

Lynn Tone

From: JERRY KEENE <jerrykeene@aol.com>
Sent: Thursday, July 7, 2022 3:46 PM
To: Jerry Keene; Lynn Tone
Cc: Sarah Absher; blakemarvis1@gmail.com; sharbrown@aol.com
Subject: EXTERNAL: Re: Oceanside Incorporation Petition - Suppl. Packet for July 13, 2022 Hearing
Attachments: Oceanside STR Survey Excerpts.pdf; Cover Memo re Hypo Budget Projections 07.07.2022.pdf; Final HYPOTHETICAL CITY OF OCEANSIDE REVENUE AND EXPENSE PROJECTION BY QUARTER 2022-23 (1).pdf; Final HYPOTHETICAL CITY OF OCEANSIDE REVENUE AND EXPENSE PROJECTION BY QUARTER FY 2024-25 (2).pdf; Laity Concurrence Memo 06_29_2022.pdf

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Lynn -

The two quarter budget projections were actual for 2022-2023 and 2024-2025 (the first and third years, per the incorporation statute. Sorry for the confusion.

Jerry

On Jul 7, 2022, at 1:28 PM, Jerry Keene <jerrykeene@aol.com> wrote:

Lynn -

I have attached these items for inclusion in the record at the July 13, 2022 Hearing:

1. Memo regarding Hypothetical Quarterly Budget Projections
2. Hypothetical Quarterly Budget Projections for FY 2022-2024
3. Hypothetical Quarterly Budget Projections for FY 2023-2024
4. Memo regarding Storm Drains and C. Laity Concurrence
5. Excerpt from Oceanside Short Term Rental Survey 07.07.2022

Thank you for your help!

Jerry Keene

TO: Tillamook County Board of Commissioners
FROM: Oceansiders United
DATE: July 7, 2022

RE: *Petition for Oceanside Incorporation, #851-22-000224-PLNG*
Hypothetical Quarterly Breakdown of Projected Oceanside Income/Expenses

Commissioners:

At the June 20, 2022 hearing in this matter, the Tillamook County Board of Commissioners (the "Board"), specifically, Commissioner Skaar, requested that Petitioners provide a breakdown of how potential revenue sources cited in the hypothetical first and third year budgets in the Economic Feasibility Statement (EFS) would be allocated to identified expenses in a monthly or quarterly cash flow table broken down by accounts. Immediately after the hearing, County Treasurer Shawn Blanchard requested similar information from Petitioners by email. During the hearing, Petitioners objected to the necessity of providing such information on the grounds that it was beyond the scope of the Board's inquiry as set forth in ORS 221.031.

In the spirit of cooperation and collaboration, Petitioners have prepared the attached "Hypothetical Quarterly Breakdown of Projected Oceanside Income/Expenses" for the Board's review. These enclosures were also shared with Tillamook County Treasurer Shawn Blanchard in a meeting on July 7, 2022. She reviewed them in detail, noting that the numbers are sound and the projections are based on figures obtained from her office and from Denise Vandecoevering, the Tillamook County Assessor.

In providing this information, however, Petitioners wish to clarify that they do not concede the Board's statutory authority to require such detailed and speculative hypotheticals as a precondition for approving the Petition. To the contrary, we specifically preserve our objection that such a demand exceeds the scope of the statutory inquiry, and that the Board would commit legal error were it to rely on any disagreement or dissatisfaction with these projections as a basis to deny the petition. For clarity, we restate our objection and its statutory basis below.

The incorporation statutes do not contemplate or authorize the Board to act as a political body that raises and evaluates the answers to its own questions or objections regarding practical implementation of the projections in the EFS. To the contrary, the statute charges it to act as an impartial court to hear and adjudicate objections raised by third parties and property owners. Furthermore, such objections must relate to whether the petition and EFS adequately address the elements specified in the statute itself, not raise additional questions the Board might choose to pose.

With regard to revenue and resources, the statute requires only that the tax rate proposed by Petitioners "would generate operating tax revenues sufficient to support an adequate level of municipal services." ORS 221.031(3)(c) (emphasis added). Similarly, the statute *explicitly states* that Petitioners are *only* required to submit "first and third year" budgets. ORS 221.035(2) (emphasis

added). Taken together, these statutory provisions require only that Petitioners provide hypothetical first and third-year budget projections to demonstrate a sufficient amount of annual revenue to fund the municipal service contemplated in the EFS. Nothing in the text of the statute, legislative history, or case law authorizes the Board to go beyond examining the feasibility of Petitioners' projections of annual revenue "levels" by engaging in conjecture about how the city council would structure monthly or quarterly cash flow tables linking projected services to individual accounts.

