



MARIPOSA COUNTY

Administration • 966-3222



RESOLUTION - ACTION REQUESTED 2018-186

MEETING: April 24, 2018
TO: The Board of Supervisors
FROM: Dallin Kimble, County Administrative Officer
RE: Public Hearing for TBID Management Plan Renewal

RECOMMENDATION AND JUSTIFICATION:

PUBLIC HEARING: Adopt a resolution declaring results of majority protest proceedings and renewing the Mariposa County Tourism Business Improvement District (TBID).

A staff report prepared by Yosemite / Mariposa County Tourism Bureau (YMCTB) Consultant Nicole Farley is attached. The TBID is the primary revenue source for YMCTB. Petitions in favor of the renewal were submitted by 59 lodging establishments, which represent 77.77% of the total district assessment. A second public hearing on this item is required and scheduled for April 24, 2018. Staff recommends approval of the resolution as proposed.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The TBID was renewed on March 5, 2013 by Resolution 2013-67 for a five-year term expiring April 30, 2018.

On March 6, 2018, the Board of Supervisors passed a Resolution of Intention to notify the public of this pending action and schedule this public hearing.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not adopt the resolution. The TBID renewal process can be modified. Delays may lead to lost revenues for YMCTB and, to a lesser extent, the County.

FINANCIAL IMPACT:

ATTACHMENTS:

Staff Report (DOCX)
Resolution (DOCX)
Proposed Management Plan (PDF)
Tax Collector Memo (PDF)

Resolution - Action Requested 2018-186

RESULT: ADOPTED [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor

SECONDER: Kevin Cann, District IV Supervisor

AYES: Smallcombe, Jones, Long, Cann, Menetrey

RESOLUTION NO. 2018 - 186

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIPOSA DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND RENEWING THE MARIPOSA COUNTY TOURISM BUSINESS IMPROVEMENT DISTRICT (MCTBID)

WHEREAS, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the County to renew business improvement districts upon petition by a weighted majority of the lodging business owners located within the boundaries of the district; and

WHEREAS, lodging business owners who will pay more than fifty percent (50%) of the proposed assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the MCTBID have petitioned the Board of Supervisors to renew the MCTBID; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on lodging businesses within the MCTBID to pay for sales promotion and marketing activities, and other improvements and activities set forth in the Plan; and

WHEREAS, the assessed lodging businesses within the MCTBID will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on March 6, 2018 at 9:00 a.m. at Board Chambers, the Board of Supervisors adopted a Resolution of Intention, Resolution No. 2018-95; and

WHEREAS, the public meeting and public hearing to consider the renewal of the MCTBID have been properly noticed in accordance with Streets and Highways Code §36623; and

WHEREAS, on April 10, 2018 at 9:00 a.m. at the Board Chambers located at 5100 Bullion Street, Mariposa, CA 95338, the Board of Supervisors held a public meeting regarding the renewal of the MCTBID, and the Board of Supervisors heard and received objections and protests, if any, to the renewal of the MCTBID and the levy of the proposed assessment; and

WHEREAS, on April 24, 2018 at 9:00 a.m. at Board Chambers located at 5100 Bullion Street, Mariposa, CA 95338, the Board of Supervisors held a public hearing regarding the renewal of the MCTBID, and the Board of Supervisors heard and received all objections and protests, if any, to the renewal of the MCTBID and the levy of the proposed assessment; and

WHEREAS, the Clerk of the Board has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the proposed district which would pay fifty percent (50%) or more of the assessments proposed to be

levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; and

WHEREAS, the County bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the County in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS THAT:

1. The recitals set forth herein are adopted by the Board of Supervisors as findings and they are true and correct.

2. The MCTBID is hereby renewed for a ten (10) year term, beginning May 1, 2018 through April 30, 2028.

3. The Plan dated January 19, 2018 is hereby adopted and approved.

4. The activities to be provided to benefit businesses in the MCTBID will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the district; to provide activities or improvements outside the MCTBID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan. Notwithstanding the foregoing, improvement and activities that must be provided outside the MCTBID boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the MCTBID.

5. The Board of Supervisors finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the MCTBID that is not provided to those not paying the assessment.

b) The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

c) The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

d) Assessments imposed pursuant to the MCTBID are levied solely upon the assessed business, and the business owner is solely responsible for payment of the

assessment when due. If the owner chooses to collect any portion of the assessment from a transient, that portion shall be specifically called out and identified for the transient in any and all communications from the business owner as the "MCTBID Assessment."

6. The assessments levied for the MCTBID shall be applied towards sales, promotions and marketing programs to market Mariposa lodging businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

7. Assessments levied on lodging businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.

8. The assessments for the entire District will total approximately \$1,300,000 in year one.

9. Bonds will not be issued to fund the MCTBID.

10. The MCTBID shall include all lodging business located within the boundaries of the unincorporated County of Mariposa. A boundary map is attached hereto and incorporated herein by reference.

