

**ISSUES RELATED TO THE PROPOSED INCORPORATION OF
THE CITY OF CALVERT SHORES**

**A REPORT TO THE
BOARD OF COUNTY COMMISSIONERS, CALVERT COUNTY**

**PREPARED BY:
THE CALVERT SHORES MUNICIPALITY ORGANIZING COMMITTEE**

**SUBMITTED ON:
MARCH 15, 2016**

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Executive Summary

The sound fiduciary decision for both the Property Owners Association of the Chesapeake Ranch Estates (POACRE) and the County is to incorporate the municipality, transfer certain POACRE assets, and provide the municipality with adequate tax revenues to support, maintain, and improve the community's quality of life. In the long term, this decision would benefit both the POACRE residents and the County financially. The Organizing Committee (Committee) will submit, at a later date, a fiscal impact report that includes the expected fiscal impact on the County and options for accommodating this impact.

The proposed municipality would give a voice in community affairs to more residents than many of them have now under the POACRE regime, and would address their concern that it is unfair and inequitable for the County to use their road taxes and fees for road services elsewhere in the County. In addition, the proposed municipality would give community residents direct control over the officials, laws, and regulations, as well as direct access to taxes and other resources, thereby making the proposed municipality more accessible, and more accountable for and responsive to their service needs, than either the POACRE or the County. Negotiated intergovernmental agreements that specify what services each government will provide to residents, and the reimbursement that the County will allocate to the municipality for those services, will prevent duplication of services.

Relieving the County of the burden of providing security and environmental-hazard mitigation to the proposed municipality, which has the densest population area and the most significant security and environmental hazards in the County, would enable the County to focus on other areas not capable of providing their own mitigation services. The proposed municipality is necessary to pursue grant and other financing, as well as other forms of assistance that are available to address the serious environmental challenges that affect the community and its neighbors. To this end, incorporation of the proposed municipality would be mutually beneficial to the municipality, the surrounding communities, and the County.

As required by law, the Committee held a public meeting on February 3, 2016 to receive testimony and comments from community residents. The Committee carefully reviewed and considered all the testimony and comments made by these residents. This report provides the Committee's response to each of the issues they raised. This report also discusses the presumed disadvantages of incorporation, which the Committee addressed or rebutted with one exception—receiving County government approval for incorporation. The Committee found that the impact of these presumed disadvantages on the proposed municipality, with the exception of receiving County government approval, are either minimal or non-existent. The Committee believes that the advantages of the proposed municipality described elsewhere in this report, and the overwhelming community support for the proposed municipality, should convince the BOCC of the necessity and merits of incorporation.

Introduction and Background

The Chesapeake Ranch Estates (CRE) is one of the older planned communities in Calvert County, platted and established prior to the adoption of modern codes, standards, or covenants that meet the Maryland Home Owners Association Act. The CRE now finds itself responsible for the care and maintenance of infrastructures stranded in its private ownership. This private ownership status, in combination with inadequate community covenants, results in a situation whereby the Property Owners Association of the Chesapeake Ranch Estates (POACRE), a home owners association, lacks adequate resources to operate, maintain, and fund its infrastructures. This situation worsened over the years as increases in home density and population continued in the CRE,¹ causing deterioration of property values and in the quality of life for CRE residents. As such, a critical need for basic improvements in, and maintenance of, road systems, storm-water management, and parks and recreation facilities now exists. The CRE's privately owned road system lacks adequate funding and staff for routine maintenance and long-term improvements.

Management and improvement of the CRE's private roads is probably the largest infrastructure challenge for the POACRE due to insufficient funding, lack of volunteer time and talent, and the absence of storm-water management plans. The original concept for CRE was that it would remain a small, recreational community with only its main roads paved; there was no consideration or planning for the funding, operation, and maintenance of the CRE's roads should the community outgrow this original concept. Accordingly, the POACRE inherited governing documents, mainly the "Contractual Covenants," that are useless when applied to the POACRE's current situation because of ambiguous wording, which results in broad and variable interpretations, and because the covenants are virtually impossible to revise. The governing documents also locked the POACRE into unreasonably low fees that are difficult to collect.

The cost to upgrade CRE's roads to minimum county standards has not been determined because the cost varies with existing road conditions, associated storm-water management problems, road use (i.e. artery or local), and terrain. However, considering current requirements, the total cost would be prohibitive. As an alternative funding source for improving its roads, the POACRE used the Special Taxing District (STD) method. While the STD raises funds, it has many disadvantages. Accordingly, the STD is: regressive in that homeowners pay the same flat rate regardless of their property values; not deductible from income taxes; requires periodic renewal and a detailed justification, scope of work, and budget; and enacted through a hearing process and not by a community vote. These disadvantages make the STD extremely unpopular with the CRE's residents. While canvassing for petition signatures, Committee members found highly vocal antipathy expressed by a vast majority of CRE residents toward the STD fee and the POACRE's role in imposing the STD on the community.

There have been two prior municipality drives in the last 16 years that ended without submitting the petitions to the County. The current drive began about two years ago when the POACRE formed a Strategic Planning Committee (SPC) to engage in long-range planning to improve the quality of life

¹ According to the 2010 U.S. Census, the population density within the boundaries of the proposed municipality (not including the Lusby Town Center) is nearly 2,350 people/sq. mile, while the population density for Calvert County as a whole is 413 people/sq. mile.

for its more than 10,000 residents. The SPC determined that POACRE’s governing documents needed substantial updating because, as noted above, these documents failed to provide a system that protects the health, welfare, and property values of the community. The SPC found that the POACRE did not have the financial resources to adequately maintain, much less improve, its roads and other amenities, and, unless additional resources were forthcoming, these amenities and the community’s quality of life would continue to deteriorate and threaten the viability of the POACRE (see issue paper “Financial Viability of the POACRE at Risk,” in this report).

The SPC recommended that converting the POACRE into a municipality was a possible means of acquiring the financial resources needed to sustain and improve the community’s quality of life. Based on this recommendation, a group of concerned POACRE residents formed an Organizing Committee (“the Committee”) in August 2014 to begin the process of incorporating a municipality, which it called “Calvert Shores.”² As part of this process, the Committee must “provide the county commissioners or county council with a report on issues related to the proposed incorporation” (see Section 4-205 (“Organizing Committee Report”), paragraph (a)(1)(iii) of the Local Government Article, Title 4, Subtitle 2 (“Municipal Incorporation”) of the Maryland Code). The Committee is submitting this report in accordance with this law.



