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NOTICE OF PUBLIC HEARINGS TILLAMOOK COUNTY BOARD OF COMMISSIONERS UPDATED MEETING LOCATION

Public hearings will be held by the Tillamook County Board of Commissioners at 8:30am on June 27, 2022, at 1:00pm on July 13, 2022, and at 2:00pm on July 28, 2022, at the ATV Building, Tillamook County Sheriff's Office, located at 5995 Long Prairie Road, to consider the following:

#851-22-000224-PLNG: Petition for the incorporation of the Unincorporated 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.

A copy of the public hearings notice, a map of the request area, and a general explanation of the requirements for submission of testimony and the procedures for conduct of hearing can also be found on the Tillamook County Department of Community Development webpage: <https://www.co.tillamook.or.us/commdev/landuseapps>.

The Board of County Commissioners will hear this matter at 8:30am on June 27, 2022, at 1:00pm on July 13, 2022, and at 2:00pm on July 28, 2022. Board action on this matter will be taken no sooner than 1:00pm on July 13, 2022.

For instructions on how to provide oral testimony at the hearings, please email Lynn Tone, Community Development Office Specialist, at ltone@co.tillamook.or.us. The virtual meeting link as well as a dial in number for those who wish to participate via teleconference will be provided with the agenda on the Board of County Commissioner webpage: <https://www.co.tillamook.or.us/meetings>. A virtual meeting link will also be posted on the Department of Community Development webpage the day prior to each hearing: <https://www.co.tillamook.or.us/commdev>.

Written testimony submitted to the Tillamook County Department of Community Development by 4:00 p.m. on June 17, 2022, will be included in the packet provided to the Board of County Commissioners prior to the June 20, 2022, hearing. Please contact Lynn Tone, DCD Office Specialist, ltone@co.tillamook.or.us as soon as possible if you wish to have your comments included in the staff report that will be presented to the Tillamook County Board of Commissioners.

All documents will be available on the Tillamook County Department of Community Development website (<https://www.co.tillamook.or.us/commdev/landuseapps>) with regular updates to reflect new information as received. Copies of documents can also be accessed at the Department of Community Development office located at 1510-B Third Street, Tillamook, Oregon 97141. A copy of the application and related materials may be purchased from the Department of Community Development at a cost of 25 cents per page. The staff report will be available for public inspection on June 20, 2022. Please contact Lynn Tone for additional information ltone@co.tillamook.or.us or call 1-800-488-8280 x3423.

The Tillamook County Courthouse is handicapped accessible. If special accommodations are needed for persons with hearing, visual, or manual impairments who wish to participate in the hearing, please contact 1-800-488-8280 ext. 3303, at least 24 hours prior to the hearing in order that appropriate communications assistance can be arranged.

Tillamook County Department of Community Development
Sarah Absher, CFM, Director

PROSPECTIVE PETITION FOR INCORPORATION OF
OCEANSIDE, OREGON

ECONOMIC FEASIBILITY STATEMENT

PROPOSED CITY MAP

PETITIONERS' PRELIMINARY HEARING ANALYSIS

Submitted: June 7, 2022

PROSPECTIVE PETITION (Form SEL 702)
FOR INCORPORATION OF OCEANSIDE, OREGON

Petition for Incorporation of a City Signature Sheet

This is a petition for the incorporation of a city. Signers of this page must be active registered voters in the county listed.

1 Signatures must be verified by the appropriate county elections official before the petition can be filed with the filing officer. The presiding officer should allow ample time for the verification process to be completed before 5pm on the filing deadline day.

2 Do not sign this petition more than once. Do not sign if map is not attached to this sheet.

RECEIVED
MAY 10 2022
TASSI O'NEIL
COUNTY CLERK

Petition ID

24-2022-6

County

Tillamook

Petition for Incorporation of the City of

City of Oceanside

To the County Elections Official, We, the undersigned voters, of the area proposed to be incorporated, petition the county court to form the city named hereon and as described and defined by the attached map.

3 Signers must initial any changes the circulator makes to their printed name, residence address or date they signed the petition.

Signature Date Signed mm/dd/yy Print Name Residence or Mailing Address street, city, zip code

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

Circulator Certification This certification must be signed by the circulator.

You should not collect any additional signatures on this sheet once you have signed and dated the certification!

I hereby certify that I witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet and I believe each person is a qualified voter in the county (ORS 211.031).

Circulator Signature Date Signed mm/dd/yy

Sheet Number

Printed Name of Circulator Circulator's Address street, city, zip code

Sheet will be numbered by group submitting the petition.

ECONOMIC FEASIBILITY STATEMENT

OCEANSIDE PETITION FOR INCORPORATION ECONOMIC FEASIBILITY STATEMENT

I. INTRODUCTION

Oceanside's communal history, demographic, economy and setting render incorporation an economically feasible vehicle for it to provide needed services at a level that Tillamook County lacks the resources to match.