Additionally, such speculative projections provide no substantive information of practical import. At best, they represent a hypothetical scenario that may be ignored or altered by the City Council of Oceanside once it begins to actually implement and fund city services. In other words, once Petitioners demonstrate that the amount of projected annual revenues are "sufficient to support an adequate level of services" as the statute requires, a hypothetical breakdown of monthly or quarterly cash flow does nothing to further the statutory analysis. Aside from the permanent tax rate cap, the future City Council may ultimately allocate resources in an entirely different manner or implement services in accordance with a completely different cash flow timeline in any given year, depending on actual circumstances, resources and public sentiment at the time. The legislature, in crafting ORS 221.031 and 221.035, did not vest the "county court" with the authority to require such clairvoyance of the Petitioners.

In summary, if the Board bases any part of its decision on some disagreement or perceived shortcoming in the hypothetical quarterly breakdown or the implementation schedule it implies, it would constitute an error of law because evaluating such information would amount to rendering a political decision about whether the incorporation projections are "prudent" or "optimal," not whether incorporation would be "feasible." See *McManus v. Skoko*, 255 Or 374, 379-380 (1970) ("There is not the slightest implication of any intent to authorize the county court, on political grounds, to deny the right of 150 inhabitants of a particular area to decide by majority vote whether to incorporate their area as a city."). If there is any indication that the Board has relied on any hypothetical itemized projections in coming to a decision, Petitioners preserve the option to appeal the Board's decision to LUBA on that issue.

Petitioners are ready to answer any questions the Board may have about the enclosures at the upcoming July 13, 2022 Hearing.

Best,

Blake Marvis
Sharon Brown
Jerry Keene

Chief Petitioners, Oceansiders United

**HYPOTHETICAL CITY OF OCEANSIDE REVENUE AND EXPENSE PROJECTION BY QUARTER
FIRST YEAR BUDGET 11/22-6/23**

Presumes all expenses paid from general unrestricted funds for the first year

Potential Hypothetical Revenue Sources by calendar quarter FY 11/22-6/23	anticipated receipts partial quarter 11/22	anticipated receipts quarter 1/23-3/23	anticipated receipts quarter 4/23-6/23	total anticipated receipts FY 11/22-6/23	Potential Hypothetical Revenue Sources by calendar quarter FY 11/22-6/23 (Revised)	anticipated receipts partial quarter 11/22-12/22	anticipated receipts quarter 1/23-3/23	anticipated receipts quarter 4/23-6/23	total anticipated receipts FY 11/22-6/23
City Tax	0	0	0	0	0 City Tax	0	0	0	0
Previous Year City Tax	0	0	0	0	0 Previous Year City Tax	0	0	0	0
Transient Lodging Tax*	0	47,250	78,750	126,000	Transient Lodging Tax**	0	54,000	90,000	144,000
Short Term Rental Operator Fees	0	16,000	20,000	36,000	Short Term Rental Operator Fees	0	16,000	20,000	36,000
State Revenue Sharing	0	0	0	0	State Revenue Sharing	0	0	0	0
Donations	0	10,000	0	10,000	Donations	0	10,000	0	10,000
Quarterly totals	0	73,250	98,750	172,000	Quarterly totals	0	80,000	110,000	190,000

*calculation based on full calendar year projected receipts of \$315,000 adjusted for seasonal fluctuation and date of incorporation ** calculation based on full calendar year projected receipts of \$360,000 adjusted for seasonal fluctuation and date of incorporation

Potential Hypothetical Expenses Sources by calendar quarter FY 11/22-6/23	anticipated expenses partial quarter 11/22	anticipated expenses quarter 1/23-3/23	anticipated expenses quarter 4/23-6/23	total anticipated expenses FY 11/22-6/23	Potential Hypothetical Expenses Sources by calendar quarter FY 11/22-6/23 (Revised)	anticipated expenses partial quarter 11/22	anticipated expenses quarter 1/23-3/23	anticipated expenses quarter 4/23-6/23	total anticipated receipts FY 11/22-6/23
Staff Salary and Benefits	0	0	0	0	Staff Salary and Benefits	0	0	0	0
Election Costs	0	6,000	0	6,000	Election Costs	0	6,000	0	6,000
Office Rent, Equipment, Supplies, Utilities	0	0	10,000	10,000	Office Rent, Equipment, Supplies, Utilities	0	0	10,000	10,000
Fees, Training, Dues, Subscriptions, Travel	0	0	0	0	Fees, Training, Dues, Subscriptions, Travel	0	0	0	0
Insurance	0	10,000	0	10,000	Insurance	0	10,000	0	10,000
Professional Services/Legal	0	0	30,000	30,000	Professional Services/Legal	0	0	30,000	30,000
Land Use Consulting Services	0	0	0	0	Land Use Consulting Services	0	0	0	0
Code Compliance and Municipal Court	0	0	0	0	Code Compliance and Municipal Court	0	0	0	0
Emergency Preparedness	0	0	0	0	Emergency Preparedness	0	0	0	0
Transfer to Roads Maintenance Fund	0	0	0	0	Transfer to Road Maintenance Fund	0	0	0	0
Transfer to Roads Capital Reserve Fund	0	0	0	0	Transfer to Road Capital Reserve Fund	0	0	0	0
Transfer to TLT Tourism Reserve Fund (70%)	0	33,000	55,000	88,000	Transfer to TLT Tourism Reserve Fund (70%)	0	37,800	63,000	100,800
Unrestricted Contingency Reserve	0	0	28,000	28,000	Unrestricted Contingency Reserve	0	5,200	28,000	33,200
Quarterly totals	0	49,000	123,000	172,000	Quarterly totals	0	59,000	131,000	190,000