There are four principal stakeholders involved directly in the incorporation process: (1) local residents and businesses; (2) County Government, represented by the Board of County Commissioners (BOCC); (3) the POACRE; and (4) the Committee, which represents the proposed municipality (see diagram at left). The Committee held multiple information meetings for the community from September 2014 to March 2016 (including a required public meeting on February 3, 2016, at the Southern Community Center), met with staff members from County Government departments

during the week of February 15, 2016, and discussed issues with the POACRE Board of Directors on a regular basis. From these meetings, the Committee identified a number of issues that are critical to the incorporation process. This report presents these issues and the Committee’s responses to them.

² The Calvert County Board of Elections approved the final petition form in October 2014, the Committee submitted the signed petition to the County in November 2015, and the County certified the petition signatures in January 2016.

County Government Concerns

ISSUE: What concerns did County departments raise during meetings with the Committee?

INTRODUCTION AND BACKGROUND: Municipality law requires that organizing committees meet with county governments and include any issues raised during these meetings in its report to county commissioners or county councils (see Section 4-205 (“Organizing Committee Report”), paragraph (a)(1)(i) of the Local Government Article, Title 4, Subtitle 2 (“Municipal Incorporation”) of the Maryland Code). Accordingly, a group of four Committee members met with the staffs of several County departments during the week of February 15, 2016.³ These departments were:

- Community Planning and Building
- Community Services
- Economic Development
- Finance and Budget
- IT
- Public Safety
- Public Works

DISCUSSION: The only concern raised by departmental staff during these meetings was funding the proposed municipality. The County Director of Finance and Budget reported that the County has had a budget deficit for the past several years, and has been borrowing from savings accounts to cover the deficit. The Director expected the deficit to continue into fiscal year (FY) 2017. After FY 2017, there should be an increase in tax revenues from the Dominion expansion, eliminating the deficit beginning in FY 2018.

The Committee notes that income-tax revenue for the proposed municipality would not begin until FY 2018 per the Municipal Incorporation statute.⁴ Other major funding sources have various start dates, with some sources (i.e., property tax) beginning in late FY 2017.

Following the discussions with departmental staff, the Committee developed the following options that may lessen the fiscal burden on the County that may result from the disbursement of tax revenues to the proposed municipality: (1) If permitted by law, the County could delay disbursement of some tax revenues to the proposed municipality until FY 2018; and (2) the County could implement budgetary actions (e.g., make line-item adjustments) to absorb the fiscal impacts.

RECOMMENDATIONS AND CONCLUSIONS: The Committee will submit a fiscal-impact report in accordance with the prescribed procedure that includes the expected fiscal impact of the municipality on the County and options for accommodating this impact.

³The Committee would like to thank the County staff for their time, information, and expert advice. The meetings were helpful in informing the Committee about the various functions and services provided to residents in the proposed municipality.

⁴Assuming that voters approve the referendum for the proposed municipality in the November 2016 general election.

Financial Viability of the POACRE, Inc. at Risk

ISSUE: Does POACRE have the economic resources to survive?

INTRODUCTION AND BACKGROUND: While community members did not raise this issue at public meetings or when the Committee canvassed for petition signatures, the Committee believes that the issue should be a concern to the community. The issue addresses the future of the community, notably whether or not the existing home owners association (POACRE) has the economic resources to survive in its present form.

The POACRE inherited the governing documents of a corporation established in 1959 as a rustic, part-time vacation resort. The original fees were low and, in some cases, zero; this fee structure is unreasonable for a community that would grow into a densely populated suburban area of nearly 10,000 full-time residents.

DISCUSSION: The POACRE's current and future funding levels are not adequate to support the needs of its aging infrastructure. The governing documents require one-half, plus one, of all 3,800 POACRE members to approve an increase in the roads fee and the fee for maintenance and operations. After the POACRE was established, there was never a ballot that received more than 800 votes; therefore, a membership-approved funding increase seems unlikely.

The current Special Tax District (STD) provides critical funding for roads, but it is universally disliked by POACRE members because it is regressive, not tax deductible, and they do not have an opportunity to vote on it. The annual fee for this STD is \$250 per lot; however, an increase in this fee is necessary for the maintenance and operation of the remaining POACRE amenities; such an increase likely will meet with substantial opposition from the POACRE members. In addition, the current reserve-account balances required for the POACRE are at less than 15% of the recommended levels. At an upcoming membership meeting, the POACRE Board of Directors will ask the members to approve a five-year special assessment of \$75 per member to boost these reserves; again, approval is unlikely.

Disapproval of this special assessment could result in mortgage companies refusing to issue loans in the community, its roads and other amenities will continue to deteriorate, and the POACRE will eventually slide into receivership. The County then can impose a Special Improvement District (SID) on the community, under which the County, and not the residents, would control the community's fate. The SID would be an administrative burden on the County which, combined with the inevitable decline in CRE property values, would result in a substantial decline in County revenues.

CONCLUSIONS AND RECOMMENDATIONS: The sound fiduciary decision for both the POACRE and the County is to incorporate the municipality, transfer the POACRE's assets to the municipality, and provide the municipality with adequate tax revenues to support, maintain and improve the community's quality of life. In the long term, this decision would benefit both the POACRE residents and the County financially.

Taxation Without Representation

ISSUE: Two witnesses at the public meeting testified about paying taxes, but not having political representation.

INTRODUCTION AND BACKGROUND: Under the POACRE only members who own property and are in good standing (i.e., all dues, fees, and fines paid) may vote for the Board of Directors;⁵ the Board determines policy and procedures for all residents in the POACRE, including many residents who cannot vote, such as renters. While the property owners pay real-estate taxes, and all working residents (including renters) in the community pay income taxes and all drivers in the community pay transportation taxes and fees (e.g., gas taxes, vehicle- registration fees), they do not receive County services for roads that other County residents receive.

DISCUSSION: In addition to the two witnesses at the public hearing, the Committee heard complaints from a number of residents, while it was canvassing for petition signatures, that they had no voice in the POACRE's affairs because they were not members, and that the County was spending their taxes on roads elsewhere in the County and ignoring their needs. One of the witnesses expressed these concerns clearly at the public meeting when he stated:

“... Our constitution guarantees every citizen the right to vote. This right to vote by every individual is not available to citizens in Chesapeake Ranch Estates(CRE).

