



MARIPOSA COUNTY

Administration • 209-966-3222



RESOLUTION - ACTION REQUESTED 2014-338

MEETING: July 8, 2014

TO: The Board of Supervisors

FROM: Rick Benson, County Administrative Officer

RE: TOT Increase

MINUTE ORDER ATTACHED

RECOMMENDATION AND JUSTIFICATION:

Approve proposal to increase the transient occupancy tax and adopt resolution submitting the proposal to the electorate on November 4, 2014.

Please see attached staff report for justification.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On March 26, 2013 your Board directed staff to prepare a proposal for a TOT increase to be considered for the November 2014 election. A report and recommendation was presented to your Board on June 17, 2014.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If a proposed increase is not approved at this time the next opportunity will be in 2016.

FINANCIAL IMPACT:

Placement on the ballot will cost approximately \$4,500.

ATTACHMENTS:

TOT report 2014 2(PDF)

Tourism TOT Response 6-20-14 (PDF)

TOT resolution 1 (DOC)

TOT resolution 2 (DOC)

TOT resolution 3 (DOC)

TOT resolution 4 (DOC)

CAO RECOMMENDATION

Requested Action Recommended

Mary Hoatson

Mary Hoatson, Deputy CAO 6/11/2014

RESULT: ADOPTED AS AMENDED [4 TO 1]
MOVER: Lee Stetson, District I Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Lee Stetson, Merlin Jones, Janet Bibby, Kevin Cann
NAYS: John Carrier

MARIPOSA COUNTY RESOLUTION #14-338
PROPOSAL TO AMEND CHAPTER 3.36 OF COUNTY CODE
REGARDING THE TRANSIENT OCCUPANCY TAX RATE

WHEREAS, Section 7280 of the California Revenue and Taxation Code authorizes the Board of Supervisors of any County to impose what is commonly known as a "transient occupancy tax," which is a tax on the privilege of occupying a room or rooms or other living space, in a hotel, inn, tourist home or house, motel or other lodging located within the County, unless the occupancy is for a period of more than 30 days; and

WHEREAS, pursuant to Chapter 3.36 of the Mariposa County Ordinance Code, the County of Mariposa presently imposes such a transient occupancy tax at the rate of ten- percent (10%) of the rent charged by operators of such lodging within the County; and

WHEREAS, Section 2 of Article XIIC of the California Constitution, and Section 53723 of the California Government Code, authorize the County to impose a general tax upon a majority vote of the electorate; and

WHEREAS, pursuant to Section 9140 of the California Elections Code, this Board may submit to the voters, without petition, a measure relating to the enactment of any ordinance; and

WHEREAS, this Board deems it appropriate to propose to the electorate of the County an amendment to Chapter 3.36 of the Mariposa County Ordinance Code to increase the rate of tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging located within the unincorporated area of the County from ten-percent (10%) to eleven and one quarter-percent (11.25%) of the rent charged by operators of such lodging in order to generate additional revenue that will be placed in the General Fund for general County services and functions.

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Mariposa as follows:

1. This Board hereby proposes that Chapter 3.36 of the Mariposa County Ordinance Code be amended to increase the rate of tax provided for therein from ten-percent (10%) to eleven and one quarter-percent (11.25%) of the rent charged by operators of transient lodging in the County.
2. An election shall be and is hereby ordered to be held, at which election there shall be submitted to the qualified electors of the County the question of the

increase in the rate of tax set forth in Chapter 3.36 of the Mariposa County Ordinance Code from ten-percent (10%) to eleven and one quarter-percent (11.25%) of the rent charged by operators of transient lodging in the County, said proposition to read as follows:

“Shall Chapter 3.36 of the Mariposa County ordinance code be amended to increase the rate of tax imposed on occupants of lodging within the County who reside in such lodging for thirty consecutive calendar days or less, from ten-percent (10%) to eleven and one quarter-percent (11.25%) of the rent charged by operators of such lodging?”

3. The Board of Supervisors does hereby submit to the qualified electors at the regularly scheduled general election said measure as set forth in Paragraph 2 of this resolution and designates and refers to said measure as the measure to be set forth on the ballots for use at said election. The full text of the measure is as set forth below in this Paragraph 3:

“Shall section 3.36.030 of Chapter 3.36 of the Mariposa County Ordinance Code be amended in its entirety to read as follows:

3.36.030 Imposition of Tax.

“For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of eleven and one quarter-percent (11.25%) of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the county, which is extinguished only by payment to the operator, or to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax collector may require that such tax be paid directly to the tax collector.”