HYPOTHETICAL CITY OF OCEANSIDE REVENUE AND EXPENSE PROJECTION BY QUARTER
THIRD YEAR BUDGET 7/24-6/25

CONSERVATIVE VERSION

Potential Hypothetical Revenue Sources by quarter FY 7/24-6/25	anticipated receipts Q7/24-9/24	anticipated receipts Q10/24-12/24	anticipated receipts Q1/25-3/25	anticipated receipts Q4/25-6/25	total anticipated receipts FY 7/24-6/25
City Tax		230,000			230,000
Previous Year City Tax	6,250	6,250	6,250	6,250	25,000
Transient Lodging Tax*	162,000	54,000	54,000	90,000	360,000
Short Term Rental Operator Fees	20,000	20,000	20,000	20,000	80,000
State Revenue Sharing	8,750	8,750	8,750	8,750	35,000
Donations/Grants					0
Miscellaneous Fees and Taxes	7,500	7,500	7,500	7,500	30,000
Quarterly totals	204,500	326,500	96,500	132,500	760,000
Transfer from/to Unrestricted Cont. Reserve	27,650	(136,950)	60,050	49,250	0
*calculation based on full calendar year projected receipts of \$325,000 adjusted for seasonal fluctuation					
Potential Hypothetical Expenses by quarter FY 7/24-6/25	anticipated expenses Q7/24-9/24	anticipated expenses Q10/24-12/24	anticipated expenses Q1/25-3/25	anticipated expenses Q4/25-6/25	total anticipated expenses FY 7/24-6/25
Staff Salary and Benefits	62,500	62,500	62,500	62,500	250,000
Election Costs	-	-	-	-	-
Office Rent, Equipment, Supplies, Utilities	3,750	3,750	3,750	3,750	15,000
Fees, Training, Dues, Subscriptions, Travel	1,250	1,250	1,250	1,250	5,000
Insurance	3,750	3,750	3,750	3,750	15,000
Professional Services/Legal	6,250	6,250	6,250	6,250	25,000
Land Use Consulting Services	6,250	6,250	6,250	6,250	25,000
Code Compliance and Municipal Court	12,500	12,500	12,500	12,500	50,000
Emergency Preparedness	2,500	2,500	2,500	2,500	10,000
Transfer to Roads Maintenance Fund	12,500	12,500	12,500	12,500	50,000
Transfer to Roads Capital Reserve Fund	7,500	7,500	7,500	7,500	30,000
Transfer to TLT Tourism Reserve Fund (70%)	113,400	37,800	37,800	63,000	252,000
Transfer to Unrestricted Contingency Reserve	-	33,000	-	-	33,000
Quarterly totals	232,150	189,550	156,550	181,750	760,000

INCREASED VERSION BASED ON ACTUAL TLT 2022

Potential Hypothetical Revenue Sources by quarter FY 7/24-6/25	anticipated receipts Q7/24-9/24	anticipated receipts Q10/24-12/24	anticipated receipts Q1/25-3/25	anticipated receipts Q4/25-6/25	total anticipated receipts FY 7/24-6/25
City Tax		230,000			230,000
Previous Year City Tax	6,250	6,250	6,250	6,250	25,000
Transient Lodging Tax*	270,000	90,000	90,000	150,000	600,000
Short Term Rental Operator Fees	20,000	20,000	20,000	20,000	80,000
State Revenue Sharing	8,750	8,750	8,750	8,750	35,000
Donations/Grants					0
Miscellaneous Fees and Taxes	7,500	7,500	7,500	7,500	30,000
Quarterly totals	312,500	362,500	132,500	192,500	1,000,000
Transfer from/to Unrestricted Cont. Reserve	-4750	(75,750)	49,250	31,250	0
*calculation based on 2022 full calendar year projected receipts of \$600,000 plus 5% inflation adjusted for seasonal fluctuation					
Potential Hypothetical Expenses by quarter FY 7/24-6/25	anticipated expenses Q7/24-9/24	anticipated expenses Q10/24-12/24	anticipated expenses Q1/25-3/25	anticipated expenses Q4/25-6/25	total anticipated expenses FY 7/24-6/25
Staff Salary and Benefits	62,500	62,500	62,500	62,500	250,000
Election Costs	-		-	-	-
Office Rent, Equipment, Supplies, Utilities	3,750	3,750	3,750	3,750	15,000
Fees, Training, Dues, Subscriptions, Travel	1,250	1,250	1,250	1,250	5,000
Insurance	3,750	3,750	3,750	3,750	15,000
Professional Services/Legal	6,250	6,250	6,250	6,250	25,000
Land Use Consulting Services	6,250	6,250	6,250	6,250	25,000
Code Compliance and Municipal Court	12,500	12,500	12,500	12,500	50,000
Emergency Preparedness	2,500	2,500	2,500	2,500	10,000
Transfer to Roads Maintenance Fund	12,500	12,500	12,500	12,500	50,000
Transfer to Roads Capital Reserve Fund	7,500	7,500	7,500	7,500	30,000
Transfer to TLT Tourism Reserve Fund (70%)	189,000	63,000	63,000	105,000	420,000
Transfer to Unrestricted Contingency Reserve	-	105,000	-	-	105,000
Quarterly totals	307,750	286,750	181,750	223,750	1,000,000