A. History

The site that is now central Oceanside was first settled by William Maxwell in 1885. He built a home near the beach in 1866 at what is now an Oregon State Park Beach Wayside. He farmed much of the mountainous area for about 35 years. The nearby offshore Three Arch Rocks were named by a pair of naturalists in 1901, and in 1907 President Teddy Roosevelt was persuaded to declare the site a National Wildlife Sanctuary.

In 1921 J.H. and H.H. Rosenberg purchased Maxwell's land, and on July 5th, 1922, they named the area "Oceanside." (Accordingly, Oceanside will celebrate its Centennial in July 2022.) The Rosenbergs built a dance hall (now the greenspace next to the community hall), a store (now Roseanna's), and their homes. Access to Oceanside was difficult, however, until the Rosenbergs financed a plank road from Netarts that opened on July 3, 1925. Hillcrest Court (currently the Oceanside Inn), and 40 small oceanfront cabins were early fixtures, and there were also many camp sites set up with tents. Oceanside soon evolved into a popular destination for tourists who wanted to escape summers in Portland and other parts of the West. In 1926, the Rosenbergs built a now famous tunnel in 1926 through Maxwell Point to allow access to the beach beyond it (now Tunnel beach) that could otherwise only be accessed during extremely low tides.

The village grew over the years, and homes began to creep up the mountain side. Most of the houses were modest and used as weekend and summer homes. Maxwell Mountain was opened up to new development in 1959, and a number of additional homes were built. Today Oceanside residents strive to help retain its rustic seaside village character, but that is changing rapidly. Today, vacation residences and rentals outnumber permanent residences, and the last of the original oceanfront cabins are tentatively slated to be demolished and replaced by a three-story hotel.

B. Demographics and Economic Drivers

Oceanside has long been viewed, from outside and within, as a distinct and distinctive community with characteristics that lend themselves to feasible incorporation. These include:

- decades of recognition as a discrete community by the U.S. Census;
- a formally established boundary (Oceanside Community Boundary);
- a compact geographical setting with a cohesive road system;
- a civic-minded population united in their affection for their setting, and
- an evolved and detailed statement of common civic goals and values (Oceanside Community Plan).

Oceanside’s economic drivers are also distinct, and even insular, when compared to other coastal communities, such as Manzanita, Pacific City, Garibaldi or Rockaway, where visitor growth and retail commerce drive each other. By contrast, Oceanside is hidden away, nine miles from Highway 101, with only a few hundred residences and a “main street” that barely accommodates its lone restaurant, two coffee shop/cafes and two motels. Oceanside is no commercial hub.¹

Accordingly, Oceanside’s potential as an economically viable city stems not from its commerce, but from its setting. Upon rounding that last turn on Highway 131, visitors are treated to an inviting prospect of jumbled houses nestled on terraced streets in the coved lee of Maxwell Point, jostling to share spectacular views of Oceanside Beach, Netarts Bay and Three Arch Rocks. Such visitors may encounter colorful paragliders circling above the village, an exposition by local artists at the community hall or a festive wedding gathering on the beach below. This unique ambience explains why travelers who “discover” Oceanside tend to claim it, sharing the discovery with friends as they would a favorite book or heirloom recipe.

It also explains why they also revisit it, by the thousands, again and again. Despite the dearth of commercial facilities, Oceanside’s engaging setting draws over 300,000 annual visitors (and their business) to Tillamook County – more than communities many times its size.² People who manage to find Oceanside regularly return, often stopping for gas,

¹ The Oregon tourism website “Beach Connections.net” opens its description of Oceanside with this statement:

“One tiny town has never provided so many means of fun and distraction. And it’s all done without a single commercialized attraction.”

² When asked to provide data on the number of estimated annual visitors to the Oceanside Beach Wayside, OPRD Associate Director Chris Havel provided these counts:

2012: 328,096	2017: 314,992
2013: 313,534	2018: 317,992
2014: 303,882	2019: 317,760
2015: 327,670	2020: 244,956 (COVID)
2016: 315,020	2021: Unavailable as yet

groceries, meals or sightseeing in other county communities on their way. Its economic dynamic is also reflected in its thriving short-term rental economy, which generated over \$3 million in lodging revenue in 2021 alone, exclusive of separate cleaning fees that support a satellite economy of local small cleaning businesses and their employees. Indeed, Oceanside's 120 short term rentals are so active year-round that Oceanside ranks second only to much-larger Pacific City in generating annual Transient Lodging Tax ("TLT") revenues since the tax's inception in 2014. The 2020 U.S. Census report indicates that roughly half of all residences in Oceanside are owned by part-time residents or non-residents.

In and among the short-term rentals are its full-time residents: a population of 366 according to the 2020 Census, only 7.4% of which are under 18 and (it is generally acknowledged) the overwhelming majority of which are retired. This population has remained remarkably stable since the 2010 census reported a population 361, reflecting that people retire and relocate to Oceanside for full-time residence at about the same rate as those who depart, usually to be closer to medical facilities or family due to advanced age. The result is a surprisingly cohesive and homogeneous population core that is mature, relatively affluent, sparing in its demand for police or social services and deeply invested in the relaxed quality of life they relocated to Oceanside to enjoy.³ As a side-benefit, Oceanside's population is rife with accomplished individuals graduated from successful careers in a variety of professions and businesses. Together, they offer a reservoir of skills and experience that the unincorporated community has repeatedly and successfully drawn upon to accomplish a number of civic goals.