11. The assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which the MCTBID assessment is levied as long as they are used consistent with the requirements set forth herein.

12. The assessments to fund the activities and improvements for the MCTBID will be collected by the county's on a monthly basis, and in accordance with Streets and Highways Code §36631.

13. The Board of Supervisors, through adoption of this Resolution and the Plan, has the right pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the MCTBID as defined in Streets and Highways Code §36612. The Board of Supervisors has determined that Yosemite Mariposa County Tourism Bureau shall continue to be the Owners' Association.

14. The Yosemite Mariposa County Tourism Bureau, pursuant to Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the MCTBID.

15. The MCTBID established pursuant to this resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

16. The Clerk of the Board, or his or her designee, is directed to take all necessary actions to complete the establishment of the MCTBID and to levy the assessments.

17. This Resolution shall take effect immediately upon its adoption by the Board of Supervisors.

I HEREBY CERTIFY that the foregoing Resolution of Formation was introduced and adopted at a regular meeting of the Board of Supervisors on the 24th day of April, 2018 by the following vote:

AYES: SMALLCOMBE, JONES, LONG, CANN, MENETREY

NOES: NONE

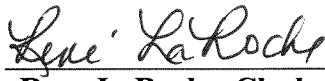
ABSENT: NONE

ABSTAIN: NONE


Rosemarie Smallcombe, Chair

Attest

Approved as to Form:

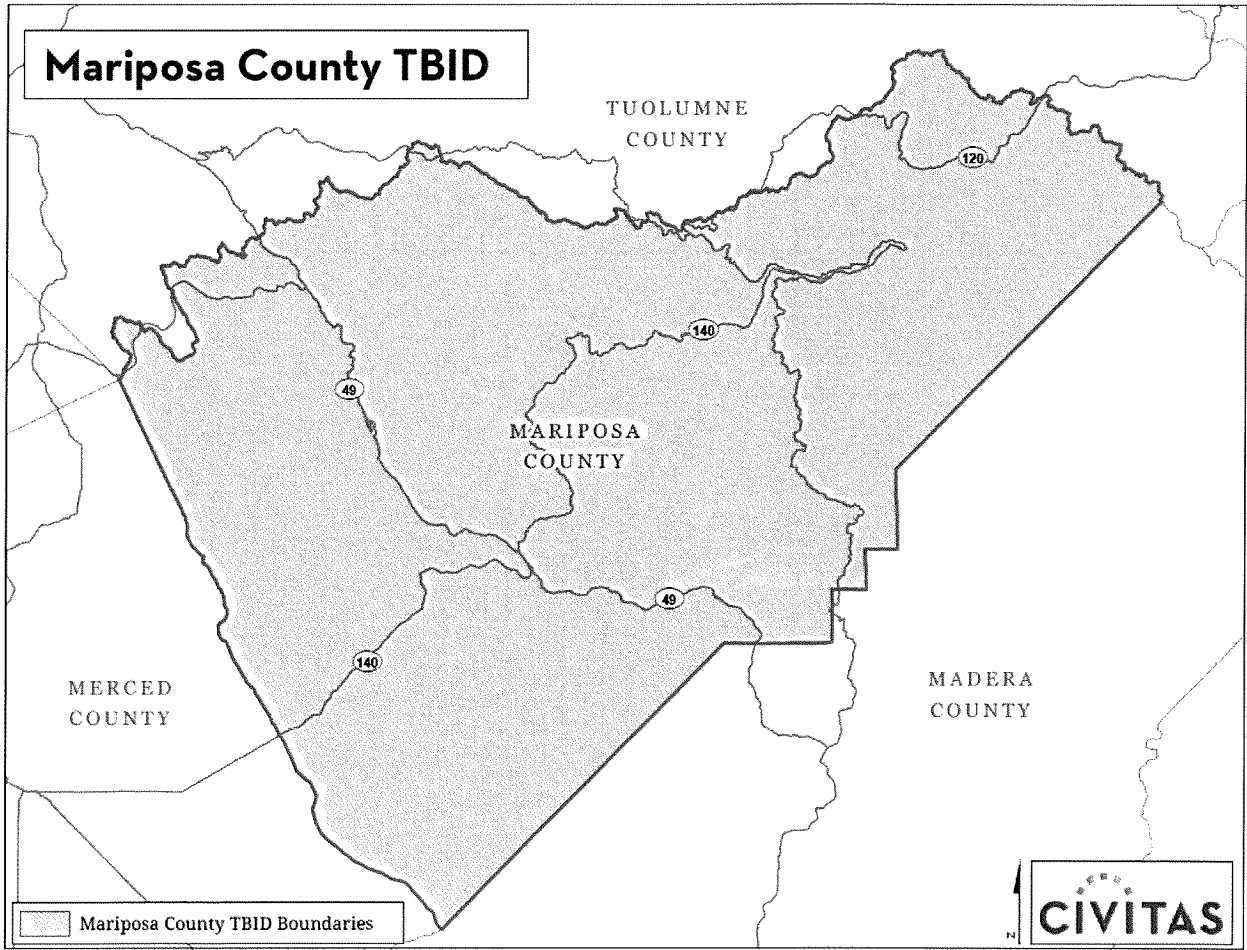


Rene LaRoche, Clerk of the Board



Steven W. Dahlem, County Counsel

Boundary Map



MEMORANDUM

DATE: April 10, 2018
TO: Honorable Chairman and Board Members
FROM: Nicole Farley, Civitas
SUBJECT: Resolution Declaring the Results of the Majority Protest Proceedings and Renewing the Mariposa County Tourism Business Improvement District

RECOMMENDATION

Hold a final hearing, declare results of majority protest proceeding, and adopt a resolution renewing the Mariposa County Tourism Business Improvement District

PURPOSE

Adoption of this Resolution will result in the renewal of the District.

BACKGROUND

The Mariposa County Tourism Business Improvement District (District) is a benefit assessment district proposed to help fund marketing and sales promotion efforts for Mariposa County lodging businesses. This approach has been used successfully in other destination areas throughout the state to improve tourism and drive additional room nights. The renewed District includes all lodging businesses located within the boundaries of the unincorporated area of the County of Mariposa.

Hoteliers decided to pursue renewal of the District in order to maintain a revenue source devoted to marketing Mariposa County as a tourist, meeting and event destination. If renewed, the District would generate approximately \$1,300,000 on an annual basis for promotion of travel and tourism specific to Mariposa County.

TOURISM BUSINESS IMPROVEMENT DISTRICTS

Tourism Business Improvement District utilize the efficiencies of private sector operation in the market-based promotion of tourism. These special assessment districts allow lodging and tourism-related business owners to organize their efforts to increase tourism. Tourism-related business owners within the district fund the District, and those funds are used to provide services that the businesses desire and that benefit the lodging businesses within the District.

District benefits:

- Funds cannot be diverted for other government programs
- They are customized to fit the needs of each destination
- They allow for a wide range of services; including: Marketing of the Destination, Tourism Promotion Activities and Sales Lead Generation
- They are designed, created and governed by those who will pay the assessment
- They provide a stable funding source for tourism promotion

In California, Tourism Business Improvement Districts are formed pursuant to the Property and Business Improvement District Law of 1994 (PBID Law). This law allows for the creation of a special benefit assessment district to raise funds within a specific geographic area. The key difference between TBIDs and other special benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.

MANAGEMENT DISTRICT PLAN

The Management District Plan (**Attachment 1**) includes the proposed boundary of the District, a service plan and budget and a proposed means of governance. The District will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the all lodging businesses located within the boundaries of the unincorporated area of the County of Mariposa.

The proposed District will have a ten (10) year life. The assessment will be implemented beginning May 1, 2018 through April 30, 2028. Once per year beginning on the anniversary of District formation there is a 30-day period in which business owners paying more than 50% of the assessment may protest and begin proceedings to terminate the District.

The County will be responsible for collecting the assessment on a monthly basis from each lodging business located in the District boundaries. The County shall forward the assessments to the Yosemite Mariposa County Tourism Bureau, which will have the responsibility of managing District programs as provided in this Management District Plan. The County shall be paid a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration.

DISTRICT RENEWAL PROCESS

March 6, 2018

RESOLUTION OF INTENTION HEARING (**COMPLETED**)

Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the Board of Supervisors may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district.

Petition Status: Petitions in favor of district formation were submitted by 59 lodging partners, which represent 77% of the total

district assessment. This majority petition allows the Board to initiate proceedings for district formation at the March 6, 2018 meeting.

March 7, 2018

NOTICE (COMPLETED)

The Property and Business Improvement District Act of 1994 requires the County mail written notice to the owners of all businesses proposed to be within the district. Mailing the notice begins a mandatory forty-five (45) day period in which owners may protest district formation.

April 10, 2018

PUBLIC MEETING

Allow public testimony on the establishment of the District and levy of assessments. No council action required.

April 24, 2018

FINAL PUBLIC HEARING

If written protests are received from the owners of businesses in the proposed district which will pay more than 50 percent of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses shall be taken for a period of one year from the date of the finding of a majority protest by the Board.

At the conclusion of the public hearing to establish the district, the Board may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them.

If the Board, following the public hearing, decides to establish the proposed property and business improvement district, the Board shall adopt a resolution of formation.

ALTERNATIVES

The Council could choose not to adopt the Resolution Declaring Results of Majority Protest Proceedings and Renewing the District. Staff does not recommend this option.

FISCAL IMPACT

None immediately. The County will receive a fee of one percent (1%) of the amount collected to cover its costs of administration. Because the district programs are intended to increase visitation to the County, there may be an increase in transient occupancy tax and sales tax collections.