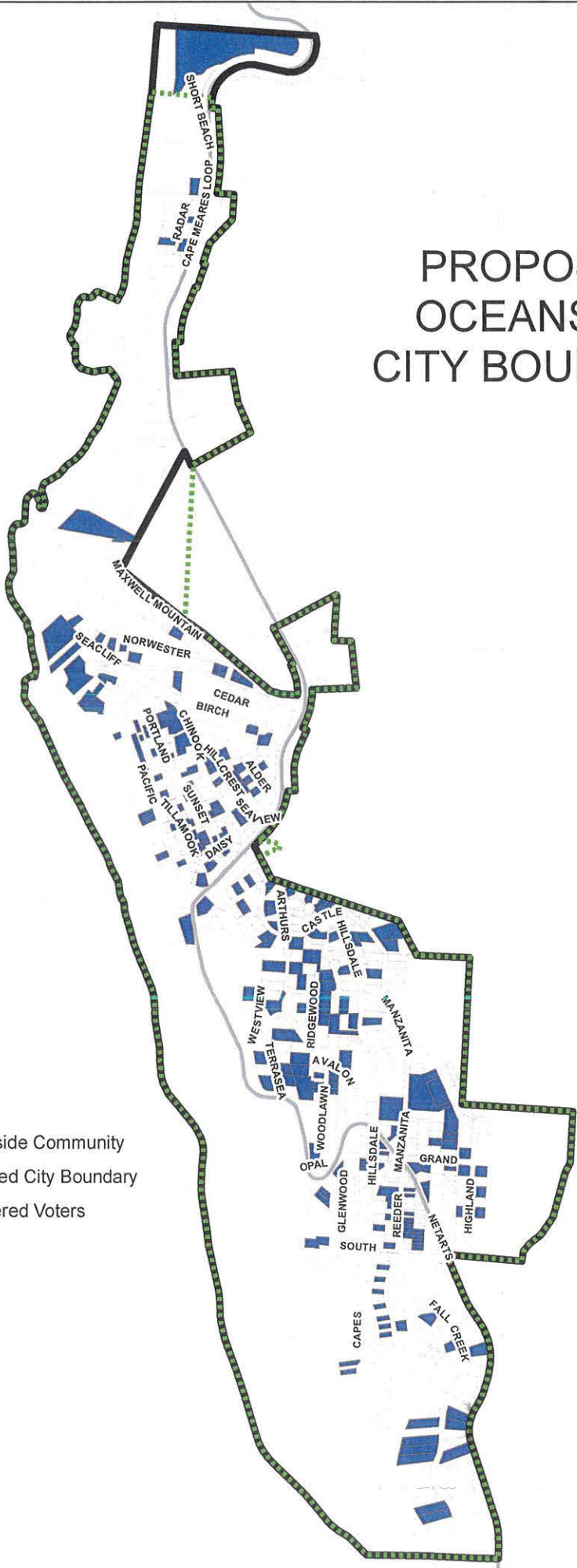
The county hearings are scheduled between mid-June and late July 2022. Tillamook County will post and update exact dates and times at <https://www.co.tillamook.or.us/meetings> and in the Tillamook Headlight Herald at least 14 days beforehand. We will also post hearing dates and times on the Oceansiders United Facebook Page.

Side 2

JUNE 2022 VOTER
REGISTRATION
MAP FOR
UNINCORPORATED
COMMUNITY OF
OCEANSIDE

PROPOSED OCEANSIDE CITY BOUNDARY

-  Oceanside Community
-  Proposed City Boundary
-  Registered Voters



PUBLIC
COMMENTS
RECEIVED
JUNE 18, 2022
THROUGH
JUNE 24, 2022



June 20, 2022

Re: #851-22-000224-PLNG; Petition for the incorporation of Oceanside

Dear Tillamook County Commissioners:

As you are aware, the first Petition for the Oceanside incorporation excluded The Capes from its boundaries. This was by mutual agreement between Oceansiders United and The Capes as neither party saw any benefit to The Capes of being included. Due to this mutual exclusion, we did not comment on the first petition.

This second Petition shifted the boundary south to include The Capes and as far as we can see, the questions raised in the Boundary Determinations section of Exhibit A remain unanswered, as well as the questions surrounding the proposed tax rate.

We continue to maintain that our community would not benefit from being included. We maintain our own roads, storm water systems, buildings and common grounds. Community rules have been established and the owners have not only established a homeowners association, but adopted covenants (CC&R's) which provide for common rules such as renting, home maintenance, etc. The Capes has sewer and water services already installed and maintained by the respective districts.

What we do see is an increase in property taxes, an increase in oversight, being subjected to new city laws, and a situation where most homeowners would be excluded from voting on any ballot issues due to part-time residency.

As such, the Capes HOA is opposed to the Petition and asks that the Commissioners dismiss the proposal, exclude The Capes from the boundaries, or delay the hearings for at least 90 days to allow for us to prepare an expert report on why The Capes should be excluded from the proposed city.

Respectfully Submitted,
Gene Mitchell
The Capes HOA president

Lynn Tone

From: Mary Lesperance <quirkychemist@gmail.com>
Sent: Thursday, June 23, 2022 7:40 AM
To: Lynn Tone
Cc: The Capes Office
Subject: EXTERNAL: Petition for the incorporation of Oceanside #851-22-000224-PLNG

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Dear Tillamook County Commissioners,

I live in The Capes and I would like to express my concerns regarding The Capes being included in the Oceanside incorporation. Our community would not benefit from being included and would in fact be detrimental to The Capes residents. We maintain our own roads, storm water systems, buildings and common grounds. Community rules have been established and the owners have established a homeowners association and adopted covenants which provide for common rules such as renting and home maintenance. The Capes has sewer and water services already installed and maintained by the respective districts. Including The Capes into the incorporation would increase property taxes, an increase in overhead, subjection to new city laws, and a situation where most homeowners would be excluded from voting on any ballot issues due to part-time residency.