C. Boundary

Oceanside is categorized as a ruralized unincorporated community in Tillamook County's Comprehensive Plan. During that process, Tillamook County devoted extensive effort to delineating the boundary of the Oceanside Community Boundary. Out of respect for that process (and to avoid re-plowing old ground), Petitioners have mostly adopted that boundary in drawing the proposed map for an incorporated Oceanside. The only exception being slight adjustments to the eastern and northern boundary to encompass additional homes that were built after the Oceanside Community Boundary was established in the 1990s and to avoid splitting tax lots. This decision was made in consultation with the County Assessor.

II. EXISTING AND PROPOSED CITY SERVICES

The proposed city encompasses an area comprising 1068 tax lots according to the County Assessor's office. According to the 2020 Census report, 653 of these are occupied housing units: 201 of which are "occupied" and 452 of which are "vacant or seasonally occupied."

³ In three successive Community Plans compiled since the late 1990s, the Oceanside Neighborhood Association has reflected widespread sentiment that preserving Oceanside's "rustic coastal village atmosphere" is its primary community objective.

The average household size was reported at 1.82 individuals. The number of occupied housing units rose from 647 to 653 (approximately 1%) over the preceding decade.

The people occupying these residences and the community's handful of modest commercial structures are currently served by Special Districts (listed below), franchised vendors or county departments with established delivery systems and funding mechanisms.

Declaration regarding Special Districts: Because each of these districts or entities also serves geographic areas outside of the proposed area, it would not be necessary or practical for the new city government to disturb these systems. In particular, the petitioners disclaim any intent or need to extinguish any of the existing Special Districts. See ORS 221.031(3)(f).⁴

Because existing entities will continue to provide these basic services, a new city will be able to focus its attention and resources on relatively few services or functions as prioritized by its residents and City Council.

A. Services to be Provided by the Proposed City – ORS 221.035(2)(a)

Before deciding to submit a Petition, the Petitioners worked with an ONA Task Force in an extensive but hypothetical⁵ effort to project the city services Oceanside would provide if incorporated. Based on the relevant legal requirements and surveys conducted by the Oceanside Neighborhood Association, Petitioners envision that those services will mainly consist of the following:

Land Use Planning / Building Services

Land use planning is the only service specifically required of cities by Oregon law. It consists of two main components: Building Services (building/trade permits and associated inspections) and Planning Services (land use reviews/applications for variances and subdivisions/appeals). Under state law, Tillamook County Department of Community

⁴ ORS 221.031(3)(f) provides:

“If the petitioners propose not to extinguish a special district pursuant to ORS 222.510 (Annexation of entire district) (2) or a county service district pursuant to ORS 451.585 (Duty of city when all or part of district incorporated or annexed) (1), the petition shall include a statement of this proposal.”

⁵ Should the Petition reach the ballot and be approved, voters will simultaneously elect a new City Council. ORS 221.050(1). Except for the city name, boundary and proposed, maximum city tax rate, the City Council will not be bound by the projections offered in this Economic Feasibility Statement. They are *hypothetical* allocations that the law requires to be included.

Development will continue to provide such services and apply existing county ordinances pursuant to an intergovernmental agreement in exchange for retention of the relevant fees.⁶ Petitioners envision, however, that the new city will eventually recruit staff to provide and coordinate Planning Services with the assistance of contracted consultants who will help with training, complicated land use applications and the preparation of staff reports in planning disputes that are appealed. The projected budget incorporates this phased approach in its staffing projections.

In addition to services, an incorporated Oceanside will be required to prepare a Comprehensive Plan, including designation of an Urban Growth Boundary, within four years after incorporation.⁷ When meeting with Petitioners to discuss this eventual obligation, officials of the Land Conservation and Development Commission (LCDC) indicated a likelihood that the state will provide financial assistance for that project.⁸

Road Maintenance and Construction/Stormwater Management

a. Roads

Given its modest road system (less than 3 miles in total) and historically slow growth rate, the new city will not initially employ public works personnel or purchase equipment. Instead, it is anticipated that the city will place recruiting staff with expertise in public works contracting. Staff will be assisted in this by several local residents with years of pertinent experience who have already indicated their willingness in surveys to serve on relevant civic advisory committees.

Based on data and advice from Public Works Director Chris Laity, the proposed roads budget projects funding streams allocated separately to:

- (1) **a road maintenance** fund and
- (2) **a capital improvements** reserve.

⁶ The Oregon Supreme Court helpfully clarified this in *1000 Friends v. Wasco County, et al.*, 299 Or 344, 365 (1985).

⁷ ORS 197.757 provides: "Cities incorporated after January 1, 1982, shall have their comprehensive plans and land use regulations acknowledged under ORS 197.251 (Compliance acknowledgment) no later than four years after the date of incorporation."