Under the current administrative process, the right to vote is not given to every individual, but instead each household is allowed one vote.

Furthermore, in order to exercise that vote in CRE, one must be a property owner. This harkens back to our colonial days when only the wealthy land owners were allowed to determine the future of the community through the democratic process. This is surely a step backwards.

Under the proposed municipality, every eligible individual who resides in the community, be they landowner, renter, or dependent child, would be given the opportunity to vote in local elections. They have the right to determine their future. People who live in the community but are not given the right to vote are perfect examples of those enduring taxation without representation.

Furthermore, if the proposed municipality is to succeed, it must be treated in the same manner as other municipalities in Calvert County.”

CONCLUSIONS AND RECOMMENDATIONS: The proposed municipality would give more residents a voice in community affairs and would do much to address their concern that it is unfair and inequitable for the County to use their road taxes and fees for road services elsewhere in the County.

⁵ A member is a single household, regardless of the number of occupants.

Local Decision Making

ISSUE: Would the proposed municipality be more accessible, accountable, and responsive than the POACRE or the County?

INTRODUCTION AND BACKGROUND: A speaker at the public meeting, and numerous residents interviewed during canvassing for petition signatures, stated that the proposed municipality would be more accessible, accountable, and responsive to the needs of its residents than the POACRE or the County. Since its formation in 1959, the Chesapeake Ranch Estates (CRE) grew from a weekend recreational community of about 100 residents to a residential community of almost 10,000 residents. POACRE, the home owners association (HOA) that governs the CRE, established a planning committee several years ago to address quality-of-life issues in the community. The planning committee found that POACRE did not have the financial resources to adequately maintain, much less improve, its roads and other amenities, and unless additional resources were forthcoming, these amenities and the community's quality of life would continue to deteriorate (see the INTRODUCTION AND BACKGROUND section of this report). Additionally, the services provided by the County to the POACRE community are minimal compared to non-HOA sections of the County. Accordingly, when the Committee was canvassing for petition signatures, it found that the residents of the community expressed intense dissatisfaction with their access to POACRE and County services, as well as the poor accountability and responsiveness the POACRE and the County exhibit toward their quality-of-life issues.

DISCUSSION: In the Committee's discussions with community residents, the residents expressed confidence that the proposed municipality would be more accessible, and more accountable and responsive in addressing their quality-of-life issues, than either the POACRE or the County because the residents would:

- Have direct control over finances because the municipal officials they elect would determine local revenues and expenditures, and set the local tax rates and service fees.
- Have direct control over the level and types of growth in and around the community through the municipality's planning and zoning authority.
- Determine the variety and levels of services provided to the community.
- Exercise broad police powers and code-enforcement authority by enacting and enforcing laws and regulations to meet local needs.
- Recoup a portion of their income taxes from the State to benefit the community.
- Have access to other State-shared revenues (e.g., gas taxes, vehicle-registration fees), as well as State and Federal grants.
- Have the benefit of the property-tax differential, which would provide them with funds to address specific community needs.
- Have a renewed sense of empowerment and community.

CONCLUSIONS AND RECOMMENDATIONS: The proposed municipality would give community residents direct control over the officials, laws, and regulations, as well as direct access to the resources, necessary to address their quality-of-life issues, thereby making the proposed municipality more accessible, and more accountable for and responsive to their service needs, than either the POACRE or the County.

Overlapping Governments

ISSUE: Will the functions of the proposed municipality overlap with the functions of the County?

INTRODUCTION AND BACKGROUND: While the Committee was canvassing for petition signatures, and at the public hearing, a small number of community members expressed concern that the proposed municipality would add another layer of government onto the County government, resulting in additional taxes and regulations with little or no additional benefit. They believe that the proposed municipality would be duplicative, wasteful, and unnecessary.

DISCUSSION: While the proposed municipality and the County would share geography, they would not share functions and the services associated with these functions. In this regard the proposed municipality and the County would assume distinct and independent functions. By State law, counties have responsibility for specific functions such as schools, jails, and courts and municipalities assume other functions that State law does not reserve specifically for counties. A municipality's charter specifies which of these functions it will assume, and the municipality would implement these functions through ordinances passed by the governing council. Under this arrangement, local services would be delegated to the municipality which is in the best position to know what its residents need and how best to meet these needs by the most cost-effective means. Accordingly, the proposed municipality would be most effective in providing infrastructure and services that the County cannot offer without creating special taxing districts and other revenue-generating contrivances.

Each year, municipalities (such as Chesapeake Beach and North Beach) negotiate with the County to determine, based on their respective functions, which services the municipalities and the County will provide to municipal residents, and the property-tax offset the County will allocate to the municipalities to pay for these services. This procedure also ensures against duplication of services.

CONCLUSIONS AND RECOMMENDATIONS: Several mechanisms exist to prevent overlapping government functions and services. First, statutory and other legal procedures specify the distinct and independent functions that a county must perform, with municipalities assuming other functions that State law does not reserve specifically for counties. Negotiated intergovernmental agreements that specify what services each government will provide to municipal residents, and the reimbursement that the county will allocate to the municipalities for their services, also prevents duplication of government services.

Effects of the Municipality on the POACRE

ISSUE: What economic impact will the proposed municipality have on the POACRE?

INTRODUCTION AND BACKGROUND: During the petition drive and at the public hearing, a number of community members asked questions about the economic impact of the proposed municipality on the POACRE budget and fees. This issue arises because most of the Chesapeake Ranch Estates (CRE), which POACRE governs, is within the boundaries of the proposed municipality.

The POACRE budget consists of two financial sections: roads and commonly owned properties. These two sections have different budgets and fees. Currently, the roads section has an annual fee of \$194.72 per lot (referred to as “the roads fee”) and the commonly owned property section has a fee of \$244.61 per member household (referred to as the “Maintenance and Operations (M&O) fee”).

The roads fee pays to build, maintain, and improve over 62 miles of roads in the CRE. In addition, the POACRE also receives an annual fee of \$250 per lot for this purpose under a Special Tax District (STD) approved by the Board of County Commissioners (BOCC). The current STD is for a period of five years, ending in Fiscal Year 2019. If the proposed municipality fails, the POACRE Board of Directors (BOD) reports that it will have to continue requesting an STD in perpetuity, not only for its roads, but also for its M&O related assets.

