



COUNTY OF PLACER

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OFFICE OF COUNTY EXECUTIVE

David Boesch, County Executive Officer

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November 30, 2015

Kris Berry, Executive Officer for LAFCO
Local Agency Formation Commission
110 Maple St
Auburn, CA 95603

Sent via E-mail & USPS

Re: LAFCO Staff Report of November 18, 2015

Dear Ms. Berry:

In light of the State Controller's Office Report, the LAFCO Staff Report, and the comments of LAFCO Commissioners at the hearing on November 18, 2015, the County would like to provide additional context to the discussion of its Tahoe area transient occupancy taxes, and the services it provides through its contract with the North Lake Tahoe Resort Association with those revenues.

As noted by the State Controller's Report, these revenues are the proceeds of a general tax and, therefore, are not considered to be special purpose revenue under general legal principles. However, with respect to the Auditor's Ratio, the State Controller noted that general purpose revenues may also be determined by "the county's own policy" with respect to the use of these revenues. As noted in the Commission Staff Report, the history of the use of these revenues is complex and requires more analysis than a mere legal conclusion allows. For the purpose of the proposed incorporation, long-standing commitments by the County Board of Supervisors require these funds to be treated as a form of restricted County revenue for regional services.

In 1996, Placer County voters approved an increase in the rate of the transient occupancy tax (TOT) from eight percent (8%) to ten percent (10%) for that portion of Placer County legally described as the "North Lake Tahoe Transient Occupancy Tax Area." That ballot proposal was the culmination of the development, with extensive community involvement, of the County's Tourism Development Master Plan for infrastructure development throughout the Tahoe and eastern Placer County area. This Master Plan served as the basis for County Resolution No. 95-163, whereby the Board of Supervisors dedicated 50% of the 8% TOT revenue to Resort Association Operation and Marketing Activities, Visitor Services and Infrastructure, and the entire 2% increase in the TOT to an Infrastructure Fund to implement the North Lake Tahoe Tourism Development Master Plan. A copy of this resolution is enclosed with this letter (Attachment A). This dedication of TOT revenues has continued since that time; and, as noted by Commission Staff, the last ballot measure to extend the 2% TOT made this dedication fairly explicit. A copy of the Board's approved ballot language, as set out in County Resolution No. 2012-027, is also enclosed with this letter (Attachment B). These restrictions on general purpose revenues cannot be imposed on a new entity; particularly, a general government entity such as a Town Council.

Kris Berry, Executive Officer for LAFCO
Re: LAFCO Staff Report
November 30, 2015
Page 2 of 2

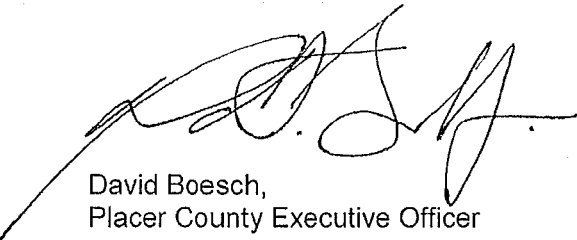
Although regional services currently funded with these revenues were not proposed to be provided by the proponents of the new Town, Incorporate Olympic Valley (IOV), IOV has seized upon a legal conclusion expressed by the State Controller's Office to modify the scope of the services the new Town would provide. In order to take advantage of the formula for determining the new Town's property tax share, IOV concludes that the proportionate share of NLTRA contract costs attributable to the Town happens to be the entire amount of this TOT generated in the jurisdiction of the proposed Town. There is no logical or factual basis to justify the proportionate share set out in the IOV comments. The County would contend that such a proportionate share is impossible to derive, since the services provided by the County are regional services for the benefit of the entire area, not services directed to the residents of the proposed Town. For that reason, the County will continue to provide these services even after the Town would be incorporated, and would demand that these revenues be restored through revenue neutrality negotiations. Rather than go through such a process to reach the same point, the County believes that the treatment of these TOT revenues as suggested by the LAFCO staff report is entirely appropriate.

Despite the assertions of IOV, the proposed incorporation is not financially feasible; particularly, when considering the revenue neutrality payments that would be due to the County. For that reason, the County supports the LAFCO determination to bring this matter to its January meeting to consider denial of the application.

If you have any questions, or need any further clarification of this issue, please contact Jennifer Merchant, Deputy County Executive Officer at jmerchan@placer.ca.gov or (530) 546-1952.

Sincerely,

COUNTY OF PLACER

A handwritten signature in black ink, appearing to read 'David Boesch', is written over a horizontal line. The signature is stylized and cursive.

