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FEATHER RIVER TOURISM ASSOCIATION



November 5, 2018

To the Honorable Board of Supervisors of Plumas County,

After meeting with County IT Department and Tax Collector our steering committee has made the following decisions and changes to our District Management Plan and our requests of the county.

1. County Collection of TID Funds. The wisest approach to collections, given the hurdles that would have to be jumped in order to get the county up and running, is to administer the collections in-house, by our Association. We no longer will be requesting collection through the county.

2. Petition Counting. Our County has a choice as to who counts the petitions. According to the Law under which these TIDs are formed, the petitions can be counted by an outside agency or the County Tax Collector. CIVITAS has done this before for some jurisdictions. The information remains private through NDA's. This will cost Feather River Tourism Association nothing extra, as it would fall under our current contract with them. County Counsel in the past has indicated he would not give any county information to Civitas. If this is still the case, then we would request that the County Tax Collector count our petitions at no additional cost to our Association.

3. Time Line Issues. Given the delays we have experienced, we have pushed our start date for the District to May 1. To meet this start date we need commitments and a couple of questions answered.

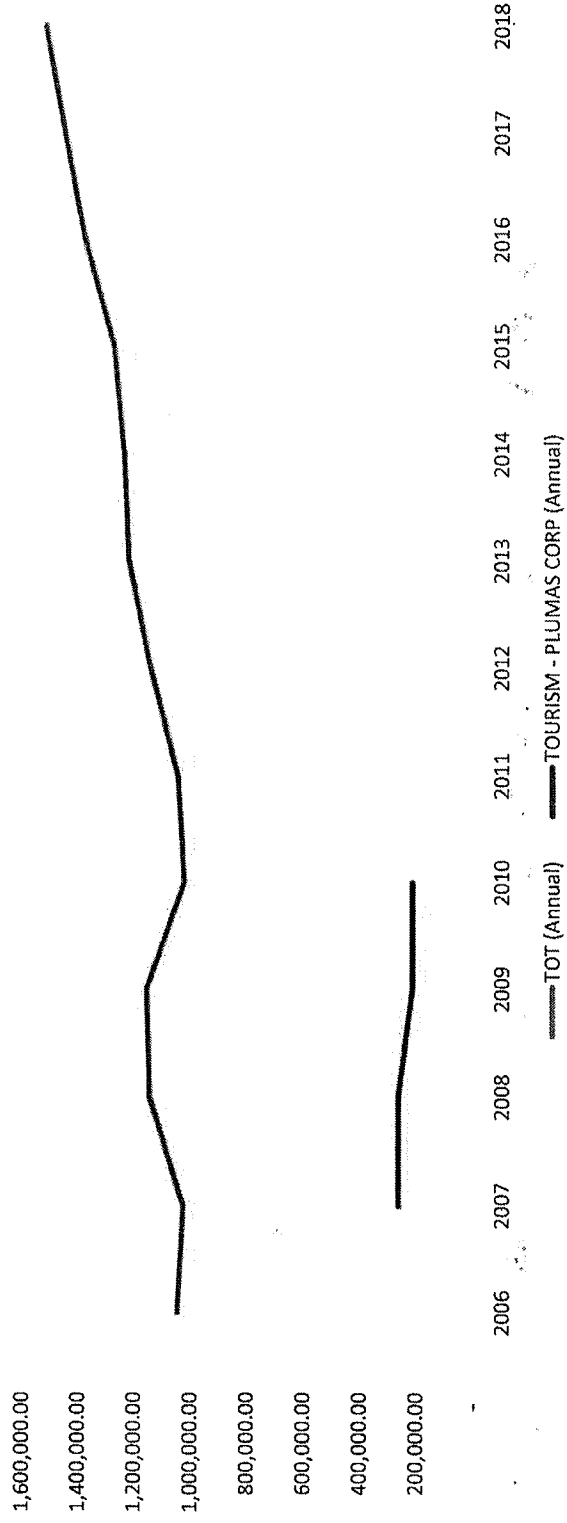
- We will need to have County Counsel's review of our management plan completed by November 26.
- We need an answer from County Counsel as to whether we can have petitions signed by electronic signature (many lodging providers will be out of town during December/January months of our petition process).
- We will need to enter an agreement with the County Tax Collector to give us notification of new TOT registrations when they occur.