The commonly owned properties, supported by the M&O fee, include two bay beaches (and the shoreline between them), Lake Lariat, gardens, playgrounds, campground, ball fields, park, horseshoepits, trails, airpark, clubhouse, easements to the beaches and lake, old and new maintenance compounds, manager’s house, administration building, and over 500 open- space lots.

DISCUSSION: Based on comments made by community residents to Committee members during the petition drive and at the public hearing, the consensus of the community seems to be that the POACRE should transfer its roads to the municipality as public funding becomes available. These commenters complained that their property taxes should be paying for the roads, and that they should not be paying an additional roads fee for this purpose, especially for what they consider to be substandard roads. In addition, neither the roads fee nor the STD is tax deductible, and both fees are regressive (i.e., an owner of a \$100,000 house pays the same STD fee as the owner of a \$500,000 house). To this end, the POACRE BOD announced that it is including a resolution on the agenda for the March membership meeting that would authorize it to transfer its roads, associated assets (e.g., equipment, buildings), and responsibilities to the municipality after ratification of the referendum and agreement between the parties on a detailed, phased transition plan based on the availability of funding (e.g., property-tax differential, income tax); the POACRE members will vote on a final version of the resolution at a membership meeting this coming July.

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There are at least three options available for resolving ownership of the commonly owned properties: keep them private under an HOA;⁶ transfer them to the municipality; or some combination of HOA and municipality ownership (i.e., some properties owned by an HOA, others owned by the municipality). Listed below are advantages and disadvantages of sole ownership by either an HOA or the municipality.

Advantages of sole ownership by an HOA:

- Limits access to HOA members only, which may reduce security issues.
- Reduces overcrowding and parking

problems. Disadvantages of sole ownership by an HOA:

- Continues financial problems associated with maintaining and improving these properties.
- Difficult to maintain the value of these properties.
- Difficult to maintain a sustainable environment conducive to the quality of life of the residents.
- Restricts access to disaster-relief resources (e.g., FEMA, MEMA) for disaster-related mitigation and cleanup, and pre-disaster mitigation.
- Restricts access to grants to improve the properties.

Advantages of sole ownership by the municipality:

- Makes the community eligible for disaster-relief resources for disaster-related and cleanup, and pre-disaster mitigation.
- Makes the community eligible for grants to improve the

properties. Presumed disadvantages of sole ownership by the municipality:

- Out-of-area traffic and security problems, which the municipality could address through a tiered fee structure for residents and non-residents.

Because the POACRE owns these properties, the POACRE members will decide which of the above options, or some other option, is best for them.

CONCLUSIONS AND RECOMMENDATIONS: The Committee recommends that the POACRE concentrate initially on transitioning the roads to the municipality, and then focus on resolving issues related to the commonly owned properties after incorporation and after canvassing its membership to determine what is in their best interest.

⁶The HOA may be the POACRE or an HOA established for the purpose of owning these properties.

Income versus Expenses

ISSUE: Will the revenues of the proposed municipality cover its expenses?

INTRODUCTION AND BACKGROUND: One witness at the public meeting questioned whether or not the revenues of the proposed municipality would cover its expenses. The proposed charter requires a balanced budget, so the municipality's expenses cannot exceed its income. However, a complete budget is not available because, while the Committee has revenue estimates, it has not completed the estimates for expenses.

DISCUSSION: Income for the proposed municipality is relatively easy to calculate because Maryland law specifies the formulas used for disbursing revenues to municipalities, and these disbursements are available in public budget documents and data files. However, the expense component of the budget is still in process because the Committee must first determine what services the community wants. To make this determination, the Committee distributed a survey to community residents, and they are submitting their survey responses to the Committee.

Based on the survey results, the Committee will determine the costs of the top-rated services and use these costs to complete the budget. In determining costs, the Committee will use service-cost data it compiled from four Maryland municipalities comparable in size to the proposed municipality, and from meetings it held with government staffs from Chesapeake Beach, North Beach, and the County.

CONCLUSIONS AND RECOMMENDATIONS: Draft a budget based on (1) known revenue disbursements, and (2) expenses determined from a survey of community-service priorities and service-cost data collected from comparable-sized municipalities and from Chesapeake Beach, North Beach, and the County. After drafting the budget, submit it to the BOCC in accordance with time frame prescribed by law.

Information Outreach

ISSUE: Did the Committee provide the community with sufficient information about the proposed municipality?

INTRODUCTION AND BACKGROUND: One commenter at the public hearing stated, regarding the effort to form a municipality, that “It is not a democratic movement since there are so few people involved and informed. The Committee needs to get the information out there. I suggest: social media, local radio, leafleting at grocery stores on paydays and weekends.”

DISCUSSION: While the Committee’s membership is small (10 members), there are over 30 additional volunteers who collected petition signatures and helped inform the public about the proposed municipality. Outreach efforts to date include:

1. Established social media during the summer of 2014, including a Facebook\Calvert Shores page, a web site at CalvertShores.org, and an e-mail address at CalvertShores@gmail.com.
 2. Manned five voter-polling locations during the general election on November 4, 2014, with banners and information handouts advertising the proposed municipality; obtained over 600 petition signatures that day.
 3. Developed an information pamphlet in January 2015, and distributed over 5,000 of these pamphlets to the community.
 4. Made an information presentation to the residents of the Calvert Pines Senior Apartments.
 5. Distributed information pamphlets and answered questions at the 2014 and 2015 National Night Out events sponsored by POACRE.
 6. Manned a table at several community events sponsored by POACRE (e.g., Easter-egg hunt, Lake Bash, Summer Solstice, and Family Fun Run) to answer questions and distribute information pamphlets.
 7. The petition drive included at least six events on weekends at the Lusby Business Center (LBC), during which Committee members distributed information pamphlets and answered questions about the proposed municipality.
 8. The Committee manned a Lusby Town Center office six times with posters placed on a high-traffic road near this office to advertise these events.
 9. Attended three local carnivals (Karson’s Karnival, Giant, and the Sheppard of the Sea spring festival) to answer questions and distribute information pamphlets about the proposed municipality.
 10. The Calvert Recorder printed 27 newspaper articles and letters to the editor presenting information about the proposed municipality.
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11. Held 14 municipality-information meetings in the CRE clubhouse; publicized these meetings using large message boards at all three CRE entrances, on Facebook, on the municipality web site, in the POACRE newsletter, and in the Community Calendar of the Calvert Recorder. Attendance at these meetings varied from a handful to over 50, depending on the topic and guest speaker. An estimated total of at least 300 community members attended these meetings.
12. Wrote 16 articles on the proposed municipality for the Round Up Times, POACRE's monthly newsletter.
13. Presented information on the progress of the municipality effort as part of the financial report at seven POACRE membership meetings since October 2013, and at each meeting of the POACRE Board of Directors since November 2014.
14. While soliciting petition signatures, performed door-to-door outreach to at least 3,000 residences; this effort included one-on-one discussions with residents regarding the proposed municipality, and distributing information pamphlets to residents who were not at home.
15. Published a legal notice in the Calvert Recorder for two consecutive weeks announcing the public meeting on February 3, 2016, to collect testimony from community members.
16. Provided several local radio stations with information about the proposed municipality for public-service announcements, but none of them responded.