I respectfully oppose this petition.

Sincerely,
Mary Lesperance

Lynn Tone

From: greg west <ortho.west@gmail.com>
Sent: Wednesday, June 22, 2022 6:15 PM
To: Lynn Tone; Gene Mitchell; joanied05
Subject: EXTERNAL: Oceanside/The Capes incorporation

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Dear Ms. Tone; I am writing to oppose the inclusion of The Capes into the Oceanside United amended petition to incorporate.

There are no serious arguments for inclusion of The Capes, other than increased tax revenue for the proposed City Of Oceanside.

The Capes has been self-governing for 30 years, with an excellent track record of road maintenance, storm water control, and the administration of buildings and common grounds. The Capes also has strict policies regarding short term rentals, landscaping and home upkeep that makes it the envy of the organizers of Oceansiders United. It is via the CC&Rs at The Capes, that part time residents (i.e. residents who are registered voters outside of Oceanside/Tillamook) are able to have their voices heard on issues involving their community. It appears to me that disenfranchising The Capes residents via local public elections where these residents are unable to participate is an integral part of the plan, and that reason alone warrants rejection of the petition.

On a more personal note, We recently purchased a lot in The Capes (our current residence is in the Trillium neighborhood), and are in the process of pulling permits for construction. If we lose access to a sewer connection over this proposed annexation, it appears that our options will include legal action. I plan on consulting my real estate attorney ASAP to better understand my options.

Greg and Joan West

Lynn Tone

From: Shawn Blanchard
Sent: Tuesday, June 21, 2022 3:50 PM
To: Lynn Tone
Cc: Sarah Absher
Subject: FW: Oceanside

Hello Lynn – I know that Sarah is out for a few days. I am forwarding to you my amendment to the e-mail I had sent her on Friday. I do not know if there is a way to update the exhibit in the packet that is on the website.

Thank you,

Shawn

From: Shawn Blanchard
Sent: Tuesday, June 21, 2022 3:12 PM
To: Sarah Absher <sabsher@co.tillamook.or.us>
Subject: FW: Oceanside
Importance: High

Hello Sarah – I will need to amend my statement. The Projected Resources, Fiscal Year 11/2022-6/2023 is out of balance. Revenues are projected at \$172,000, but expenditures only add up to \$144,000. Fiscal Year 7/2024-6/2025 is out of balance. Revenues add up to a projected \$725,000 and expenditures add up to \$750,000.

Thank you,
Shawn

From: Shawn Blanchard
Sent: Friday, June 17, 2022 4:12 PM
To: Sarah Absher <sabsher@co.tillamook.or.us>
Subject: Oceanside

Hello Sarah - I met with Mr. Keene regarding the Economic Feasibility Statement for Oceanside Incorporation Petition #851-22-000224-PLNG. It was a pleasure to talk with him. I do not have any concerns regarding the feasibility statement.

Thank you,



Shawn Blanchard | County Treasurer
TILLAMOOK COUNTY | Treasurer
201 Laurel Avenue
Tillamook, OR 97141
Phone (503) 842-3439
sblancha@co.tillamook.or.us

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Lynn Tone

From: Kim Smelcer <SmelcerK@msn.com>
Sent: Wednesday, June 22, 2022 5:01 AM
To: Lynn Tone
Subject: EXTERNAL: Oceanside Incorporation

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Dear Lynn,

We own homes in both Idaho and Oregon and spend my time travelling back and forth between the two homes.

Our Oregon home is located in The Capes subdivision.

We are opposed to including The Capes into the Oceanside Incorporation as it would create an additional tax burden to us in what are already very tough economic times. We would receive absolutely nothing in return for this tax burden as all of our needs are already being met through The Capes Homeowners Association and we would have no voice at all in matters pertaining to Oceanside as Idaho is considered our primary residence.

We do love the town of Oceanside and wish the citizens there the very best but we do not wish our home to be incorporated into that town.

Sincerely,

Kim and Brad Smelcer
(208) 642-7797

Lynn Tone

From: J A <jmandert@gmail.com>
Sent: Wednesday, June 22, 2022 8:36 AM
To: Lynn Tone
Cc: manager@thecapeshoa.org
Subject: EXTERNAL: Oceanside Incorporation

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Tillamook Commissioners,

This is in regards to the inclusion of The Capes in incorporation of Oceanside Oregon. I own a home in The Capes HOA in Oceanside. I have been following the proposal to incorporate Oceanside rather closely and I still do not understand what advantage will be gained by incorporation. The issues raised, including limits on short term rentals in Oceanside, can be accomplished without incorporation. Incorporation would raise my taxes without benefit to my home. We maintain our own roads and are part of the Oceanside-Netarts sewer system. Short term rentals are already tightly managed by HOA rules.

Incorporation would also inevitably require hired staff and oversight of the staff. How much do you pay a competent manager that would allow them to live in this rather expensive neighborhood while unemployment is at 3%? Taxes will rise and headaches will ensue, again without benefit to me.

This proposal has been shoved into our laps without time to study the issues or develop an appropriate response. We ask that you delay the process to allow us to understand the issues more completely and develop a comprehensive response.

Thank you.

--
John Anderton Ph.D,
405 Capes Drive
Oceanside, Oregon

Patent Agent
503-593-5899

Lynn Tone

From: Andrew Delbaum <adelbaum@gmail.com>
Sent: Tuesday, June 21, 2022 10:18 AM
To: Lynn Tone; The Capes Office
Subject: EXTERNAL: Incorporation of Oceanside

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Dear Ms. Tone,

I would argue/vote **against** including The Capes in the incorporation of Oceanside. It appears that this would offer no benefit to The Capes owners/community. (My wife and I have been owners/residents here for 28+ years.)