⁸ The Oregon Department of Land Conservation & Development offers grants to assist communities to formulate and obtain acknowledgment of comprehensive plan, adopt land use ordinances consistent with that plan, and to fund planning compliance projects. See <https://www.oregon.gov/lcd/CPU/Pages/Community-Grants.aspx>

Petitioners anticipate the new city will allocate fixed-amount transfers to these accounts from the general fund, state gas tax city allocations and unrestricted TLT funds. The new city will also participate in the grant programs, such as the ODOT Small City Allotment Program for more ambitious grading and paving projects.⁹ Importantly, based on community surveys and comment, Petitioners anticipate that city residents will urge the new City Council to prioritize road work when allocating unanticipated revenues or surplus funds that result from budget adjustments over time.

b. Stormwater Management

Director Chris Laity advised Petitioners that a broad program of road improvement would eventually dovetail with a long-term need for updated stormwater drainage and treatment infrastructure in the coming decades – especially in the Maxwell Mountain area. Laity further advised that an incorporated Oceanside will be in a better position than the county to successfully obtain grants for such work that are available from state and federal agencies.

Code Compliance/Enforcement

Based on their research, a review of county Sheriff patrol logs for Oceanside and interviews with leaders and managers in nearby cities, Petitioners do not envision that an incorporated Oceanside will require or be able to afford its own police force or jail facilities to address conventional crime or public safety issues. (See discussion of “Police/Public Safety” in Section IV. B. below.) However, one of the main drivers for incorporation is what many Oceansiders view as a persistent disregard by tourists and short term rental visitors for local standards or norms relating to noise, parking, loose pets, fireworks and the like. The projected budget includes a fixed, annual allocation from the general fund for addressing this issue, leaving it to the future City Council to determine whether it will be spent on staff or, for example, third-party security vendors to patrol Oceanside and respond to complaints during high volume visitor periods.

Emergency Preparedness

A committee of ONA volunteers has already taken preliminary steps to plan and muster community resources for emergency survival and resiliency measures. This has been motivated by the realization that any significant disaster, such as a wildfire, tsunami-related inundation or earth movement, will probably leave the Oceanside community isolated from communication or material assistance for an extended period of time. The concern is compounded by the fact that the community will be confronted with hundreds of stranded visitors if such a calamity occurs during summer or spring break or other high-volume holidays. One significant hurdle to such planning is the scarcity of resources at the county or state level for unincorporated communities. Incorporation will not only enable the

⁹ Information on the state of Oregon “Smallest Cities” grant program is available at <https://www.oregon.gov/odot/LocalGov/Pages/SCAC.aspx>

community to channel and devote its own resources to such planning, but will also afford it staff time and the legal status to pursue federal, state and private grants available to municipalities.¹⁰

Recreational Services and Amenities

Oceanside's "front yard" is one of the Oregon's most beautiful and expansive beaches, featuring an Oregon State Park parking wayside and affording ready views of an offshore National Wildlife Refuge (Three Arch Rocks). The community makes intensive use of the beach for recreation and exercise. It has also consistently rallied to support (and helped fund) ways to make it more usable and welcoming, such as the community initiative for the new terraced ramp at the Oceanside Beach Wayside access path currently under construction. This type of community support is typical and will undoubtedly continue.

Another unmet need is safer access routes for pedestrians and bicyclists to reach the beach and main street from the homes in the hillsides above. Petitioners anticipate that an incorporated Oceanside will aggressively press for broader guidelines to allow use of Transient Lodging Tax (TLT) "facilities" funds for such purposes. Regardless of its success in that effort, the hundreds of thousands of dollars in TLT revenue generated annually by Oceanside's short term rentals will be available to fund amenities, such as a replacement for its venerable but time-worn community hall, that would benefit both visitors and residents.

B. Relationship Between Proposed and Existing Services – ORS 221.035(2)(b)

The city services envisioned above would complement and fill the narrow service gaps left by existing services providers, who would continue their operations uninterrupted and unaffected by incorporation. The following entities currently provide essential services to the Oceanside community, including established revenue sources independent of an incorporated Oceanside:

Waste Treatment:	Netarts-Oceanside Sanitary District <u>Netarts-Oceanside Sanitary District (n-o-s-d.com)</u>
Water:	Oceanside Water District (also serves Cape Meares) <u>http://www.owd-oregon.org</u> Netarts Water District (also serves part of Oceanside) 4970 Crab Avenue, W. Tillamook, OR 97141 (no website)

¹⁰ For example, emergency preparedness grants are available through federal grant programs administered by the Oregon Emergency Management Performance Grant Program (EMPG). <https://www.oregon.gov/oem/emresources/Grants/Pages/default.aspx>

Fire/Emergency Rescue: Netarts-Oceanside Fire District
www.netartsoceansidefire.org

Each of the above, voter-approved Special Districts has served the area of the proposed city reliably for decades. (The two water districts each serve approximately half of the proposed geographic area.) During that time, the population of the area has remained stable. If that trend continues, the Special Districts will obviously be able to continue serving their needs, assuming continued good management and maintenance by their elected Directors and staff.