4. Assessment Fees. We have set the assessment fee in the District Management Plan that will be presented to County Counsel at 2% with a 3% cap at year 3 by a 2/3rds vote of the Governing Board.

Plumas County  
Annual TOT Revenue  
FY 2005/2006 - 2017/2018

	TOT (Annual)	TOURISM - PLUMAS CORP (Annual)
2006	1,043,772.80	
2007	1,023,799.94	260,394.00
2008	1,142,724.84	260,394.00
2009	1,152,276.83	208,990.00
2010	1,019,688.91	208,990.00
2011	1,041,589.10	
2012	1,139,078.35	
2013	1,216,657.53	
2014	1,232,744.01	
2015	1,271,096.17	
2016	1,375,227.97	
2017	1,448,117.18	
2018	1,516,745.42	

Chart Title



**From:** [Settlemyre, Craig](#)  
**To:** ["Susan Bryner"](#); [Karen Kleven](#); [Haman Janice Robinson](#)  
**Cc:** [Thrall, Sharon](#); [Simpson, Lori](#); [Traci Holt](#); [Wendi Durkin](#); [ktrutna@frc.edu](mailto:ktrutna@frc.edu); [Trutna, White, Julie](#); [Preston, Dave](#); [Shelley Hunter](#); [Cecilia Reynolds](#); [St. Bernard Lodge](#); [Jeff Titcomb](#); [Todd Geer](#); [Todd Geer](#); [Ghulam Fareed](#); [Carson Lambeth](#); [Tracy Wixted](#)  
**Subject:** RE: Proposed Tourism Improvement District  
**Date:** Friday, November 02, 2018 1:45:00 PM

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Susan and Karen:

I am sending the following to you with the understanding that you are representatives of the Feather River Tourism Association in connection with the proposal to form a tourism improvement district in a portion of Plumas County:

As you know, the Plumas County Board of Supervisors has not yet authorized the various Plumas County offices and departments (including the County Counsel's Office) to expend significant time and effort with regard to the formation of the proposed Feather River Tourism Marketing District ("District"). Based on the comments from members of the Board of Supervisors during the presentation at the October 16, 2018, meeting, I have undertaken a limited review of the draft Management District Plan ("Plan") that was provided on October 16, 2018, as well as the law applicable to the formation of such a district. In order to better understand this proposal, and as part of a dialogue that may help to refine the proposal, I offer the following comments and observations:

**Map and District Boundaries:** I have previously commented in e-mail correspondence on my concern that there be an accurate map and clear district boundaries, since this will be the basis for the collection and enforcement of a governmental assessment. The district's enabling legislation (Streets and Highways Code sections 36600 and following) makes multiple references to the need for a map and defined exterior district boundaries. See, for example, Streets and Highways Code sections 36621(b)(1) and (2) (contents of the petition and resolution of intention) and 36622 (a) and (c) (contents of the management district plan). While the enabling legislation states that there is to be sufficient detail to "allow a business owner to reasonably determine if a business is located within the district boundaries," I question the use of zip codes established by the US Postal Service. Zip codes are for the delivery of mail, not the collection of taxes or assessments. Zip codes are subject to change by a third party, not the County. What if USPS changes the manner of delivery of mail and creates splits or rennumbers a zip code? While this may not happen often, it is theoretically possible and out of control of the County. Modification of zip codes may force an amendment of the District's boundaries and the associated Plan by the cumbersome process of mailed notice and public hearing.

[Suggestion: I continue to recommend a more accurate description of the boundaries of the District such as used for the collection of property taxes, planning and zoning maps, voting precincts, or the like. (Obviously, this would not be an issue at all if the district covered all of Plumas County excluding the City of Portola.)]