David Boesch,
Placer County Executive Officer

Attachments: A: Resolution No. 95-163
 B: Resolution No. 2012-027

CC: Commissioners, LAFCO
Placer County Board of Supervisors
Gerald O. Carden, Placer County Counsel
Jennifer Merchant, Deputy County Executive Officer

Before the Board of Supervisors
County of Placer, State of California

In the matter of:
A RESOLUTION ESTABLISHING FUNDING
POLICIES FOR THE APPORTIONMENT OF
TRANSIENT OCCUPANCY TAX REVENUES
EAST OF THE RAINBOW LODGE

Resol. No: 95-163

Ord. No: _____

First Reading: _____

The following RESOLUTION was duly passed by the Board of Supervisors
of the County of Placer at a regular meeting held on JUNE 27, 1995, by
the following vote on roll call:

Ayes: SANTUCCI, WEYGANDT, BLOOMFIELD

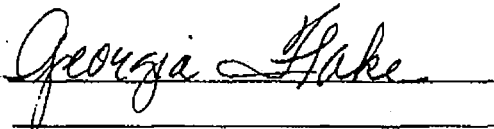
Noes: UHLER, LICHAU

Absent: NONE

Signed and approved by me after its passage.


Chairman, Board of Supervisors

Attest:
Clerk of said Board



WHEREAS THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA wish to formally acknowledge a policy of using a portion of discretionary general funds collected for the purpose of developing and promoting eastern Placer County;

NOW THEREFORE BE IT RESOLVED THAT a share of Transient Occupancy Tax (TOT) Funds shall be allocated to activities to benefit the eastern portion of the County of Placer based on proportionate collections in the area east of the Rainbow Lodge. An amount equivalent to 50% of the total Transient Occupancy Tax collected east of Rainbow lodge will be allocated as follows to benefit the North Lake Tahoe area.

Said funds shall be allocated for activities related to promotions, advertising and facilities, including operation and management of a Resort Association and development of facilities as approved by the Placer County Board of Supervisors.

- Funding is to be allocated into three categories of expenditures including Marketing and Resort Association Operation, Visitor Services and Infrastructure.

- Based on existing expenditures, the share of the existing 8% TOT allocated to the Tahoe area will be apportioned as follows:

Marketing and Resort Association Operation	62.7%
Visitor Services	16.4%
Infrastructure	20.9%

- In addition, 100% of the amount collected based on the increase in the tax from 8% to 10% will be apportioned to the Infrastructure fund. The following reflects the resulting net apportionment of revenue to be allocated to the Tahoe area based on the existing allocation between Tahoe and West Placer County and a 10% Transient Occupancy Tax rate (Attachment I).

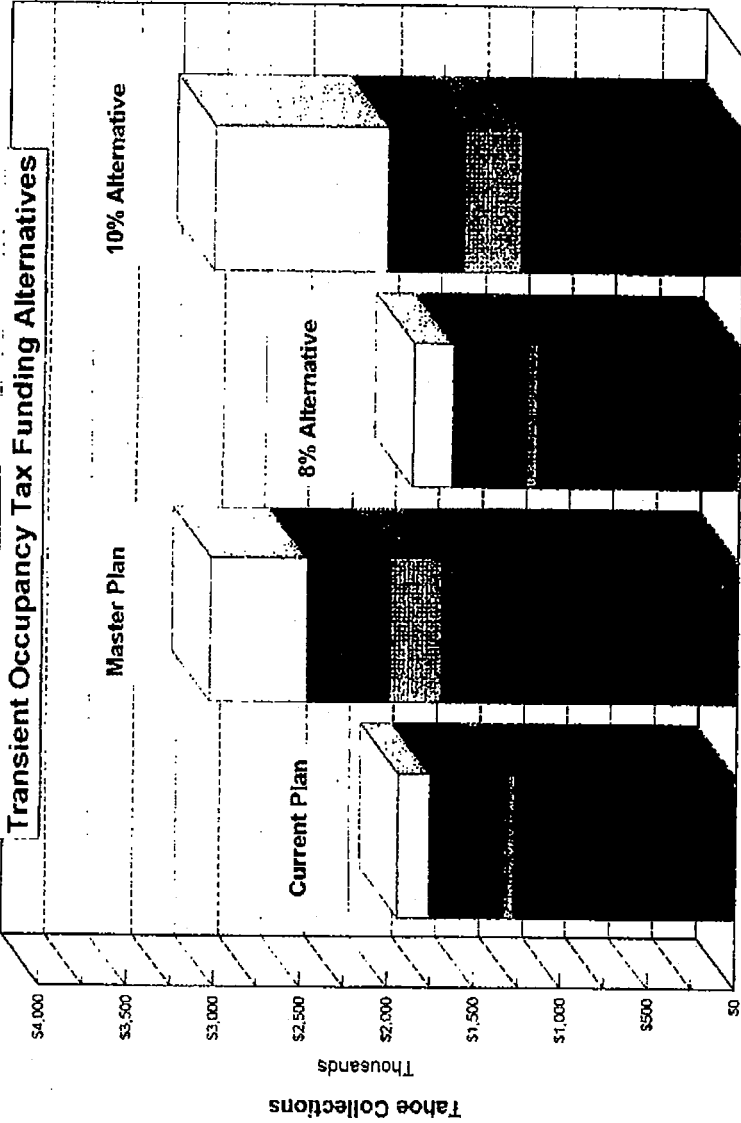
Marketing and Resort Association Operation	42%
Visitor Services	11%
Infrastructure	47%