If Oceanside begins to grow in population and the number of residences, most of these Special Districts have recently issued formal communications confirming their capacity to serve a significant increase. Specifically, (except for the Oceanside Water District, which was not involved), these Districts formally confirmed their capacity to accommodate increased usage anticipated by the addition of 65 residential lots to the area's inventory – an increase of 10%.¹¹ Given the stable population history, an acknowledged capacity to accommodate a 10% increase in residences is ample. A capacity analysis by the Oceanside Water District was equally reassuring.¹²

Services in the form of public transportation are provided by:

Public Transportation: Tillamook County Transportation District

The Transportation District participates in the NW Connector program as part of the Northwest Oregon Transit Alliance. It currently maintains three round trip routes between Oceanside and the Tillamook Transit Center, where connections may be made to Portland and coastal communities to the north and south. In addition, Oceanside residents are eligible for on-demand service from the District's Dial-A-Ride Service. Both services abide by federal and state accessibility requirements. Petitioners do not anticipate that incorporation will affect the availability of this service, just as it does not affect current service to other incorporated communities.

¹¹ Over the past year, these Special Districts issued capacity confirmation letters to the county in conjunction with subdivision/partition applications regarding Building Permit Nos. 851-21-000095-PLNG; 851-21-000202-PLNG; 851-21-000047-PLNG and 851-21-000332-PLNG. These letters and other associated documents are available at Land Use Applications Under Review | Tillamook County OR

¹² In response to a separate inquiry, the current Superintendent of the Oceanside Water District recently advised that it would only utilize 67% of its present capacity, even if you assumed the highest daily usage recorded over the last year, and assumed that rate every day for an entire year.

Law enforcement and public safety services are currently provided by:

Police / Public Safety Tillamook County Sheriff's Office

The Tillamook County Sheriff's Office currently services Oceanside by way of its established patrols and call response system. According to its "Calls for Service Log", the County Sheriff's Office responded to 210 calls in Oceanside for the period of August 12, 2020 through August 12, 2021. These calls varied from 11 to 31 calls per month with an average of 18. The number of visits was sufficiently high, and the incidence of serious or violent crime was so low, that the Petitioners believe that is reasonable and sufficient for the new city to continue relying on them for its needs, at least in the near term. In emails and telephone conversations with the Petitioners, the Sheriff's office confirmed that incorporation would not affect the services it provides to Oceanside.

Solid waste disposal and curbside recycling services are currently provided to Oceanside by:

Solid Waste Disposal/Recycling City Sanitary Service
Tillamook Co. Solid Waste Administration

Petitioners anticipate that the new City Council will either ratify and adopt the franchise agreement currently in place between the county and City Sanitary or enter its own agreement under the same terms. Oceanside residents have also historically been avid supporters and users of the recycling services and facilities made available by the Tillamook County Solid Waste Administration. That will continue notwithstanding incorporation.

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
(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

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.
- (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.

(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		75,000	50,000
TOTAL	\$172,000	\$650,000	\$750,000

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.

(continued)

2. 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 LCDC 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.