Thank you,
Andrew Delbaum
580 Capes Point
Tillamook, OR 97141

Lynn Tone

From: Robert Wiley <wileyr2440@gmail.com>
Sent: Tuesday, June 21, 2022 3:46 PM
To: Lynn Tone
Cc: Jenny
Subject: EXTERNAL: No. 851-22-000224-PLNG: Petition for Incorporation of Oceanside

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

County Commissioners

While My wife and I are not in opposition to the incorporation of Oceanside, as original

owners at the Capes the Capes should not be forced to be included in the boundary as there is no express benefit. As a Planned Community Development the Capes HOA maintains all its roads, storm drain systems, has been part of the Oceanside Netarts water and sewer systems for 30 years, establishes its community rules, etc. These we're deciding factors in our purchase in 1994. As Capes owners we would see an increase in property taxes, an increase in oversight, be subject to new city laws, and, due to the voting rules most homeowners would be excluded from voting on these issues.

Robert and Cheryl Wiley
255 Capes Drive W
Tillamook, Oregon 97141

Sent from my iPhone

Lynn Tone

From: Lawrence LaMarsh <Irlamarsh@gmail.com>
Sent: Tuesday, June 21, 2022 2:39 PM
To: Lynn Tone
Subject: EXTERNAL: Oceanside Incorporation to include The Capes

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Dear Mc Tone,

My wife Laura and I are full-time residents in The Capes.

I am writing this to convey our comments concerning the upcoming hearing on the petition to incorporate Oceanside. We are against the petition as long as it includes The Capes within the incorporated boundaries.

There is no benefit to the homeowners in The Capes community. We already pay for the maintenance of our roads, storm drainage systems, vegetation management, and other items. We actively support the Oceanside Netarts volunteer fire department on an annual basis. As a gated community we have no need for management and oversight of beach access.

Please consider that this petition, if approved in its current form, has no tangible benefit for the residents of The Capes.

Respectfully,

Larry LaMarsh
Laura LaMarsh
235 Promontory Ln.
Tillamook, Or. 97141-7016
Irlamarsh@gmail.com
503-704-8942

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Lynn Tone

From: David Yamamoto
Sent: Tuesday, June 21, 2022 2:07 PM
To: Lynn Tone
Subject: FW: EXTERNAL: Clarification of Roads Budget for the Community

For the record.



David Yamamoto
TILLAMOOK COUNTY COMMISSIONER
dyamamoto@co.tillamook.or.us
201 Laurel Avenue
Tillamook, OR 97141
Phone (503) 842-3403
Cell (503) 701-1235

From: Bruce
Jaeger

<nguyenjaeger@gmail.com>

Sent: Wednesday, March 30, 2022 1:09 PM

To: Jerry Keene <oceansidefriends@gmail.com>; Erin Skaar <eskaar@co.tillamook.or.us>; David Yamamoto <dyamamoto@co.tillamook.or.us>; Mary Faith Bell <mfbell@co.tillamook.or.us>

Subject: EXTERNAL: Clarification of Roads Budget for the Community

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Hello Jerry. In light of my understanding of next steps for Oceanside United and the pursuit of Oceanside Incorporation vote, I am hoping that you can help add transparency to the roads budget for a broader community understanding. Can please include this information in the new petition we are expecting now?

- 1). Can you please publish for us the map of all roads in the city identifying those that will be city responsibility?
- 2). Can you please have Chris Laity review this map and restate his estimate on what annual maintenance amount should be budgeted for the city considering these roads in the current condition (not subject to after improvements made)?
- 3). Can Mr Laity please provide an estimated budget for the stormwater drainage treatment he mentions needing to be done first, and identify all roads involved in this cost estimate?
- 4). Can Mr Laity please confirm that since 2011 local access roads have not been the responsibility of the county and that his estimated budget for the city would also not include these?
- 5). The Annual Maintenance Cost Report (with the Inflation Adjustment factor) provided in the packet was cut off in 2016 in the printing. Can you please provide this entire worksheet?

I believe having clarity on these questions will be very meaningful to voters. Thank you and please let me know your questions.

Bruce Jaeger

(503) 317-6150

Lynn Tone

From: David Yamamoto
Sent: Tuesday, June 21, 2022 2:05 PM
To: Lynn Tone
Subject: FW: EXTERNAL: Testimony in Opposition to Oceanside Incorporation

For the record.



David Yamamoto
TILLAMOOK COUNTY COMMISSIONER
dyamamoto@co.tillamook.or.us
201 Laurel Avenue
Tillamook, OR 97141
Phone (503) 842-3403
Cell (503) 701-1235

From: Yuriy
Chanba

<ychanba@gmail.com>

Sent: Wednesday, June 15, 2022 3:05 PM

To: Erin Skaar <eskaar@co.tillamook.or.us>; David Yamamoto <dyamamoto@co.tillamook.or.us>; Mary Faith Bell <mfbell@co.tillamook.or.us>

Subject: EXTERNAL: Testimony in Opposition to Oceanside Incorporation

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

June 15, 2022

Dear Commissioners:

My educational background includes 2 Bachelor's Degrees (Mechanical Engineering and Military Science) and an MBA. My professional experience includes years of Corporate Analytics, Budgeting, Business and Systems modeling across the World in half a dozen industries.

I respectfully ask that you deny Oceanside Incorporation Petitioner's request to put the measure on November 2022 Tillamook County Ballot because of the Petition's grave errors in addressing ORS 221.035 (2) (c) requirement - first and third year budgets.

The Budget as submitted in the record:

1. does not address economic realities of today,
2. does not balance in neither year 1 nor year 3,

3. does not allow to conclude that proposed tax of \$0.80/1,000 in assessed value is a realistic number.

Following are details in support of the above statements.