- Percentage allocations identified will be applied to 50% of the total Transient Occupancy Tax Collections east of Rainbow Lodge. Growth in the TOT would be allocated to these funds accordingly.
- Allocations to the infrastructure fund shall be no less than 47% of Transient Occupancy Tax collections allocated to the North Lake Tahoe area. Allocations to the Marketing/Resort Association fund shall not exceed 42% of collections. There is no minimum or maximum level set for Visitor/Transportation Services.
- Expenditures from the Infrastructure Fund are limited to capital expenses, costs associated with planning for new infrastructure, administrative expenses specifically related to infrastructure development, facility maintenance and construction of infrastructure and public improvements.

- Existing reserves in the Convention Center Fund will be directed to the Infrastructure Fund.
- The Resort Association and Marketing fund shall be used for operational expenses of the Association, marketing of the North Lake Tahoe area, and special events funding. Emphasis on shoulder season and mid-week promotions are encouraged.
- The increase in the Transient Occupancy Tax will be effective January 1, 1996.
- The tax will sunset in six years with a review every three years to monitor progress of the Resort Association in use of the tax proceeds for implementation of the Tourism Development Master Plan.
- A work plan for the Resort Association will be submitted by October 31, 1995 outlining efforts to secure alternative funding sources, a schedule and proposed activities for implementation of the Master Plan.
- The Visitor Services fund shall include a share of funding for Sheriff Patrol and Animal Control services based on the current level of service or that which may be requested by the Resort Association in the future based on impacts of tourism. Funding will include an inflation adjustment each year according to the California Consumer Price Index. No additional expenses will be born by the County.

Any program approved by the Board of Supervisors may be committed by contract for a period in excess of a single fiscal year, provided that a renewal provision is included noting that such renewal is contingent on the fiscal condition of each subsequent year.

Transient Occupancy Tax Funding Alternatives



R.A./Marketing
 Visitor Services
 Existing Infrastructure
 New Infrastructure *

1 New Infrastructure under Current Plan is miscellaneous unallocated expenditures
 2 Assumed Fund Balance will be available for first year implementation costs of Master Plan

	Current	Master Plan	8% Alternative	10% Alternative
R.A./Marketing	\$1,272,957	\$1,696,981	\$1,167,190	\$1,272,957
Visitor Services	\$56,261	\$306,063	\$56,261	\$333,261
Existing Infrastructure	\$424,106	\$469,700	\$424,106	\$424,106
New Infrastructure 1	\$184,905	\$557,580	\$227,443	\$1,000,000
Funding Available for Tahoe 2	\$1,937,916	\$3,030,324	\$1,875,000	\$3,030,324
	65.69%	56.00%	62.25%	42.0%
	2.90%	10.10%	3.00%	11.0%
	21.88%	15.50%	22.62%	14.0%
	9.54%	18.40%	12.13%	33.0%
	100.00%	100.00%	100.00%	100.0%

Before the Board of Supervisors
County of Placer, State of California

RESOLUTION ORDERING A COUNTY MEASURE TO REAUTHORIZE THE TWO PERCENT (2%) PORTION OF THE EXISTING TEN PERCENT (10%) NORTH LAKE TAHOE TRANSIENT OCCUPANCY TAX, TO SUNSET ON SEPTEMBER 30, 2022, TO BE PLACED ON THE BALLOT FOR THE STATEWIDE PRESIDENTIAL PRIMARY ELECTION TO BE HELD JUNE 5, 2012.