**Inadequate provision for the payment of County costs for the program:**

A. Legal Defense: The draft Plan provides that, "In the event of legal challenge against the FRTMD, any and all assessment funds may be used for the costs of defending the FRTMD." (Plan p. 6.) This is mentioned in the context of the Annual Service Plan. Is

this a limitation on the use of assessments for legal defense? Can assessments be used only for a legal challenge to the annual spending plan? What about a legal challenge to formation of the district itself? (Admittedly, such a challenge to formation is likely to occur before any assessments are collected, but this raises the question if the County or any party providing a defense to a legal challenge to formation can be reimbursed from assessments if the defense is successful. Another consideration is whether the County is obligated to front the money to defend the formation of the district.)

[Suggestion: All assessment revenue should be available for legal services incurred in establishment of the District and the operation of the program. There should be a provision in the Plan that District revenue will indemnify and defend the County with respect to any claims or legal proceedings arising out of, or connected with, the program.]

B. Collection Costs: The County is allowed one percent (1%) of the amount of assessment collected (but not to exceed \$10,000) to cover its costs of collection and administration (Plan at p. 8). This amounts to only \$2,880 on a hypothetical gross assessment of \$287,968. This is unrealistic and is likely to cause the County's General Fund to subsidize the District. Consider the following:

1. As mentioned in other correspondence, the County's existing transient occupancy tax (TOT) software is obsolete and will likely require expensive modifications to adapt to collecting the tourism assessment. Alternatively, new software may need to be acquired to perform both functions.

[Suggestion: That the tourism assessment be available to pay the cost to modify existing software, acquire separate software for tourism assessment, or pay a proportionate share of obtaining new software to do both functions. The program should bear its share of startup costs, even if the marketing program in the first year is less robust.]

2. Extra-ordinary collection issues: It is not legally possible to graft the tourism assessment onto the transient occupancy tax ("TOT") collection program. TOT and the tourism assessment are of entirely different characters. The TOT is a general tax, the incidence of which is imposed on the lodging guests. The lodging provider collects the TOT from the lodging guest and holds the money *in trust* for the County until it is remitted to the County. If the lodging provider fails to remit the TOT to the County, the lodging provider has misappropriated County funds, and the Tax Collector refers the matter to the District Attorney for prosecution. But, the incidence of the tourism assessment is on the lodging provider (even if the lodging provider adds it to the bill to the guest). If the lodging provider refuses pay the tourism assessment (perhaps as a protest), the collection process is entirely different. Because this is not a property related charge (which would make it subject to a Prop. 218 process), it cannot be simply added to the property tax bill. There will have to be a civil proceeding to collect the unpaid and unsecured assessment. Are the expenses of such legal proceedings to be covered only by the \$2,880 collection fee? If so, the collection fee is inadequate. Is the County obligated to pursue collection no matter what the amount unpaid, no matter what the cost to collect, or no matter what the opposition? Will the County have the ability to

compromise such litigation?

[Suggestion: That all collection costs be charged against assessment revenue. Since this is a County-imposed charge for a County service, the Board of Supervisors has authority over any litigation.]

C. Other overhead-type costs: The County will incur other costs in connection with this program. There will be labor costs to handle collection activities, billing and postage expenses, recordkeeping, financial accounting and auditing expenses, public hearing notice expenses, conduct of public hearings, contracting expenses with the non-profit, etc. There are “overhead costs” associated with such functions (office space, utilities, insurance, and so on). The County is accustomed to tracking program-related expenses when it comes to Federal, State, and other grant-funded programs. The County’s Cost Plan implements federal legal requirements for allocating costs to such programs.

[Suggestion: That the tourism assessment program reimburse the County for the County’s actual related expenses using generally accepted accounting principles and the County’s state and federally approved Cost Plan.]