The Budget ignores deteriorated economic conditions

Petitioners submitted their Budget for the initial hearing in December of 2021, and current Budget in June of 2022. There have been significant economic developments in the last six months. None of those developments are reflected in the Budget, and all of those have negative impact on the proposed city's ability to survive financially.

Here are just a couple of economic indicators that are detrimental to, but unaccounted for in the Budget:

- **Inflation:** inflation rate is at 8.6% today, the highest in over 40 years.

Inflation over 3% automatically causes Expense side of the City Budget to outrun Revenue side.

The Budget submitted with the Petition back in December of 2021 did not address inflation of 6.8%.

The Budget that was supposed to be updated by the Petitioners with new submission does not address inflation of 8.6% either.

- **Unemployment:** 4.2% when the Petitioners created initial Budget in 2021, 3.6% today.

Currently, unemployment rate among employees over 25 with Bachelor Degree is at 2%. The proposed city, given the complexity of "startup" operation and amount of work to be done by the City Manager will have to look to hire a highly experienced Manager.

Private companies in Oregon pay up to 30% more today to fill up vacancies in professional positions. In Public Sector, one can observe financial incentives offered to fill up open positions even for roles that do not require the education and experience of a City Manager.

Plugging in a number for a City Manager compensation in the Budget based on surveying what some other City Manager might be making is erroneous. Today one needs to ask: "What does it cost to fill up this position?", not "What did this position pay last year?".

Comparison of the Budget submitted last year to the current Budget makes it absolutely clear that the Budget ignores changed economic conditions completely.

Budgets on the record don't balance

Year 1 Revenue Total submitted with the Petition in December of 2021 does not equal sum of Revenue line items.

Annual budget is not balanced.

Year 1 Expenses Total submitted with the Petition in June of 2022 does not equal sum of Expenses line items. **Annual**

budget is not balanced.

Year 3 Revenue Total submitted with the Petition in June of 2022 does not equal sum of Revenue line items. **Annual**

budget is not balanced.

ORS 221.035 (2) (c) is explicit in requiring the Petition to include year 1 and 3 Budgets as part of economic feasibility statement, which forms the basis for permanent tax rate.

With the Annual Budgets not balanced, there is simply no correct basis within the Petition by which to calculate the tax rate.

Mathematically, \$0.80/1,000 in assessed value tax rate is as improbable a number as it can be

The Petitioners created and presented multiple Budget iterations both to Oceansiders and to the BoCC.

4 instances were made public:

- #1 - In the days leading to ONA vote on supporting/not supporting Incorporation, with The Capes included in the proposed City boundary,
- #2 - On the day of ONA vote in November of 2021, with The Capes excluded from consideration,
- #3 - In early December 2021, as part of the Incorporation Petition to the BoCC, excluding The Capes from the proposed city boundary,
- #4 - In June of 2022, as part of the Incorporation Petition to the BoCC, including The Capes in the city boundary.

With 22 lines in the budget with values varied, sometimes dramatically, from iteration to iteration, and 4 of such iterations, the Petitioners maintain that a derivative of the budget – the proposed tax rate, is the same across all 4 iterations.

The proposed tax rate must have a correlation with each of the underlying budget iterations. The fact that the budgets changed many times, but the proposed tax rate did not change a single time, means there is no correlation between the tax rate proposed by the Petitioners and the budget(s).

Petitioners' approach (whatever it was) to calculating proposed tax rate directly contradicts requirement of ORS 221.035 (2) that states the Budget must be the basis for tax determination.

In summary, requirements of the ORS 221.035 (2) are not met by the Petitioners.

For this reason, I respectfully ask the Petition to be denied.

Sincerely,

Yuriy Chanba
5378 Woodlawn St,
Oceanside

Lynn Tone

From: David Yamamoto
Sent: Tuesday, June 21, 2022 1:49 PM
To: Lynn Tone
Subject: FW: EXTERNAL: Oceanside Incorporation

For the record.



David Yamamoto
TILLAMOOK COUNTY COMMISSIONER
dyamamoto@co.tillamook.or.us
201 Laurel Avenue
Tillamook, OR 97141
Phone (503) 842-3403
Cell (503) 701-1235

From: Steve

<sjplaisted@charter.net>

Sent: Monday, May 9, 2022 3:49 PM

To: David Yamamoto <dyamamoto@co.tillamook.or.us>

Subject: Fwd: EXTERNAL: Oceanside Incorporation

I saw a typo in my last message. I meant to say I did NOT intend to have an engagement with the commissioners.

Steven Plaisted

Sent from my iPhone

Begin forwarded message:

From: Steve <sjplaisted@charter.net>
Date: May 9, 2022 at 3:38:53 PM PDT
To: David Yamamoto <dyamamoto@co.tillamook.or.us>
Subject: Re: EXTERNAL: Oceanside Incorporation

Thank you for the response. My intention was to engage the commissioners, but to make you aware that The Capes is aware of the issue and working to protect the interests of all our homeowners.

Steve Plaisted

Sent from my iPhone

On May 9, 2022, at 3:23 PM, David Yamamoto <dyamamoto@co.tillamook.or.us> wrote:

Steve,

Thanks for reaching out. Per Joel Stevens, County Counsel, as this petition will come before the BOC, the Commissioners cannot engage in conversation about this issue.



David Yamamoto
TILLAMOOK COUNTY COMMISSIONER
dyamamoto@co.tillamook.or.us
201 Laurel Avenue
Tillamook, OR 97141
Phone (503) 842-3403
Cell (503) 701-1235

From: Steve <sjplaisted@charter.net>

Sent: Friday, May 6, 2022 12:29 PM

To: David Yamamoto <dyamamoto@co.tillamook.or.us>; Erin Skaar <eskaar@co.tillamook.or.us>; Mary Faith Bell <mfbell@co.tillamook.or.us>

Subject: EXTERNAL: Oceanside Incorporation

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Oceansiders United informed The Capes they would be resubmitting their Oceanside Incorporation petition. The Capes has reviewed their original petition and based on the proposed services to be provided by a new city of Oceanside, The Capes does not believe we will be deriving any benefit. We understand that an issue was raised about new sewer hookups, but it makes no sense that The Capes should be required to pay additional taxes for a service that is currently provided.