4. The County Clerk shall publish a notice of this election in accordance with the Elections Code and give any other required notices.

5. The following requirement shall apply to this election:

(a) The election shall be held and conducted, the returns canvassed and the result declared in the same manner as provided by law for general elections.

(b) The election will be held on November 4, 2014, from the hour of 7:00 AM to the hour of 8:00 PM, during which period of time the polls will remain continuously open. At 8:00 PM, the polls will be closed, except as provided in Section 14401 of the Elections Code.

(c) The County Clerk shall prepare and mail to each eligible voter in the County a sample ballot and a voter's pamphlet containing the text of the measure as

indicated in Paragraph 2 above, the ordinance providing for the imposition of a transient occupancy tax at the rate of eleven and one quarter-percent (11.25%) of the rent charged by the operator.

(d) The County Clerk shall establish election precincts, designate the polling places and provide election officers for each precinct at the November 4, 2014, election in accordance with the election laws of the State of California.

(e) The election on the proposed measure shall be consolidated with any and all other elections to be held on November 4, 2014.

PASSED AND ADOPTED by the Mariposa County Board of Supervisors a political subdivision of the State of California on this 8th day of July 2014.



KEVIN CANN, Chairman

ATTEST:

APPROVED AS TO FORM:



RENÉ LAROCHE, Clerk of the Board



STEVEN W. DAHLEM, County Counsel

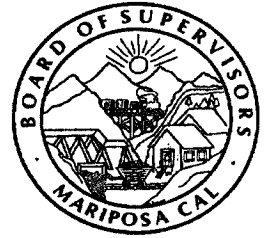


COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

KEVIN CANN, CHAIR
MERLIN JONES, VICE-CHAIR
LEE STETSON
JANET BIBBY
JOHN CARRIER

DISTRICT IV
DISTRICT II
DISTRICT I
DISTRICT III
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: RICK BENSON, CAO
FROM: RENE' LaROCHE, Clerk of the Board *RL*
SUBJECT: Approve Proposal to Increase the Transient Occupancy Tax and Adopt Resolution Submitting the Proposal to the Electorate on November 4, 2014

RES. 14-338

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on July 8, 2014

ACTION AND VOTE:

1. Administration RES-2014-338

Approve Proposal to Increase the Transient Occupancy Tax and Adopt Resolution Submitting the Proposal to the Electorate on November 4, 2014

Chair Cann gave an overview of the process, and noted that this will require a 4/5th vote. Rick Benson gave the staff report.

Chair Cann thanked Terry Selk for the many interactions that he and Supervisor Jones have had in working with the Tourism Bureau. Mr. Selk gave a PowerPoint presentation on behalf of the Yosemite Mariposa County Tourism Bureau urging no TOT increase. Roger Biery discussed the net effect of a TOT/TBID split, and noted that the industry is not asking for a sunset date. Supervisor Cann discussed the effects of various tax level scenarios. Board members sought clarification regarding the presentation.

Public comment opened.

Barry Brouillette/Comfort Inn partner and owner of Bear Creek Cabins in Midpines noted that he cherishes that he lives in a community with a high level of transparency; urged against funding any increase of any kind; urged shrinking government; remarked that he would support the Tourism Bureau's proposal; remarked that he thinks the county is very reliant on this bed tax; discussed the increases since 1979; remarked that the working poor are unrepresented here; stated that every department head is honest and sincere when they request an increase, but you all work for the people; noted that one property can't raise the bed tax or minimum raise; and stated that if the TOT is raised, he would urge taking a percentage of it and distributing it to the people at the lowest level.

Barbara Robinson/Owner Indian Peak Ranch vacation rental discussed the need to improve services; noted that the reviews on Trip Adviser imply that most of the hotel/motels are just mediocre;

remarked that the value for what you spend here is just not there; remarked that in Mariposa you overpay for what you get and raising TOT will make it worse; noted the closed businesses over the 4th of July three day weekend; discussed the tourist experience; stated that 10-15 percent of the TOT might be lost if you lose the vacation rental homes; remarked that planting the seed to visit Mariposa needs to continue; and noted that the TOT must benefit those who generate it.

Gary Francisco noted his agreement with the previous comment that the vacation rental segment of the lodging industry provides quality service. He also read a letter that he supplied to the Board urging no increase in the TOT.

Norm Murrell/former bed and breakfast owner noted that in seven years in business, he encountered only one person who ever asked what the taxes would be; noted that he doesn't think that 99 out of 100 people would ever ask about the tax, and stated that he doesn't think we would be losing anything.