#### **Consistency with Proposition 26:**

Lack of Plan Details: The Plan is very general in its allocation of assessment revenue to programs. For example, it simply states that 48% will be allocated to “Sales and Marketing” and 37% to “Micro-Zone Marketing.” The Plan refers to the future development of a Marketing Plan in the first year and references the use of various media, but provides no specifics or content. Without specifics or content, it is not possible to analyze whether or not these expenditures will be consistent with the requirements of Proposition 26 in providing a “specific benefit” to those businesses that are assessed. What is an “indirect benefit” to non-payers, and what is “merely incidental” can be a matter of opinion that may lead to litigation.

“Micro-Zone Marketing:” If the only source of funding is the assessment, the allocation of funding for “Micro-Zone Marketing will result in expenditures in a particular Micro-Zone being disproportionate to the fees raised in that particular Micro-Zone because the formula allocates a minimum of \$10,000 to each Micro-Zone. Using the example in the proposed Plan, if a certain Micro-Zone generates 10% of the overall revenue to the District, instead of receiving \$10,655.80 in marketing services, it receives \$17,654.80 in services or about \$6,699.00 more than it generates. This means that another Micro-Zone receives less in services than it paid in revenue. In other words, some other Micro-Zone is subsidizing the example Micro-Zone. But, the concern is that the subsidizing Micro-Zone businesses have been over-charged for the services they have received, thereby violating the requirements of Proposition 26.

[Suggestion: Eliminate “Micro-Zone” marketing, unless it is proportional to assessments raised in the Micro-Zone, or, in the alternative, disproportionate expenditures be only from funding other than the assessment.]

**Other Comments:** Although not directly related to the provisions of the draft Plan, I offer the following comments and observations:

Use of the term “District:” The formation of business improvement district pursuant to the enabling legislation does not create a new legal entity separate from the County. The “District” is not a separate special district. Rather, it is a geographic area within the County for which a benefit assessment is charged to fund certain government services. In that sense it is much like a county service area. The District is governed by the Board of Supervisors who will contract with a non-profit that will carry out the marketing plan. The money collected via the assessment becomes County funds used to pay the contract with the non-profit. The program is a County service.

Effect on TOT Collections: It has been suggested that since the marketing to be undertaken by the District will also increase TOT collections thereby resulting in increased revenue to the County’s General Fund, that the County should be willing to support the program by bearing some of the District’s assessment collection costs (in excess of the 1% proposed collection fee).

While this is the assumption, it has not been demonstrated that this will actually happen. There is some data to the contrary. As I recall, prior to the Great Recession, Plumas County regularly expended over \$300,000 per year on a Tourism Bureau administered by Plumas Corporation. This was approximately one-third of the amount of revenue to the General Fund generated by the TOT. (Rather than rely solely on my memory, I have asked the Auditor to provide data on TOT revenue and appropriations to the Tourism Bureau for the last ten years. When the Board of Supervisors considered reducing the appropriation to the Tourism Bureau in order to fund other essential government services previously funded primarily by declining real property taxes, many speakers argued against doing so because reducing tourism marketing would cause TOT to drop dramatically. TOT did not drop dramatically. In fact, TOT has slowly increased. This raises questions for which I do not have answers:

- What explains the increase in TOT revenue when tourism marketing expenditures by the County decreased? Is this the result of a change in lodging rates, more units on the market, or do people come to Plumas to vacation because of tradition, word of mouth, or reasons other than being attracted by advertising?
- Did private parties (lodging providers, restaurants, retailers, chambers of commerce, etc.) increase their advertising or switch to more effective media when government advertising decreased?
- If private advertising increased when government advertising decreased, will private advertising decrease when District advertising increases? If so, this suggests that the District advertising program will not increase nights sold or TOT revenue, but will only serve to spread the marketing costs more equitably over all lodging providers in the District. In fact, it seems likely that in order to pay the assessment, lodging providers are likely to decrease their private spending on marketing in order to lessen the impact on their bottom line if they do not pass the assessment cost on to the guest.
- Would nights sold (and resulting TOT) have increased at a greater rate had marketing spending not been reduced as a result of the Recession? What data is available on nights sold and excess capacity by time of year?