There is another issue that is equally as troubling to The Capes property owners. "Taxation without representation" was a primary tenet of the American Revolution. The Capes is a vacation community where the overwhelming majority of our community is not registered to vote in this area. That means a significant number of our community will not be able to exercise their voice at the place that matters the most, the voting booth. We can't imagine the the creators of the "incorporation statutes" envisioned they would be used in such a way as to disenfranchise tax paying American citizens.

We believe there is mutually beneficial solution that allows for Oceanside to achieve their incorporation goals without The Capes and also allows for The Capes to maintain services that our existing tax dollars provide for us. We are looking for your guidance on how we can quickly be annexed into unincorporated Netarts or possibly creating a new unincorporated area that would include The Capes and other neighborhoods that would like to maintain the services that are currently provided to us.

We have reached out to Sarah Absher to seek guidance on how best for The Capes to proceed.

Steven Plaisted
The Capes HOA
Incorporation Task Force

Sent from my iPhone

Lynn Tone

From: David Yamamoto
Sent: Tuesday, June 21, 2022 1:48 PM
To: Lynn Tone
Subject: FW: EXTERNAL: Oceanside Incorporation

For the record.



David Yamamoto
TILLAMOOK COUNTY COMMISSIONER
dyamamoto@co.tillamook.or.us
201 Laurel Avenue
Tillamook, OR 97141
Phone (503) 842-3403
Cell (503) 701-1235

From: Steve

<sjplaisted@charter.net>

Sent: Monday, May 9, 2022 3:39 PM

To: David Yamamoto <dyamamoto@co.tillamook.or.us>

Subject: Re: EXTERNAL: Oceanside Incorporation

Thank you for the response. My intention was to engage the commissioners, but to make you aware that The Capes is aware of the issue and working to protect the interests of all our homeowners.

Steve Plaisted

Sent from my iPhone

On May 9, 2022, at 3:23 PM, David Yamamoto <dyamamoto@co.tillamook.or.us> wrote:

Steve,

Thanks for reaching out. Per Joel Stevens, County Counsel, as this petition will come before the BOC, the Commissioners cannot engage in conversation about this issue.



David Yamamoto
TILLAMOOK COUNTY COMMISSIONER
dyamamoto@co.tillamook.or.us
201 Laurel Avenue
Tillamook, OR 97141
Phone (503) 842-3403
Cell (503) 701-1235

From: Steve <sjplaisted@charter.net>
Sent: Friday, May 6, 2022 12:29 PM
To: David Yamamoto <dyamamoto@co.tillamook.or.us>; Erin Skaar <eskaar@co.tillamook.or.us>; Mary Faith Bell <mfbell@co.tillamook.or.us>
Subject: EXTERNAL: Oceanside Incorporation

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We believe there is mutually beneficial solution that allows for Oceanside to achieve their incorporation goals without The Capes and also allows for The Capes to maintain services that our existing tax dollars provide for us. We are looking for your guidance on how we can quickly be annexed into unincorporated Netarts or possibly creating a new unincorporated area that would include The Capes and other neighborhoods that would like to maintain the services that are currently provided to us.

We have reached out to Sarah Absher to seek guidance on how best for The Capes to proceed.

Steven Plaisted
The Capes HOA
Incorporation Task Force

Sent from my iPhone

Lynn Tone

From: David Yamamoto
Sent: Tuesday, June 21, 2022 1:47 PM
To: Lynn Tone
Subject: FW: EXTERNAL: Oceanside Incorporation

For the record.



David Yamamoto
TILLAMOOK COUNTY COMMISSIONER
dyamamoto@co.tillamook.or.us
201 Laurel Avenue
Tillamook, OR 97141
Phone (503) 842-3403
Cell (503) 701-1235

From: Steve

<sjplaisted@charter.net>

Sent: Friday, May 6, 2022 12:29 PM

To: David Yamamoto <dyamamoto@co.tillamook.or.us>; Erin Skaar <eskaar@co.tillamook.or.us>; Mary Faith Bell <mfbell@co.tillamook.or.us>

Subject: EXTERNAL: Oceanside Incorporation

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Steven Plaisted
The Capes HOA
Incorporation Task Force

Sent from my iPhone

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Lynn Tone

From: Jason and Suzi Scully <pdxscullys@gmail.com>
Sent: Tuesday, June 21, 2022 12:03 PM
To: Lynn Tone
Cc: Jenny Green
Subject: EXTERNAL: Oceanside Incorporation Petition—Opposition to including the Capes

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Dear Ms. Tone,

My wife and I are homeowners in the Capes and we oppose our community being included in the latest incorporation petition submitted by Oceanside United.

As you likely know, when Oceanside United first submitted their petition to incorporate Oceanside, they excluded the Capes. Excluding the Capes made sense since our development has its own governance structure, maintains our own roads and has been connected to the Oceanside Netarts water and sewer system for decades. In other words, we'd receive no benefit from incorporation, while seeing our property taxes increase. Moreover, since most homeowners here have their primary residence elsewhere, they are not registered Tillamook voters and will have little say in the proposed new layer of government.

Oceanside United initially agreed with this assessment and removed our community from their incorporation proposal that was subsequently reviewed and approved by a majority of members of the Oceanside neighborhood association, Friends of Oceanside. This proposal was the substance of Oceanside United's initial incorporation petition that was rejected by the county commission.