CONCLUSIONS AND RECOMMENDATIONS: While the commenter somehow missed receiving information about the proposed municipality from any of the numerous outreach sources described above, the Committee clearly has been diligent in attempting to reach all residents within the proposed municipality. The Committee's outreach has been widespread and pervasive, as demonstrated by its success in collecting over 2,100 unique petition signatures, representing 31% of the active registered voters in the proposed municipality.

Litigation Risk

ISSUE: What is the risk of litigation by local businesses dissatisfied with the proposed municipality?

INTRODUCTION AND BACKGROUND: One commenter at the public hearing noted that if businesses within the boundaries of the proposed municipality do not agree with incorporation, they may initiate a lawsuit. To address any concerns local businesses may have regarding the proposed municipality, and to ensure that these businesses have due process in this matter, the Committee members took a number of steps. These steps included contacting the Lusby Business Association (LBA) several times regarding the proposed municipality, and presenting a brief at one of its meetings describing the incorporation process. The Committee also invited the LBA to attend, and testify at, the public meeting held on February 3, 2016; no one from the LBA attended the meeting. A Committee member sent a follow-up e-mail to the LBA requesting it to submit written comments before the deadline of February 8, 2016; again, there was no response. Additionally, the petition drive included at least 10 events on the grounds of the Lusby Business Center, which includes many of the businesses in the proposed municipality. Other Committee outreach efforts provided information about the proposed municipality to the community, including local business owners.

DISCUSSION: The Committee is exercising due diligence in reaching out to local businesses within the boundaries of the proposed municipality by using numerous methods to keep them informed of, and inviting them to comment on, the incorporation process. It would appear from the lack of responsiveness from the LBA and the individual business owners that the proposed municipality is not a contentious issue with them, and that the risk of litigation is low. Absent procedural error or failure to provide due process, and in view of the cost of litigation aggrieved business owners likely would express their concerns, if any, through the political process.

CONCLUSIONS AND RECOMMENDATIONS: In view of the disinterest shown by the local business community in the proposed municipality, and the ready availability of the political process, the likelihood of a lawsuit by local business owners to nullify the proposed municipality appears remote. Nevertheless, the Committee will continue to reach out to the local business owners and the LBA in an effort to keep them involved in the incorporation process.

Security and Environmental Hazards

ISSUE: What are the security concerns and environmental hazards facing the proposed municipality, and how can it deal with them?

INTRODUCTION AND BACKGROUND: While canvassing for petition signatures, and in other discussions with community residents, Committee members found that these residents had grave concerns about nearby high-security areas and local environmental hazards. The following paragraphs describe these concerns in detail.

High-security areas: Based on U. S. Census Bureau data for 2010, the population density within the boundaries of the proposed municipality (not including the Lusby Town Center area) approaches 2,350 people/sq. mile, while the population density for Calvert County as a whole is 413 people/sq. mile. This dense population is situated immediately adjacent to the East Coast's largest natural-gas export facility, within three miles of the Calvert Cliffs Nuclear Power Plant, and two miles over water from PAX River Naval Air Station. These facilities are the primary employers for the residents living in the proposed municipality.

Each of these facilities has a unique set of characteristics that present security concerns for the workers they employ and the community those employees inhabit. Having a dense population in proximity to high-security installations presents a prime target for terrorists and others who seek to inflict harm. This community has a critical need for, and a justified expectation of increased security. Yet, no provision for government services relative to the density of population and the extraordinary hazards presented by these high-security installations is available to this community; the scope of this issue also is beyond the resources and responsibility of the POACRE.

Environmental hazards: Calvert County and the POACRE created a serious environmental hazard when they placed approximately 500 empty residentially zoned lots, each about one-fourth acre in size, into designated open space. Neither Calvert County nor the POACRE cared for, or maintained, the lots, which subsequently developed into wild forest with substantial undergrowth and fallen trees. As a result, these forests have become a fuel source for wild fires that may occur during a drought. The POACRE does not have the resources to mitigate this hazard, and the Calvert County Hazard Mitigation Plan mentions, but discounts, the hazard.

Therefore, it is clear that neither the POACRE nor Calvert County is going to address this hazardous situation in the foreseeable future. By seeking grants and other aid from State and Federal agencies, the proposed municipality would be in the best position to mitigate this serious environmental hazard. Other environmental hazards that the proposed municipality could address effectively include a high-hazard dam, eroding cliffs adjacent to the Chesapeake Bay, and toxic substances in Lake Lariat.

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DISCUSSION: As noted above, high-security areas and environmental hazards pose concerns insufficiently addressed by the routine services provided by Calvert County or the POACRE. To address these issues, the community needs additional services including, but not limited to, adequate road-facility construction and maintenance, policing, traffic controls, and emergency-response and disaster-response facilities such as air-quality sensors, water-quality sensors extraordinary-emergency evacuation planning, and extraordinary-emergency notification systems, that are beyond the County's and the POACRE's capacity to provide.

Only a municipality can address these deficiencies effectively by cooperating directly with the Department of Homeland Security (DHS), EPA, MDE, and other appropriate State and Federal agencies, and obtaining aid from State and Federal resources that is unavailable to private home owners associations such as the POACRE.