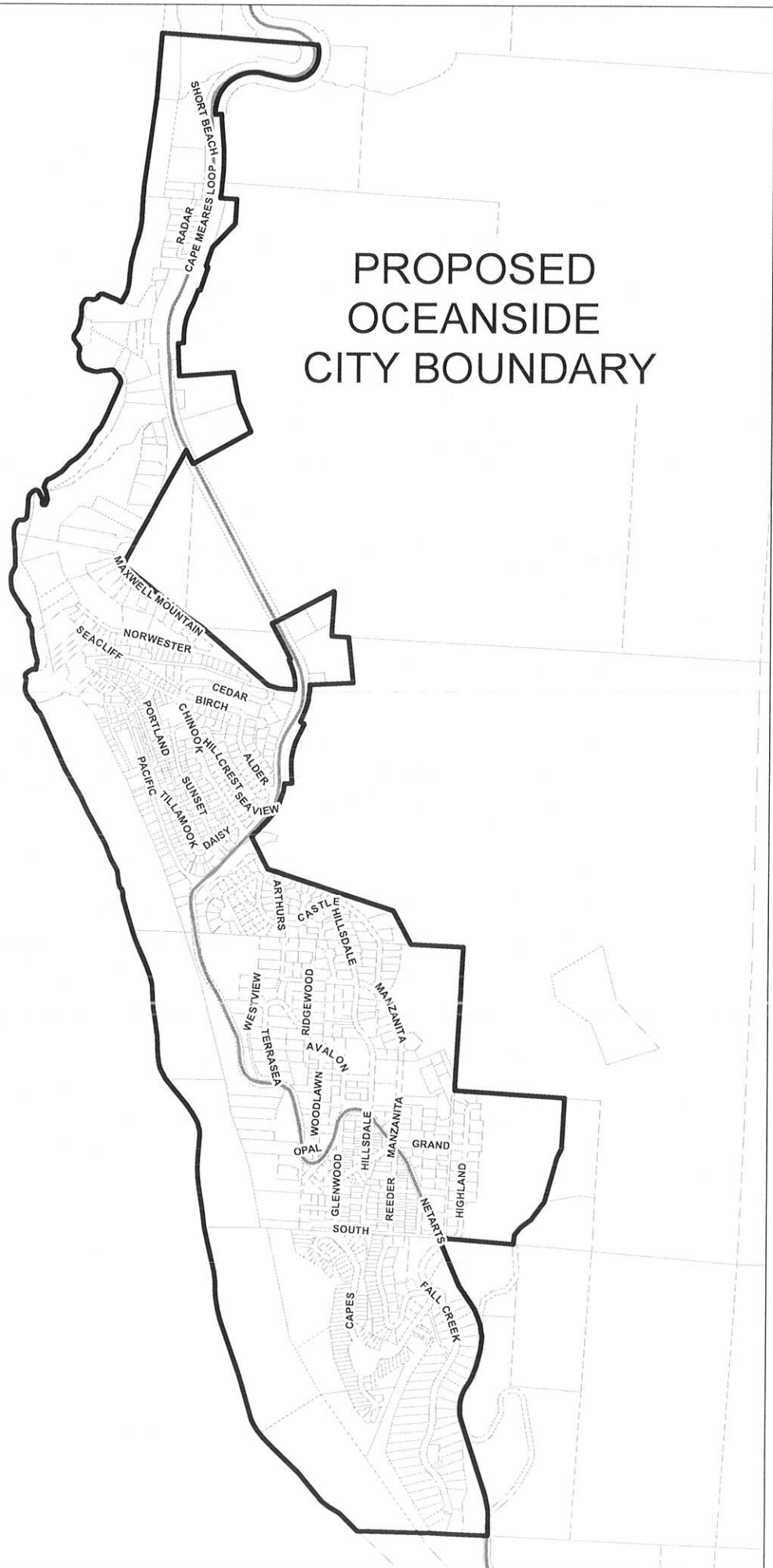
9. This amount reflects an annual transfer to a reserve fund for capital road projects and improvements.
10. This amount represents an undifferentiated allocation for “code compliance” or “code enforcement” services aimed at providing an effective patrol, warning and sanction regime for misconduct or 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.

Respectfully submitted,

Jerry Keene
Blake Marvis
Sharon Brown
Lead Petitioners for Oceansiders United

MAP OF PROPOSED CITY BOUNDARY

PROPOSED OCEANSIDE CITY BOUNDARY



PETITIONERS' PRELIMINARY HEARING ANALYSIS

BEFORE THE TILLAMOOK COUNTY BOARD COMMISSIONERS ON
OCEANSIDERS UNITED'S REQUEST FOR ORDER APPROVING ITS
PETITION FOR INCORPORATION AND SETTING AN ELECTION
PURSUANT TO ORS 221.040(3)

Submitted: June 7, 2022

PETITIONER'S PRELIMINARY HEARING ANALYSIS

I. INTRODUCTION

Petitioners offer preliminary analysis to frame the issues it intends to address at hearing. We will supplement this outline with materials and testimony at the hearing.

II. NATURE OF THIS HEARING

The Board scheduled this hearing pursuant to ORS 221.040 to consider a petition for incorporation of the unincorporated community of Oceanside. The petition was submitted by Oceanside residents Jerry Keene, Blake Marvis and Sharon Brown acting on behalf of "Oceansiders United." If approved, Petitioners seek an order scheduling an incorporation vote for the November 8, 2022, General Election pursuant to ORS 221.040(3).

III. HISTORICAL CONTEXT (PREVIOUS HEARING ORDER & FINDINGS)

The parties do not approach this hearing with a clean slate. Petitioners previously sought the Board's approval of an incorporation petition and election in hearings conducted earlier this year. (*Application No. 851-21-000449PLN*). Petitioners request that the entire record in that matter be included as an Exhibit in the current proceeding.

A. The incorporation plan presented in this petition reiterates and updates the plan that the Board evaluated and addressed in stipulated findings in its previous Order.

The current petition essentially renews the incorporation proposal evaluated by the Board in the previous hearings. The Board and Petitioners ultimately agreed to resolve that matter through an Order adopting stipulated findings and conclusions negotiated by the parties. The resulting "Findings of Fact, Conclusions and Order" (hereafter the "Order") is appended and incorporated herein. That Order denied the original petition by agreement. Importantly, however, the Order also memorialized this understanding (at pages 3-4):

"...[P]etitioners 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."

Petitioners have followed through on their stated intent by presenting this renewed petition. The maximum tax rate, map and Economic Feasibility Statement presented in this petition essentially reiterate the incorporation proposal addressed in the Board's previous Order, with two exceptions:

- (1) The proposed city boundary now includes The Capes development; and
- (2) The revenue and expense projections have been updated.

As discussed below, by presenting the same incorporation proposal, petitioners and the Board intend to invoke and rely upon the stipulated findings and conclusions in the previous Order as a "roadmap" to guide and streamline the presentation and deliberations in this proceeding.

B. The stipulated findings and conclusions in the previous Order will enable the parties in this hearing to focus narrowly on the statutory elements that it previously determined to be incomplete or inadequately persuasive.