We've now been informed that Oceanside United has submitted a new petition for incorporation that includes the Capes. In contrast to the initial petition, this new petition did not receive the same scrutiny nor approval of Oceanside neighborhood association members. Our Board has not been provided with sufficient time to study the latest proposal to adequately prepare an opposition to our inclusion. It is clear however that as with the initial proposal, our community will receive no benefit from incorporation and have no representation in any new city government. Yet our increased taxes constitute a substantial portion of the proposed city's budget.

We ask that the latest incorporation petition be rejected. At the very least, our community should have more time to review and evaluate alternatives to our forced inclusion in a new city that even it's proponents agree will do nothing for us except raise our taxes.

Warmest Regards,

Jason and Susan Scully
335 Capes Drive
Tillamook OR, 97141

Lynn Tone

From: Elizabeth Moreno <chabelita545@gmail.com>
Sent: Thursday, June 23, 2022 9:29 AM
To: Lynn Tone
Cc: Roger Moreno; The Capes
Subject: EXTERNAL: Oceanside Incorporation comments for hearing

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

Dear Tillamook County Commissioners:

My husband and I are residents of Washington County and own a home in The Capes neighborhood in Oceanside, which we use on a very part time basis. We oppose the inclusion of The Capes neighborhood in the proposed incorporation of Oceanside into Tillamook County. Incorporating our neighborhood would increase our costs, without providing any benefit for us or the community. For further arguments, I ask you to refer to verbal comments that will be presented by our HOA president at the hearing on Monday.

We stand with our HOA in respectfully asking for The Capes neighborhood to be removed from the petition to incorporate. Thank you.

Sincerely,
Elizabeth and Roger Moreno

Lynn Tone

From: David Solinger <david@solingerlaw.com>
Sent: Thursday, June 23, 2022 10:17 AM
To: Lynn Tone
Cc: Jenny Green
Subject: EXTERNAL: Oceanside Petition and the Capes

Importance: High

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Lynn Tone
Community Development
Tillamook County

Dear Members of the Board

I am a homeowner at 465 Capes Drive Tillamook, Oregon 97141 located at the Capes. My primary residence is located in Happy Valley Oregon.

We recall from our civics classes the principles of the founders of our country and the words "Taxation without representation is tyranny." The attempt to annex The Capes into the new City of Oceanside is such an attempt. Very very few owners at the Capes are registered voters in Oceanside/Tillamook. Any inclusion of the Capes into the new City would not provide any representative voice for most property owners at the Capes. The Capes exists as a self-sufficient self-governing entity. The attempt to annex the Capes properties for a more robust tax base is without merit and actually demonstrates why the entire petition to incorporate Oceanside is not well founded and certainly not well funded.

I have been an attorney for over 45 years focusing on real property, environmental contamination and land use issues. In addition I served as a Planning Commission member for over 9 years at a City that had in excess of 100,000 residents and have worked on local government issues throughout my career. It is difficult to imagine how the new City will support itself financially.

There is NO upside for the Capes to be part of the new City. To the contrary the new City would benefit by adding Capes properties to its tax base. This is clearly wrong. This action brings pause to the real motivation begin the push for cityhood.

Kind and respectful regards

David Solinger

David C. Solinger
Mediator and Arbitrator
Member State Bar of California

Solinger Consulting & Mediation LLC
12451 SE Bari Avenue
Happy Valley, Oregon 97086
Tel: 503-563-6119

david@solingerle.com

CONFIDENTIALITY NOTICE:

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message. Thank you.

Lynn Tone

From: Marisol Delaney <marisoldelaney@gmail.com>
Sent: Thursday, June 23, 2022 3:48 PM
To: Lynn Tone
Cc: Jenny Green; Justin Work e-mail
Subject: EXTERNAL: Written Comment re: 851-22-000224-PLNG; Petition for the incorporation of Oceanside

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Written Comments for June 27, 2022 Hearing

Re: #851-22-000224-PLNG; Petition for the incorporation of Oceanside

Tillamook County Commissioners:

We are homeowners in The Capes. We are extremely concerned by the seeming disregard by Commissioners of an amicable, mutual agreement between Oceansiders United and The Capes that there is little valid reason to include our self-contained development in any prospective incorporation. We were not consulted nor given the opportunity to present our case when Commissioners chose to disregard that agreement contained in Petition 1 because we had no reason to believe that agreed-upon petition would be unilaterally amended to our detriment.

As you are aware, the second Petition significantly changed the proposed incorporation boundary to include The Capes, without our support or involvement. We respectfully request that Commissioners revert to the amicable agreement reached by Oceanside residents and their representatives.

It is common for many towns in Oregon, small and large, to have unincorporated areas inside or adjacent and that is the resolution we seek, consistent with the agreement brought to you by Oceanside residents seeking incorporation. At the first hearing questions were raised about future sewer hookups inside The Capes and it was suggested that not being incorporated would impair our right to do so. That is not accurate, as evidenced again by the dozens of unincorporated communities inside or adjacent to other Oregon towns. We are fully serviced by existing sanitary districts and there is no reason that a change in incorporation status today would impair the ability of those districts to continue to service us at regular community rates.

Our Capes community would not benefit from being included in an incorporation and our residents overwhelmingly oppose such an imposition. The Capes is an isolated, self sufficient development in which we maintain our own roads, storm water systems, buildings and common grounds and have stringent limits on vacation rentals. Community rules have been established and every owner is subject to legal covenants which provide for common rules limiting rentals and assessments for common area and road maintenance and upkeep. The Capes has sewer and water services already installed and maintained by the respective districts. The primary effect of including The Capes would be to tax our owners with no reciprocal benefits to our contained community.

Forcibly annexing The Capes does not further the stated goal of reducing issues associated with vacation rentals and tourist traffic. We are a gated, contained community with no outside access or parking for tourists. Our residents do not contribute to the perceived problem and the proposed solution serves only to disenfranchise us.