Laity 6/29/2022
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From: jerrykeene@aol.com,
To: claity@co.tillamook.or.us,
Subject: Oceanside Roads
Date: Wed, Jun 29, 2022 3:23 pm

Chris -

I had just a few more points I wanted to clarify regarding our hypothetical road program for an incorporated Oceanside. These are based on my understanding of information you've provided, so please do not hesitate to amend or correct anything I misunderstood.

1. Oceanside's need for storm drain upgrades will eventually require action within 20-30 years regardless of whether Oceanside is incorporated. This is true of many coastal communities. This does not mean that Oceanside should forego maintenance or repairs on the roads involved until storm drains are updated. It just means that it should avoid improvements like paving that would inevitably need to be torn up for drain upgrades.
2. Neither the county nor any incorporated community would ordinarily be expected to account for funding such storm drain projects out of its operating budget. Instead, the prudent course would be to build a capital reserve to serve as the required "match" for outside grants that periodically become available. The \$30,000 Oceanside has tentatively budgeted should accrue sufficient funds over a 10-year period to serve as the "matching funds" such grants entail (usually 10% of the total cost).
3. You and other county staff have tentatively explored the availability such grants for Oceanside in the past without making much headway.
4. As an incorporated city with its own capital reserve, Oceanside would be in a position to qualify for such grants independently. In comparison, an unincorporated Oceanside - as a practical matter - would be in competition with the county's other unincorporated communities for the limited matching funds the county has available for such grants.

If these points are accurate, you can just reply and say so. If you need to qualify or restate anything, please do what ever you feel necessary to ensure that we provide the Commissioners accurate information.

Thanks,

Jerry Keene

Laity 6/29/2022
p. 2 of 2

From: claity@co.tillamook.or.us,
To: jerrykeene@abl.com,
Subject: RE: EXTERNAL: Oceanside Roads
Date: Wed, Jun 29, 2022 4:59 pm
Attachments:

Jerry,

Your points are accurate.



Chris Laity, P.E. | Director

TILLAMOOK COUNTY | Public Works

503 Marolf Loop Road

Tillamook, OR 97141

Phone (503) 842-3419

claity@co.tillamook.or.us

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**Excerpts from Tabulations of
Oceanside Short Term Rental Survey – July 7, 2022**

1. Do you consider yourself a full-time resident, a part-time resident or an absentee property owner (pick one)? (Please also let us know if you are from a community other than Oceanside.)

Full time / non-STR	35
Part time / non-STR	48
Full time / STR	4
<u>Part time or absentee / STR</u>	<u>29</u>
Total Responses	122 (27% response rate out of 458)

7. Here are some alternatives being considered by the STR Committee. Please rate your support for each of them on a scale of 1 (absolutely oppose) to 5 (entirely support).

a. Ban and phase out all STRs

Short Term Rental Operators

Non STR Owners

Responses	Points
1 28	28
2 5	10
3 0	0
4 0	0
5 0	0
<hr/>	

Responses	Points
1 39	39
2 9	18
3 16	48
4 5	20
5 9	45
<hr/>	

Totals 33 38

Totals 78 167

Average 1.2

Average 2.1

Overall Average 1.9

b. Cap the number of percentage of homes with STR licenses in each community.

Short Term Rental Operators

Non STR Owners

Responses	Points
1 8	8
2 2	4
3 10	30
4 7	28
5 6	30
<hr/>	

Responses	Points
1 8	8
2 8	16
3 7	21
4 8	32
5 47	235
<hr/>	

Totals 33 100

Totals 78 312

Average 3.3

Average 4.0

Overall Average 3.7