The stipulated findings and conclusions in the original Order accepted Petitioner's evidence and analysis on some of the key statutory inquiries while finding the record incomplete or unpersuasive as to certain others. The Board and Petitioners agreed to "abide by" those findings, stipulating they might be used and relied upon in this proceeding to provide "specific guidance" as to the issues on which the Board perceived "shortcomings" in the original record. Accordingly, in this hearing, Petitioners propose to focus their efforts on addressing those perceived "shortcomings" while relying on the Board to honor the stipulated findings and conclusions that deemed the record adequate to satisfy the other statutory elements.

IV. ANALYZING THE STATUTORY "OBJECTIONS" AND REQUIREMENTS

The relevant statute and a related court decision require the Board to address five elements in the course of evaluating an incorporation petition and related submissions:

1. Whether to alter the proposed **city boundary** by adding or removing territories based on whether they "may be benefited" or "will not ... be benefited" by incorporation;
2. Objections to the **granting** of the petition;
3. Objections to the **formation** of the proposed incorporated city; and
4. Objections to the permanent **rate of taxation** proposed in the petition.

5. Whether “it is reasonably likely that the newly incorporated city can and will comply with [the **Oregon land use**] **goals** once the city assumes primary responsibility for comprehensive planning in the area to be incorporated.”¹

During the previous hearings, Petitioners translated these vaguely worded determinations into concrete factual inquiries, offering detailed explanations for each. (See Petitioners' Analysis and Proposed Findings, pages 3-15). We incorporate those explanatory comments here without repeating them. Instead, we will proceed directly to a list of those factual inquiries and preview how we propose to satisfy them at hearing.

1. Altering the city boundary (“benefited territories”)

In contrast to the previous proceedings, Petitioners have proposed a city map encompassing the entire Oceanside Unincorporated Community Boundary as acknowledged in the county's comprehensive land use plan in the 19990s. Petitioners have extended the original northern boundary to incorporate homes subsequently constructed on and near Radar Road. (The homeowners at the northernmost edge of the new boundary support incorporation and embraced this adjustment.) Based on recommendations by the County Assessor's office, Petitioners further adjusted the northern boundary and some sections of the eastern boundary of the Community Boundary to avoid splitting existing tax lots.

In the previous hearings, Community Development Director Absher introduced a map of reflecting commonly acknowledged Oceanside “neighborhoods.” Petitioners have no basis to dispute that map and will accept the Department's geographic framework in these proceedings. We anticipate that residents or association officers from at least some of these neighborhoods will seek exclusion from the proposed city (and the associated tax) based on assertions that the “benefits” of incorporation will not extend to their areas. Petitioners request that the Board bifurcate these hearings in order to receive and deliberate any boundary adjustments before Petitioners present their main case.

Without more information or guidance on how the Board intends to adjudicate such requests, Petitioners are not in a position to suggest the factual inquiries it should conduct to address them. We do anticipate offering a list of incorporation benefits to assist the Board in its analysis.

¹ *1000 Friends of Oregon v. Wasco County*, 299 Or 344, 360 (1985) (hereafter “*1000 Friends*”)

2. Objections to the “granting of the petition”

Petitioners contend that this statutory inquiry requires the Board to determine whether the procedures for submitting an incorporation petition have been met. These include satisfying the following requirements:

- a completed “Form SEL 70” (lead petitioners, city name and tax rate)
- a city map of the required dimensions
- an Economic Feasibility Statement (services analysis and a projected budget)
- validated signatures from 20% of the proposed city’s voters
- publicly posted and published notices of the incorporation hearing

Prior to the hearing, Petitioners anticipate that the County Clerk, Director of Community Development and County Counsel will confirm that these requirements have been met. We also note that the documentation and procedural steps taken by Petitioners with regard to this Petition are identical in substance and form to those which the Board already accepted as sufficient in the previous hearing Order (page 4).

3. Objections to “formation” of the proposed incorporated city

For reasons expressed in their “Petitioners’ Analysis and Proposed Findings” from the previous hearings (pages 4-7), Petitioners contend this statutory element logically refers to determining whether Petitioners have demonstrated the “economic feasibility” of the proposed city. To that end, Petitioners prepared and submitted an Economic Feasibility Statement (“EFS”) to the County Clerk when it filed the original Petition. That EFS is appended to this document and incorporated by reference. At hearing, Petitioners will rely on that analysis as bolstered or supported by statements from county staff and other authoritative sources.

The economic analysis and data proposed in this Petition are essentially the same as those presented to support the previous Petition. Accordingly, in this proceeding, Petitioners will cite and rely the following stipulated findings and conclusions from the Board's previous Order (at page 5):

“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.

11. Projected Resources: Petitioners' representations that the "Projected Resources" discussion and accompanying "Notes" reflected in the EFS 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 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."

Absent significant new challenges or developments, Petitioners will cite and rely on these stipulated findings. Petitioners also note that the previous EFS also incorporated and referenced research information outlined in the "Final Report" of the ONA Incorporation Task Force that, as a result, is also made part of this record.