Many homeowners in The Capes would also be excluded from voting on any Oceanside tax or ballot issues due to part time residency, raising serious concerns about representation.

We urge Commissioners to either reject the second Petition or revert the proposed incorporation boundary to exclude The Capes as agreed upon by Oceanside residents.

Respectfully,

Justin and Marisol Delaney
295 Fall Creek Dr., Oceanside

Lynn Tone

From: Joanna Read <joread@comcast.net>
Sent: Thursday, June 23, 2022 2:59 PM
To: Lynn Tone
Cc: Jenny Green
Subject: EXTERNAL: Re: #851-22-000224-PLNG; Petition for the incorporation of Oceanside

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Dear Tillamook County Community Development Commissioners,

We are writing to you in connection with the above petition. As property owners at The Capes, we respectfully request that the Commissioners either dismiss the petition or, in the alternative, exclude The Capes from the scope of the Oceanside incorporation boundary.

As I am sure the Commissioners are aware, The Capes has adopted community rules and maintains its own roads, storm water systems, buildings and common grounds etc. Given this, we do not see any benefit for home owners in The Capes from the Petition. We appreciate the opportunity to comment on this Petition and trust that the Commissioners will consider the perspective of property owners at The Capes, as well as residents in Oceanside in reaching the right decision here for all.

Thank you,

Joanna Read & Graham Allan
(property owners at The Capes)

Lynn Tone

From: David Nemarnik <dnemarnik@pcfruit.com>
Sent: Thursday, June 23, 2022 1:45 PM
To: Lynn Tone
Cc: The Capes Homeowners Association
Subject: EXTERNAL: The Capes

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

Dear Lynn,

I am writing to express my strong opposition to the Petition for the Oceanside Incorporation Boundary to include The Capes. From my point of view there is no benefit to be derived for our community, and many of us who own homes in The Capes are not eligible to vote on Oceanside City ballot issues.

We all have made decisions to invest in our homes due in no small part to the purposeful and successful Homeowners association. Our HOA has adopted covenants that assure The Capes is well maintained, Clean, and includes a thoughtful rental policy, covenants that make The Capes a wonderful place to share with our families.

Sincerely,

David Nemarnik
415 Promontory
Oceanside, OR
503.320.5696

Daniel and Cherri Lindquist

June 23, 2022

Tillamook County Community Development Office
1510 3rd Suite B
Tillamook, OR 97141

Dear Tillamook County Commissioners:

We are writing to express our thoughts on the second petition brought to the commission by Oceansiders United to incorporate Oceanside. Initially, The Capes were excluded from the boundaries that were proposed to be incorporated, so we were not present for the first hearing to have our concerns heard. This new petition shockingly added The Capes into the proposed incorporation.

When the initial development of The Capes commenced, all essential services including water and sewer were approved and have been being utilized by our currently developed homes. Owners of lots without homes on them yet made their purchases knowing that the access was already present and would not be an added cost at time of building. Having these systems in place in did increase the price of the lots because we were in a sense prepaying for that access.

The Capes, through our HOA fees, maintains all our own roads, storm water systems, buildings and common grounds. We also have a detailed set of CC&Rs related to renting of homes (which is very strict), home maintenance, noise ordinances, and parking. The Capes becoming part of Oceanside incorporated would be of no benefit to us as we do not have the problems that Oceanside is trying to solve with this incorporation. What it would do, is increase our property taxes with no added benefits. It would result in negative outcomes

FALL CREEK DRIVE LOT #117, OCEANSIDE, OR 97134
MAILING ADDRESS: PO BOX 807, TILLAMOOK OR 97141
MOBILE (360) 461-7646 EMAIL: DCLINDQUIST@HOTMAIL.COM

including increased taxes, inability to vote on future issues and no control over the management of our currently beautiful community.

Is it legal to force a private community that has been present for almost 3 decades, to join into Oceanside incorporated to create more tax revenue and do nothing for the private community? We are not attorneys, but something seems incredibly wrong about this. We, as residents of the Capes, shouldn't be forced into what seems like theft, via taxes, without a benefit.

Our HOA president has already laid out many issues that need to be explored and resolved in a separate letter. We ask that you look closely at each one of our letters and take them very seriously.

Sincerely,

Daniel and Cherri Lindquist

Lynn Tone

From: Tony <tsmerritt@sbcglobal.net>
Sent: Friday, June 24, 2022 10:30 AM
To: Lynn Tone
Cc: The Capes HOA Office
Subject: EXTERNAL: Petition to incorporate Oceanside

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Ms. Tone:

We are full-time residents of The Capes in unincorporated Oceanside. We and our community voted to be (and were) excluded from the first (rejected) petition to incorporate Oceanside and it is still our desire to be excluded from the boundary of the proposed incorporation. We pay HOA dues that are used to take care of our community's roads, buildings, grounds, and storm drain systems, and our community has established and adopted rules (CC&Rs) for governance. We do not see any benefit to being included in the incorporation boundary, but to the contrary we see increased taxes and new city rules that, for at least in large part, are designed to address vacation rentals and tourism issues.

Please give careful consideration to this request to exclude The Capes community from the boundaries of an incorporated Oceanside. We are not opposed to the incorporation, but only to the inclusion of our independently managed community.

Sincerely,
Anthony "Tony" and Sheila Merritt
925-216-7215

Lynn Tone

From: Jill Thomas <jillthomas09@gmail.com>
Sent: Friday, June 24, 2022 10:30 AM
To: Lynn Tone
Cc: Jenny Green
Subject: EXTERNAL: Objection to Proposed Oceanside Incorporation

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

We wish to register our objection to the proposed incorporation of Oceanside, based on the current proposed boundary that includes The Capes development. Neither the Oceansiders United group nor the Capes HOA have identified any benefits for residents of The Capes that would occur as a result of this incorporation. It is a blatant attempt to increase the Oceanside tax base by taking advantage of the non-resident owners at The Capes who have no voice in the matter.