A municipal government providing the necessary security and environmental-hazard mitigation services and addressing issues unique to the community is the only equitable solution to this issue. DHS and other Federal, State, and private grants are available to help the proposed municipality assess its security and environmental-hazard mitigation needs and fund appropriate solutions. The municipality's efforts to obtain aid from State and Federal agencies also could enhance security and environmental-hazard mitigation services available to the rural areas adjacent to the proposed municipality.

CONCLUSIONS AND RECOMMENDATIONS: Relieving the County of the burden of providing these security and environmental-hazard mitigation services to this high-density population would enable the County to focus on the more rural areas and smaller subdivisions that are not capable of providing their own security and environmental-hazard mitigation services. To this end, incorporation of the proposed municipality would be mutually beneficial.

Environmental Management

ISSUE: How best to manage the environmental challenges within the proposed municipality?

INTRODUCTION AND BACKGROUND: While the Committee was canvassing residents to sign the petition, and in other discussions with community residents, these residents expressed concerns about the community's environmental resources. Their concerns addressed the environmental conditions within the four-square-mile area of the proposed municipality, which consists of steep, sloped, rough wooded terrain with vertical elevations ranging from sea level to an altitude of 120 feet. Within this area is Lake Lariat, which holds approximately 2,614 acre-feet of water behind the largest packed-earth dam in Southern Maryland. Above and feeding into, the lake are two large irrigation ponds serving a County- owned golf course, with each pond formed by packed-earth structures. An extensive shoreline forms the eastern boundary of the area, resulting in approximately 30% of the geographical area of the proposed municipality being within the Chesapeake Bay Critical Area. Therefore, the environmental challenges in this area are far greater than for any other comparable area of the County. Failure to address these challenges will diminish property values and, more importantly, jeopardize the community's health, welfare, and quality of life.

DISCUSSION: These environmental challenges will impose a substantial financial burden to cover the cost of controlling wastewater, solid waste, the fire hazard associated with heavy undergrowth and fallen trees, storm water, and erosion sedimentation. State and Federal regulatory mandates require, or will require, that either the County or the proposed municipality assume this financial burden. If the County establishes the service levels necessary to meet these challenges, it would either have to reduce the quality of environmental services provided to the rest of the County, or raise taxes across the entire County to provide the requisite services to this small but densely populated, area of the County. However, having the proposed municipality address these challenges would place the financial burden on the residents who would benefit most from the environmental services, while maintaining the level of service provided to the rest of the County.

Delegating environmental services to the proposed municipality is appropriate because it is in the best position to know what its residents need and how best to meet these needs by the most cost- effective means. Accordingly, the proposed municipality would be most effective in providing the environmental services that the County cannot offer without either increasing taxes or reducing these services elsewhere in the County. The proposed municipality would seek grants and other funding for this purpose from various Federal and State agencies, including the EPA, MDE, DHS, DOT, and DOJ, as well as assistance from these agencies in the form of professional services such as map development and document drafting. The proposed municipality would spend grant money and other funding awarded to it on vendors and contractors located in the County thereby increasing the County's net worth.

CONCLUSIONS AND RECOMMENDATIONS: The proposed municipality is necessary to pursue grant and other financing, as well as other forms of assistance that are available to address the serious environmental challenges that affect the community and its neighbors.

Presumed Disadvantages of the Proposed Municipality

ISSUE: What are the disadvantages of the proposed municipality?

INTRODUCTION AND BACKGROUND: One commenter stated at the public meeting that the Committee published a list of advantages of the proposed municipality, but did not list any of its disadvantages. However, witnesses at the public meeting held on February 3, 2016, as well as several local newspaper articles, discussed both the advantages and disadvantages of the proposed municipality.

DISCUSSION: The Maryland Municipal League (MML) published a handbook entitled, Municipal Incorporation Handbook, which is available on the Committee's web site at CalvertShores.org. This handbook contains, on page 10, a section labeled, "Why not incorporate? - What are the possible drawbacks of incorporation?" The following disadvantages of municipal incorporation were taken verbatim from this section (with the Committee's comments in the footnotes):

- There are costs in both time and money to incorporate.⁷
- A higher level of taxation would ensue in most cases of incorporation to pay for the costs of new public services.⁸
- An added level of government is sometimes seen as unnecessary or duplicative.⁹
- With municipal incorporation comes the responsibility to provide desired levels and types of services.¹⁰
- Local service provision gives rise to liability exposure and the risk of litigation for a municipal government and its public officials.¹¹
- Committed volunteers are needed to serve as public officials on various municipal boards and commissions.¹²
- Economies of scale which county governments enjoy may in some cases reduce the costs of local services.¹³
- There are difficulties set forth in law in achieving a successful incorporation, including receiving county government approval to incorporate and attaining necessary voter approval through an incorporation referendum.¹⁴

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⁷ The Committee is bearing these costs.

⁸ A reduction in the fees of the homeowners association (HOA) would compensate in whole or in part for these costs.

⁹ The issue "Overlapping Governments" in this report rebuts this presumed disadvantage.

¹⁰ The issue "Local Decision Making" in this report addresses this presumed disadvantage.

¹¹ The cost of liability insurance is less for municipalities than for HOAs due to liability limits for municipalities.

¹² This is an issue with the current HOA.

¹³ The County provides minimal services to the current HOA for its roads and other amenities (see the issue "Taxation Without Representation" in this report), so this disadvantage does not apply to the proposed municipality.

¹⁴ Having collected more than 2,100 petition signatures for the proposed municipality and receiving overwhelming support from the community during its outreach efforts, the Committee believes that voters will approve the incorporation referendum at the upcoming general election.

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CONCLUSIONS AND RECOMMENDATIONS: The Committee addressed or rebutted very disadvantage listed by MML except one.....receiving county government approval for incorporation. The Committee found that the impact of these presumed disadvantages on the proposed municipality, with the exception of receiving county government approval, are either minimal or non- existent. The Committee believes that the advantages of the proposed municipality described elsewhere in this report, and the overwhelming community support for the proposed municipality should convince the BOCC of the necessity and merits of incorporation.

Charter Revisions

ISSUE: Should specific provisions of the proposed charter be revised?