It would be helpful to have some additional facts and analysis establishing a correlation between the proposed marketing activities and short-term rental revenues.

County General Fund Participation: Whether or not the County “participates” in the program by bearing a share of the costs of the program, is a policy decision for the Board of Supervisors. As discussed above, there will be significant startup costs for the program including public hearing with mailed notices, software, training, and new procedures to implement. There will be ongoing collection costs that are unlikely to be met by a 1% (\$2,880) per year “collection fee. There can be legal challenges to 1) the establishment of the District, 2) collection of delinquent accounts, 3) to the Micro-Zone appropriations, 4) the Annual Spending Plan, and, 5) to specific marketing campaigns (depending on content) alleging a lack of specific benefit to the payer or more than indirect or incidental benefit to non-payers. Only the fourth listed item appears to be adequately addressed to provide that assessments are available for such a legal expense, with the remainder presumably to be borne by the County’s General Fund.

If there is no actual correlation between District activities and a resulting rise in TOT tax revenue to the County, then it would appear that the District is simply providing a way to lower the costs of lodging businesses’ marketing costs by either passing that expense on to the guest, or substituting public marketing for private marketing. If that is the case, the County’s “contribution” will become a subsidy for businesses in a limited geographical area of the County that is not provided to businesses in areas outside the District.

It would seem that the County’s contribution, if any, should be based on clear performance measures demonstrating a correlation between marketing expenditures and a rise in TOT revenues to the General Fund thereby also benefiting the County as a whole.

I welcome any comments or information in response to the foregoing. Please let me know if there is anything else that the Board of Supervisors should consider regarding this proposal.

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**From:** Susan Bryner [mailto:susan.bryner@gmail.com]  
**Sent:** Tuesday, October 30, 2018 3:17 PM  
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**Cc:** Thrall, Sharon; Simpson, Lori; Goss, Kevin; Traci Holt; Wendi Durkin; <krutna@frc.edu> Trutna; White, Julie; Settlemyre, Craig; Preston, Dave  
**Subject:** Tourism Improvement District, Update after Meeting with IT and County Tax Collector

I met today with Dave and Greg of the County IT Department, Lori Simpson, and then

with Julie White. Following is the outcome and/or possible solutions to moving forward with the county issues to the implementation of a TID.

Issue #1

Current TOT collection software is outdated, written in the 70's, difficult and expensive to update. Julie has been trying to convey this to us for some time. It does not make financial sense, nor in terms of long term planning, to update antiquated software. All agreed.

Proposed Solution:

Purchase a new TOT module to add to one of the newer systems the county has already, or is planning to invest in: ie. Megabyte or Thompson Reuter. Initial cost could be \$20-\$25K + training. Dave and Julie will research this and share their research.

Issue #2

A budget request for the \$20-\$25K will have to wait until the next budget process starting in June 2019, after our proposed April 1 start date.

Proposed Solution:

The best approach to this is to push our start date to October 1. IT felt this would give them enough time (once budget approved) to set up the system, migrate from the old and train employees.

Issue #3

Julie is at a loss to calculate department time spent each quarter on the addition of our assessment to her staff time, given the software issue. She feels strongly though that 1% of a \$290K budget, \$2920 for the first year, would not adequately cover her department expenses given that she is already working with an understaffed department with existing work flow and needs.

Proposed Solution:

Given our position that adding the work flow to the Tax Department is a much more efficient and effective approach to collection than attempting to build a brand new independent collection system, I would advocate that our members consider a 2% County Collection cost in our budget with the existing \$10K cap.

Issue #4

We will need Tax Collector staff time to calculate our petitions when they come in. Though no solution has been proposed, Julie will work toward coming up with an estimate of costs for us as soon as she can.

It was a really good meeting. All involved were trying to make this thing work for our County, if it passes. Call me if you would like to discuss any of this. Our steering committee has a phone conference on Friday with Civitas. Please, we need all of our committee members on the line for this one.



Regards,  
Susan

*Susan Bryner*  
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