The Capes development has existing sewer and water services provided by the respective districts. There is no expected change to the services regardless of the outcome of the incorporation petition. The Capes maintains its own roads, storm sewer system, and public spaces. Being included in an incorporated Oceanside would not change these.

The Capes has a strong HOA, governed by covenants (CC&Rs), that give every home owner an equal voice in matters pertaining to their homes. If The Capes is included in incorporated Oceanside, this voice would be stifled for many residents because they maintain homes and vote elsewhere.

The Capes was originally excluded from the petition for incorporation. The late inclusion of The Capes and the artificial deadline for hearings leading to a vote in November do not provide enough time for The Capes to prepare a response.

We request that the petition be denied until The Capes development is excluded from the boundaries for incorporation.

Respectfully,

Jill and Roger Brees

Lynn Tone

From: Robert Alexander <rcalexan1@comcast.net>
Sent: Friday, June 24, 2022 10:29 AM
To: Lynn Tone
Cc: manager@thecapeshoa.org; ls.niedermeyer@comcast.net
Subject: EXTERNAL: Incorporation of Oceanside

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open attachments unless you are sure the content is safe.]

To Tillamook County Community Development:

RE: Incorporation Proposal for Oceanside

My wife and I own a townhouse in The Capes development halfway between the communities of Netarts and Oceanside. We understand that Tillamook County commissioners will soon be considering a proposal to incorporate Oceanside and that this proposal includes The Capes within the proposed boundary for the new city of Oceanside. While we have no problem with the incorporation of Oceanside, we believe the inclusion of The Capes is unwarranted and will provide us with no benefit while increasing our cost of ownership. Through The Capes Homeowner's Association, we maintain our own roads and storm drains and we already contribute to the local water and sewer district.

Please amend the proposed boundary of Oceanside to exclude The Capes.

Yours truly: Robert Alexander & Linda Niedermeyer
245 Promontory Lane
Oceanside, OR

Lynn Tone

From: Sue Blatner <sueblatner@gmail.com>
Sent: Friday, June 24, 2022 8:08 AM
To: Lynn Tone; Jenny Green; Teri Cereghino
Subject: EXTERNAL: Oceanside Incorporation

[NOTICE: This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Dear Ms Tone,

We are writing as long time owners at the Capes ('93 and '94) to express our opposition to including the Capes in the Incorporation proposal for Oceanside. Excellent letters and comments have already been made explaining our position and we do not see the need to restate the obvious. We are not sure why the first original Petition was changed and request that the second Petition be corrected by removing the Capes from the proposed boundary.

Respectfully,
Joe and Sue Blatner
240 Capes Dr

Joe and Teri Cereghino
535 Capes Pt

Verbal Comments to be read at the June 27, 2022 hearing

Re: #851-22-000224-PLNG; Petition for the incorporation of Oceanside

Dear Tillamook County Commissioners:

My name is Cheryl Jones. I am a full-time resident at the Capes in Oceanside/Tillamook. I am also the Treasurer of the Capes Homeowner Association and have been since 2014.

I am against having the Capes included within the proposed city limits of an incorporated Oceanside for the following reasons.

1. The Capes would gain nothing from being included except for a higher tax burden.
 - The HOA already has responsibility for maintaining the roads and other common areas and assets of the association within our boundaries and are bound to continue doing so by our governing documents.
 - The Capes is an established development with close to 30 years of collecting and amassing our reserve funds to continue to maintain our community. There are 185 lots (with several new homes either under construction or in the planning stages). We have 35 single-family homes, 107 townhomes, 10 cottages and 33 undeveloped lots. Our reserves are currently funded at about 65% which is considerably higher than average for HOA's in Oregon.
 - We collect just under a half million per year from our owners to cover our administrative costs, capital reserves, landscaping, and painting of the townhomes.
2. Approximately 85% of our owners are not full-time residents and therefore would be unable to vote for the measure in the General Election regardless of their views on the matter. If the new incorporation was to issue bonds at some point down the road, they would not be able to vote on those either.
3. The new city could put into effect rules on building heights, renting units, etc. that would contradict our own ruling documents which we all signed onto at the time of purchasing in this community.
4. I believe that the incorporation is being pushed by a small set of Oceanside residents and that they don't represent the interests of surrounding communities that they are trying to annex. We are primarily being included in this because the County did not believe that Oceanside had the tax base to support a city infrastructure in the long term. They might currently have personnel willing to serve at no salary, but they are a limited resource in the long term with the overall aging population.

I hope this measure does not go forward with the inclusion of the Capes.

Dear Tillamook County Commissioners:

I have a second home in The Capes. If The Capes is incorporated into Oceanside, it is my understanding that only full time residents would be able to vote on local issues. If this is true, it would mean I have no input into issues that would affect my real estate taxes, services provided, and ultimately the value of my home.

The Capes has a separate responsibility to maintain its streets and public areas. We are a very different community, with no rental units allowed and limited waste pick up, etc. Oceanside is a destination town for tourism, while The Capes, as a private community, is not. There is no benefit for residents of The Capes to be incorporated with Oceanside. As a community, The Capes receives no benefit from the tourist destination of Oceanside. Our real estate taxes would increase with no benefit to us.

We should remain unincorporated. Taxation without representation is unAmerican.

Virginia Wulf

June 24, 2024

Dear Tillamook County Commissioners-

We just wanted you to know that we are in complete agreement with the letter that Gene Mitchell, our H.O.A. President has written to you concerning the incorporation.

Sincerely,

Rick and Jerrilee Anderegg
415 Fall Creek Drive