INTRODUCTION AND BACKGROUND: Three commenters found specific provisions of the proposed charter to be problematic, and recommended revisions. Two of these commenters provided testimony on this issue at the public meeting held on February 3, 2016; one of these two commenters and another commenter submitted written comments to the record on the issue. The table below identifies the provisions of the charter at issue and a summary of each comment, including any rationale provided by the commenters for the recommended revisions.

DISCUSSION: See table on pages below.

CONCLUSIONS AND RECOMMENDATIONS: The Committee carefully reviewed and considered all the testimony and comments in the record, and decided to accept some, but not all, of the recommended revisions. The table below provides the Committee's response to each of the recommended revisions, and its rationale for each response.

Table of Proposed Charter Revisions

Provision at Issue	Comment	Committee's Response
§3.04 Annual adjustments to salaries of the Council	Annual salary adjustment should be in line with the Calvert County government.	Basing the annual salary adjustments on the CPI is consistent with other MD municipality charters and provides a fair and quantifiable method of adjusting salaries for inflation.
§3.05c Composition, eligibility, and terms of the Council	Add the Mayor to the provision and limit the number of terms served by Council Members to two terms.	The provision sets the terms of office for the Council Members, and the definition of "Council Member" includes the Mayor. Limiting the number of terms would reduce the number of qualified candidates running for office when getting such candidates may be difficult, limits voters' choices, and would sacrifice experience and competence for the questionable benefit of reducing a potential monopoly and possible corruption. If voters are dissatisfied with a Council Member, they can express their dissatisfaction through the election process, and the recall provisions of §7.08.
§3.06(a)(iii) Council members holding other office	Add the Mayor to the provision and extend the prohibition period for holding appointive City office from one year to five years.	The prohibition specified by this provision applies to Council Members, and the definition of Council Member includes the Mayor. One year should be sufficient to reduce any undue influence a former Council Member could exercise over City officials responsible for hiring appointed City employees. The provision also is consistent with other MD municipality charters.
§5.01(a) Appointment of the City Manager	What conditions would prevent the Council from appointing a City Manager, and what is the approval process for the City Manager's compensation-benefits package?	The major factors that would prevent hiring a City Manager are cost and the availability of qualified candidates; it is unnecessary and inappropriate to identify these factors in the proposed charter. Section 5.01(d) of the proposed charter specifies the process for negotiating the City Manager's compensation-benefits package, and the Council must approve this package as part of its authority to appoint the City Manager under §5.01(a).
§5.02(a) Qualifications of the City Manager	Provide more specificity regarding the qualifications of the City Manager.	Providing more specificity would limit the candidate pool, thereby restricting the Council's choices. Additional specificity is more appropriate for a position description and hiring announcement than for a charter, and should be at the discretion of the Council.

Provision at Issue	Comment	Committee's Response
§603(a) Enforcement of ordinances	Remove the imprisonment condition.	This provision merely gives the Council the authority through an ordinance to impose imprisonment; imprisonment likely would be reserved for the most egregious and serious violations. However, the Committee believes that imprisonment for 6 months is too excessive to ensure future observance of an ordinance, and, therefore, is reducing the maximum period of imprisonment to 30 days.
§603(b)	Extend the period for appeal from 10 to 30 days.	Ten days may be insufficient for a person to determine whether to appeal an enforcement action, which may involve obtaining legal advice and compiling the paperwork necessary to appeal the action. Therefore, the Committee is revising the proposed charter to extend the period for appeal to 30 days because it may take longer than 10 days.
§603(b) Enforcement of ordinances	Is the court of appropriate jurisdiction the district court?	District courts in MD hear minor criminal cases and have exclusive jurisdiction in civil cases involving amounts of \$5,000 or less.
§603c Enforcing continuing violations of an ordinance	Remove this provision.	This provision merely gives the Council the authority through an ordinance to impose additional convictions for continued violations of the same ordinance; repeated convictions likely would be reserved for the most egregious and serious violations.
§604(b) Fines for municipal infractions	Reduce the maximum fine for an infraction from \$100 to \$50; extend the period for paying the fine from 20 days to 45 days; reduce the maximum fine for repeat offenders from \$200 to \$100; and remove the daily-violation provision.	The provisions addressing maximum fines merely place a limit on the maximum fines the Council can impose through its ordinance authority; the recommended reductions are negligible and would provide little relief to offenders. The fines are sufficiently low that offenders should be able to pay them within 20 days of conviction. However, the Committee revised the provision to treat each day a violation continues as a separate offense to treating each week a violation continues as a separate offense. While this revision would give an offender adequate notice of the continuing violation and time to correct it, the Committee believes the having a weekly-violation provision is necessary to encourage prompt correction of a violation.

Provision at Issue	Comment	Committee's Response
§604(c)Contesting municipal infractions	Is the court rendering adjudication the district court?	District courts in MD hear minor criminal cases and have exclusive jurisdiction in civil cases involving amounts of \$5,000 or less.
§605(a)Public notification of ordinances	To ensure wide publicity, post newly introduced ordinances on the City's website; use of a text-message alert system.	The Committee revised the provision per the commenter's recommendation to use the City's website. Also added this requirement to §605(e). Use of a text-message alert system should be at the discretion of the Council, and not a charter requirement.
§606(e) Referenda on ordinances	Require a plurality (versus a majority) of qualified voters to approve referenda on ordinances because it is too difficult to get a majority vote.	The Committee revised the provision to clarify that a majority of those voting, not a majority of all qualified voters, is necessary to approve or disapprove referenda. When the vote is between two choices (to approve or disapprove), a majority vote for either choice is all that is necessary. A plurality vote may be appropriate when there are three or more choices.
§607(a) Exemption from County law in matters in which the City is lawfully empowered	Is gambling an exemption under this provision?	This provision would exempt the City from any Calvert County law over which either this charter or State law gives the City independent authority; gambling would not be covered by this provision because gambling is regulated currently under State law.
§7.04 General election	Limit the maximum number of terms served by elected officials to two terms.	See the response above to §3.05(c).
§8.11c Taxes, levies, and fees	Require that four of the five Council Members approve any new, or increases or modifications in, taxes, levies, and fees, or the creation of, or modifications in, any other revenue source, and that this revised provision not be subject to amendment.	Section 3.08(f) of the proposed charter requires that four Council Members be present to pass any ordinance, and §8.04(a)(iv) specifies that at least three Council Members must approve any budget-related ordinance. Requiring a supermajority of four Council Members to pass a new revenue- generating ordinance, or to increase or modify existing revenue sources, would make it difficult to raise funds necessary to maintain or improve the City; i.e., a supermajority would give a minority of two Council Members the power to prevent the Council from raising revenues necessary to preserve the City's quality of life. If voters are dissatisfied with the actions taken by Council Members, they can express their dissatisfaction through the election process, the recall provisions of §7.08, or by bringing the ordinance to referendum under §6.06.