Lisa Edelheit/Yosemite Country Cottage owner urged a raise of the TOT, and agreed with the 2 percent increase; noted that people only ask them about the total cost because they require a deposit in advance; noted that these same fears were raised the last time and she saw no loss of business; remarked that Yosemite is our biggest revenue generator; noted that she thinks the issue of what services we provide, and the quality of the stay, are important; remarked that we have the small town charm here that no one else has; remarked that she doesn't like an increase in the TBID as it doesn't really help market vacation rentals; noted that her other concern is that the school district just passed a bond measure and she is concerned with competing measures; and stated that she likes it being undedicated so that the public can advocate for what they want.

Mary Bass/Mariposa County Vacation Rental Owners Association recounted that she received 40 responses from a recent survey of its members, and that two were in favor of an increase while the rest were against; stated that most people felt like we have a tough time to competing with other gateways; discussed rising costs to lodging owners; and noted that the Ferguson slide continues to be a concern.

Kevin Shelton/Vice President of Operations and Marketing for Yosemite Management Group noted that he has been in the industry in Mariposa for 20 years; discussed the changes in the travel industry over the last twenty years; noted that the lodging industry is much more competitive than it was twenty years ago; stated that an increase in TOT will inhibit their ability to remain competitive; stated that the lodging industry will take the brunt of the cost, not the tourists; and urged no raise to the TOT.

Brad Aborn discussed when the Board raised the TOT to seven percent; recommended finding alternate sources of funding; noted that he would like to see a quarterly or semi-quarterly report of where the money goes; and remarked that the board, perhaps, should be considering a reduction.

Mary Ann Huff noted her appreciation for Supervisor Bibby's concern for the north county; noted that there are two business people from north county on the Tourism Bureau Board; spoke to the honesty and integrity of this board, and the board that she sits on; and urged option number four.

Kathy McCorry noted that the Chamber of Commerce Board is committed to educating the community as to TOT; noted that her board does agree that a 2/3 vote is extremely difficult and remarked that they want to work towards resolving the issue; noted that the Chamber membership does want better roads, sheriff, etc.; noted that the visitors center has tracked visitation since 2007 and their numbers have doubled in that time; noted that they are seeing an increase in the shoulder seasons; extended thanks to Rick Benson, Kevin Cann, Merlin Jones and Dan Jensen for meeting with their board; noted that Madera County is in the process of building three new hotels; offered the Chamber's continued partnership in the economic well-being of the community; and noted that everyone is in agreement that the inability to plan out more than one year is limiting.

Clay Black/bed and breakfast owner stated that his general impression is that the TOT seems to be a target of opportunity; remarked that almost all of the government agencies out there are suffering the same thing, and it mostly seems to come from the fact that the opportunity to tax gets harder and the opportunity to cut budgets only takes place when income doesn't increase; remarked that in the private sector one has to spend money to make money, as well as cut costs to make a profit; stated that the progress made spending on the Tourism Bureau can't be denied; noted that he hasn't heard any talk about funding the pensions that hang over the heads of the Mariposa community; and stated that money spent towards a really good economic development plan would increase more than an increase in the tax.

Doug Binnewies/Mariposa County Sheriff noted that the Sheriff's Office is tasked with many roles, and that they provide great service 24 hours per day, 7 days per week; noted that the Sheriff's Office budget will pretty much take all of the County's TOT; noted that some of the costs that people don't think about it is that the Sheriff's Office is tasked with death investigations, even in Yosemite National Park; noted that there were 133 death investigations in 2013, 15 in the Yosemite jurisdiction, and that they are sensitive and expensive investigations; noted that the Sheriff's Office is shouldered with several other responsibilities inside the Yosemite jurisdiction; noted that for 2013 the Sheriff's Office responded to 31,716 calls in 2013 which equates to 87 per day, and a portion of that is tourists; remarked that those calls can become large scale search and rescue operations which may be finished quickly, or last months; noted that there is also victimization of tourists multiple time a week, as well as support for mental health crisis; stated that public safety isn't cheap; noted that the County recognized seven or eight years ago that the pensions were unsustainable; and noted that tourism does have a need when it comes to public safety and law enforcement, and they do draw on our services.