4. Objections to Tax Rate

This petition proposes the same maximum tax rate as that specified in the previous incorporation petition and hearings, i.e., **80 cents per \$1000 of assessed property value**. While the statute does not specify the basis for any objections, the parties to the previous incorporation stipulated to the following findings and conclusions:

"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)."

By stipulation, the Board agreed that it based 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.

At hearing, Petitioners will offer additional data and analysis to persuade the Board that it has adequately factored the new city's "vulnerability" to reduced STR revenue from unanticipated political or economic events into its budget analysis. Petitioner will also cite authority for the proposition that hypothetical concerns about the potential of *future* political or economic events are not a legally appropriate basis to deny the residents of the proposed city the opportunity to conduct their own assessment of that risk in deciding whether to vote for against incorporation on the ballot.

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.

Petitioners will contend that this finding reflected a surface analysis of the proposed tax rate based on the fact that it is generically "low" compared to the rate assessed in other municipalities or even the county itself. Petitioners will assist the Board to conduct a deeper analysis of the proposed tax rate in the context of Oceanside's particular circumstances. In so doing, Petitioners will ask the Board to consider these questions, among others:

1. What has Oceanside's growth rate been historically?
2. To the extent growth is expected, what will the impact be on the city budget, given the narrow range of services Oceanside's municipal government will actually provide?
3. To what extent will growth costs actually be absorbed by other infrastructure entities, such as developers, the sewer district, water district or fire/emergency services districts?
4. How much actual revenue would this "low" tax rate actually generate compared, given Oceanside's relatively high property values? How would exclusion of The Capes affect the analysis?
5. How does the projected revenue compare to that generated by cities with higher tax rates – either in absolute terms of on a per capita basis?

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."

At hearing, Petitioners will seek to fill this information gap, especially focusing on these questions:

1. Do the updated allocations (increases) for roads in the current EFS allay the Board's concerns?
2. How does the annual allocation for Oceanside road maintenance proposed in the EFS compare to the historical average that the county has expended on such maintenance?
3. How does the proposed allocation for maintaining Oceanside's roads compare to annual expenditures by other small cities on an absolute or per-mile basis?
4. Does the Public Works Director believe annual expenditures at the proposed level constitute a feasible maintenance plan for Oceanside's needs?
5. What other sources of revenue will be available to an incorporated Oceanside that are not available, or as readily available, to the county or unincorporated communities?

5. Likely Compliance with Land Use Goals

In the previous order, the Board accepted Petitioners' Proposed Analysis and Findings addressing Oceanside's ability and readiness to comply with each of Oregon's statewide land use goals. The Board also adopted Director Absher's unambiguous that an incorporated Oceanside would be likely and able to comply with the Oregon Statewide land use goals. This was reflected in the stipulated findings and conclusions of the previous Order (page 4):

"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."

Petitioners will rely on the Board to adhere to these stipulated findings and conclusions in the absence of significant new information.

V. CONCLUSION

Since its founding 100 years ago, Oceanside has grown from a collection of vacation cabins into an urbanized community with a stable population, a cohesive civic identity and an effective community apparatus for identifying and pursuing common goals. Incorporation is the natural next step in its evolution as a community – endorsed by a clear majority of roughly 200 community stakeholders participating in the ONA endorsement decision after one of the most extensive local information campaigns ever assembled in the county, if not the state.

A. Request for Order

Based on the information presented in this Analysis, the Economic Feasibility Statement, the original *ONA Incorporation Report* and the stipulated findings in the previous Order , Petitioners respectfully request that the Board issue an Order approving the Petition. It should also instruct the County Clerk, County Assessor and County Surveyor to complete the tasks necessary in a timely fashion sufficient to place the question of incorporating Oceanside, Oregon, including the approved boundary, legal description and permanent tax limit of \$.80 per \$1000 on the ballot for the General Election on November 8, 2022 as prescribed in ORS 221.040(3)

Petitioners appreciate the time and effort that county staff and the Commissioners themselves have devoted to accommodating this unusual and historic incorporation effort.

Respectfully submitted,

Jerry Keene
Blake Marvis

Sharon Brown

Lead Petitioners
Oceansiders United

FINDINGS OF FACT, CONCLUSIONS AND ORDER

851-21-000449-PLNG

May 11, 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 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.

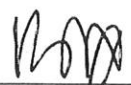
- Section 3. This decision shall become effective upon the mailing of the documents listed in Section 2.

- 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.


DATED this 11th day of May 2022.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

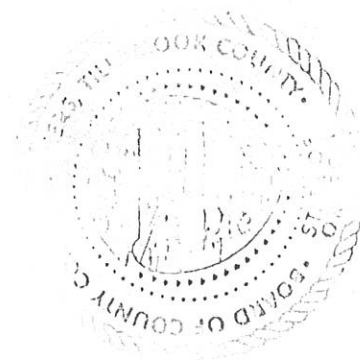
	Aye	Nay	Abstain/Absent
 _____ David Yamamoto, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Erin D. Skaar, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Mary Faith Bell, Commissioner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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.