Provision at Issue	Comment	Committee's Response
§9.01(b) General power of the City to raise revenue	Require that four of the five Council Members approve any legislation to borrow money or issue bonds and tax-anticipation notes.	See response above to §8.11(c).
§9.02(b) Procedures for issuing bonds and soliciting bids	Require a four-fifths vote to approve any referendum authorizing the City to issue bonds, and that the sale of general- obligation bonds, tax- anticipation notes, or other evidences of indebtedness require a four-fifths vote.	It is unclear whether the four- fifths vote applies to the Council or to City voters. Nevertheless, requiring a four-fifths supermajority to issue bonds by referendum would make it difficult to raise funds necessary to maintain or improve the City; a simple majority vote is sufficient to express the will of the voters. With regard to the sale of general-obligation bonds, tax- anticipation notes, or other evidences of indebtedness, the provision only addresses the means of soliciting public bids for such sales, not the process for approving the sales.
§11.03 City Comptroller	There needs to be qualifications stated for the Comptroller; to ensure proper financial operations, the Comptroller should be at least a CPA.	While having a CPA may give an applicant a competitive advantage, requiring a CPA would restrict unnecessarily the selection pool for the position; such a requirement should be in the position description, not the charter. Neither Chesapeake Beach nor North Beach has such a requirement in its charter for Treasurer. Section 8.10 of the proposed charter requires that a CPA conduct the annual audit, which should provide sufficient oversight of the City's financial operations.
Article XIV Special assessments	How can the residents stop a special assessment? Why not include such projects in the general budget? Would this result in a "crazy quilt" of special assessments that residents will try to avoid paying?	Residents can stop a special assessment by attending the required hearing (§14.02(d)) and voicing their opposition, bringing the ordinance implementing the special assessment to a referendum (§6.06), or appealing the action to the Calvert County Circuit Court (§14.02(e)). While it is possible to include such projects in the general budget, the projects typically benefit specific residents, and it is, therefore, reasonable that they bear the cost of the projects. While it is possible that the City could have numerous special-assessment projects, modern information systems facilitate tracking them; the City could take legal action against residents who refuse to pay the special assessments.

Provision at Issue	Comment	Committee's Response
§15.01 Acquisition, possession, and disposal of City property	Require a four-fifths vote to acquire real, personal, or mixed property within the City limits or to sell, lease, or otherwise dispose of any City property.	It is unclear whether the recommended vote requirement applies to both the acquisition and disposal of property, and whether the vote pertains to the Council or City residents. In view of the recent history of the Chesapeake Ranch Estates and the sale of its common property without a vote by either the community or the Board of Directors of the Property Owners Association of Chesapeake Ranch Estates, it is likely that the commenter is addressing this situation. Therefore, to address the commenter's concern, the Committee is revising this provision to require that a majority of the Council approve the purchase, sale, lease, or other disposition of any City property.
§16.01(a) Oath of office taken by Council Members and others	Add this sentence: "That I will not directly or indirectly, receive the profits or any part of the profits of any other office during the term of my acting as [state office]."	State ethics laws that apply to elected officials cover this conduct; therefore, it is unnecessary to add the sentence to the oath.
Article XVI General provisions	Add a section that prohibits the City from using any form of automated traffic-enforcement monitoring system such as a speed-monitoring system or a red-light-monitoring system.	The recommended provision is most suitable for an ordinance, not a charter.
Article XVI General provisions	Add a provision that prohibits the City from regulating any business or commercial enterprise within the City limits.	The recommended provision could jeopardize the health, safety, and financial well-being of the City's residents, as well as the fiscal resources of the City.

Provision at Issue	Comment	Committee's Response
Article XVI General provisions	Add provisions that prohibit any current or past member of the POACRE Board of Directors, or a current or past officer or employee of the Chesapeake Water Company, from running for elected office for a period of five years after adoption of the charter.	The recommended provisions would be an unreasonable infringement on individual rights, would reduce the number of qualified candidates running for office when getting such candidates may be difficult, and would limit voters' choices by diminishing the number of experienced and competent candidates available for elected office. If voters have concerns about such candidates, they can express their concerns through the election process, and the recall provisions of §7.08.
Article XVI General provisions	Add provisions that regulate the City's annexation of property outside its corporate limits by requiring a four-fifths vote, and the written consent of the affected property owners.	It is not necessary to have charter provisions regulating annexation because State law (see the Local Government Article, Subtitle 4-400, of the <u>Annotated Code of Maryland</u>) governs the annexation process and protects the rights of affected property owners. In addition, any City authority addressing annexation should be in the form of an ordinance, not a charter provision, to provide the City with regulatory flexibility; such ordinances would have to consistent with the State law.
Article XVI General provisions	Add provisions that require the City to comply with the MD Public Information Act, and that prohibit the City from charging City residents and business owners a fee for information requests.	The City must comply with the MD Public Information Act when fulfilling requests for information, including charging any fees permitted by law for such services; therefore, adding a provision to this effect to the proposed charter is unnecessary. Offering free information services would invite abuse of the system, resulting in excessive costs to the City and its residents.
Article XVI General provisions	Add a provision that prohibits the City from establishing a police department, and add a provision that permits the City to contract with the Calvert County Sheriff's Department for law- enforcement services.	The recommended provisions would severely restrict the City's acquisition of cost-effective security services by infringing unnecessarily on the City's duty to provide its residents with the best security it can afford within budgetary constraints.*

*Several comments submitted by this commenter included a recommendation to prohibit amendment of a charter provision; this response regarding such amendments applies to these recommendations as well.

Appendix: Transcript of Public Hearing

The transcript of the public hearing on February 3rd, 2016 is on the enclosed CD and is also posted on the Calvert Shores website at:

http://calvertshores.org/documents/Meetings/muni%20public%20mtg%20transcript%202_3_2016.pdf