Peter Rei noted that he has sympathy with the businesses, but noted that on the government level, costs have been cut for each of the last five years; discussed changes in staff and infrastructure conditions over the last five years; remarked that five years ago we had a report from a consultant that noted that it would require 7.5 million dollars in additional funding to bring the roads up to acceptable standards, or 1.8 million dollars per year to simply avoid reduction; remarked that as of the 2014-2015 budget, we've seen a decline in dollars from five years ago and, not too surprisingly, the road condition scores continue to decline; noted that more money will be needed; and noted that a lot of the roads are starting to fail and there's not much that can be done without additional funding.

Jonathon Farrington/Regional Sales Director of Delaware North noted that he has been asked by Dan Jensen to speak; noted that DNC is concerned with any increase in TOT; noted that he represents about 60,000 rooms that are negotiated annually; noted that those contracts are all negotiated, and the fact is that it is the bottom line when it comes to negotiations.

Public comment closed.

Chair Cann reminded the Board that this is a 4/5ths vote.

Supervisor Jones remarked that he knows the competition is tough out there; that he had a meeting with ninety percent of the lodging operators in District II and after a two hour meeting all but one came out saying that they would support it because they know this county cannot continue down this same road; noted that there is no other way to raise taxes; noted that he has assurances from the Tourism Board that the north county will be funded at the same rate; and agreed with one of the speakers that businesses need to learn the hours of their customers and be open.

Supervisor Carrier noted that the Board has heard a lot of viewpoints from a lot of different perspectives, that we do have a lot of working class poor, but that we also have to provide services; and noted that he understands the burden of raising the TOT.

Supervisor Carrier made the motion to place on the November election a ballot measure to ask the electorate to raise the Transient Occupancy Tax from ten percent to eleven and a half percent, and that it be non specific to the general fund.

Supervisor Bibby seconded the motion and noted that the Board will always consider an item from the TBID if they choose to raise their rate; discussed the costs of issues facing the County; recounted past episodes of mutual aid; recounted examples of aid to tourists; discussed ongoing litigation; discussed discretionary services; and noted that she hopes the community will get behind this and support it.

Supervisor Cann noted that the Visitors Center is not addressed; and noted that he believes that this will fail without the support of the lodging industry; and remarked that there should be a better compromise.

Chair Cann called the vote.

The motion failed 2-3; Ayes: Bibby, and Carrier; Nays: Jones, Cann, and Stetson.

Supervisor Stetson noted that he is favor of raising the TOT; noted that he is happy with the TBID being raised, as well; and noted that he was not in favor of a portion of the TOT being dedicated to any particular thing.

Supervisor Stetson moved to approve the proposal with a 1.25 percent TOT increase, and that it be for the general fund.

Supervisor Jones seconded the motion, and asked for clarification regarding the Tourism Bureau and visitors center funding. Supervisor Stetson replied that his motion does not consider that issue. Supervisor Cann noted that the agreement that was alluded to was that the Board would approve an increase to the TBID, and the Tourism Bureau would run the visitors centers. County Counsel interjected that the Board is not in a position to make a commitment to that at this point, but that it certainly can give an indication of its intent.

Supervisor Jones affirmed his second.

Supervisor Bibby noted that the Board will always consider requests from the TBID; discussed ways that the County has attempted to encourage businesses; and noted that every dollar the County gets is spent to serve visitors and residents.

Supervisor Cann noted that he was asked to clarify that if the Board goes with the 1.25 percent increase, it will be handing over the visitors' centers to the Tourism Bureau; and he requested a response from the Tourism Bureau as soon as possible. Mr. Selk noted that he is unable to speak for his board, and that they will need to call a special meeting.

Supervisor Bibby noted that she is already hearing that there may be some changing of minds regarding whether the visitors centers will be transferred over; and noted that if this doesn't generate enough in discretionary funds, then things will need to be cut.

Chair Cann called for the vote.

The motion passed 4-1; Ayes: Stetson, Jones, Bibby, and Cann; Nays: Carrier.

Rick Benson advised that the Board still needed to adopt a formal resolution, and suggested using one of the attached resolutions amended with the 1.25% increase.

Supervisor Stetson moved to adopt sample resolution number one, amended to change the percentage throughout from 12% to 11.25%. The motion was seconded by Supervisor Jones.

Chair Cann called the vote.

The motion passed 4-1; Ayes: Stetson, Jones, Bibby, and Cann; Nays: Carrier.

RESULT: ADOPTED AS AMENDED [4 TO 1]

MOVER: Lee Stetson, District I Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Lee Stetson, Merlin Jones, Janet Bibby, Kevin Cann

NAYS: John Carrier

Cc: Keith Williams, County Clerk/Treasurer/Tax Collector
File