Resol. No: 2012-027

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held January 24, 2012, by the following vote on roll call:

Ayes: WEYGANDT, HOLMES, UHLER, MONTGOMERY

Noes: NONE

Absent: DURAN

Signed and approved by me after its passage.


Chairman, Board of Supervisors

Attest:
Clerk of said Board



WHEREAS, a transient occupancy tax is collected on occupancy of overnight lodging within the County of Placer at a rate of eight percent (8%); and

WHEREAS, on March 26, 1996, the voters approved an increase in the rate of the transient occupancy tax from eight percent (8%) to ten percent (10%) for that portion of Placer County legally described as the "North Lake Tahoe Transient Occupancy Tax Area", effective October 1, 1996, and expiring on September 30, 2002. On March 5, 2002, the voters reauthorized the ten percent (10%) North Lake Tahoe transient occupancy tax for an additional 10 years, effective October 1, 2002, and expiring on September 30, 2012; and

WHEREAS, the two (2%) percent increase in the transient occupancy tax approved on March 5, 2002, will expire unless re-authorized by the voters;

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that:

- 1) The Board of Supervisors proposes a reauthorization of the transient occupancy tax, a general tax, for that portion of Placer County legally described as the "North Lake Tahoe Transient Occupancy Tax Area" at the rate of ten (10%) percent for a period of ten additional years commencing on October 1, 2012, as set forth in Exhibit "A" attached herein; and
- 2) The Board of Supervisors orders that the following question be placed as a County Measure within the North Lake Tahoe Transient Occupancy Tax Area on the ballot of the Presidential Primary Election to be held June 5, 2012:

NORTH LAKE TAHOE T-O-T CONTINUATION MEASURE WITH NO TAX INCREASE.
To reduce traffic congestion/tourist impacts, support transportation services, build/maintain local bike trails, parks, indoor recreation opportunities, sidewalks, and beaches, and other public services, shall Placer County continue for 10 additional years, with no increase, the existing 2% North Lake Tahoe portion of the Transient Occupancy Tax – paid only by lodging guests, not by local taxpayers – with annual independent audits, continued local oversight, and all funds exclusively for North Lake Tahoe?

Section 4.16.030B of Chapter 4 of Article 4.16 of the Placer County Code shall be amended to read as follows:

Chapter 4: Revenue and Finance

Article 4.16: Uniform Transient Occupancy Tax

4.16.030: Imposition—Amount—Where payable

* * * *

B. Effective October 1, ~~2002~~ **2012** and sunseting September 30, ~~2012~~ **2022**, for the privilege of occupancy in any hotel located in that portion of Placer County legally described in subsection D of this section as the "North Lake Tahoe Transient Occupancy Tax Area," each transient is subject to and shall pay a tax in the amount of ten (10) percent of the rent charged by the operator. The two percent increase incorporated herein is a general tax.

Attachment 1- Legal Description

Attachment 2- Tahoe TOT Map

Exhibit A.

The legal description of the "North Lake Tahoe Transient Occupancy Tax Area" is as follows:

Beginning at the southwest corner of Section 30, T14N, R16E, M.D.B.&M. being a point on the Placer-El Dorado County line, and running thence north along section lines to the northwest corner of Section 6, T15N, R16E, M.D.B.&M., being a point on the south line of Section 36, T16N, R15E; thence east along the south line of said Section 36 to the southeast corner thereof; thence north along section lines to the quarter-section corner on the east line of Section 25 of the last mentioned township and range; thence westerly along the east-west centerlines (the half section lines) of Sections 25, 26 and 27 of the last mentioned township and range 2-3/4 miles more or less to an intersection with a branch of the North Fork of the American River located in said Section 27; thence northwesterly and westerly along said branch and said river, 9-1/2 miles more or less to the north-south centerline of Section 20, Township 16 North, Range 14 East M.D.B.&M.; thence north along the north-south centerline of Sections 20, 17, 8, and 5 of said township and range and along the north-south centerline of Sections 32 and 29 Township 17 North Range 14 East, M.D.B.&M. to the north line of Placer County; thence easterly along the north line of Placer County to the northeast corner of said county, a point on the east line of the state of California; thence south along the east line of the state of California; and the east line of Placer County to the southeast corner of said county; thence west and south along the south line of Placer County to the point of beginning.

The legal description of the "Western Slope Transient Occupancy Tax Area" is as follows:

All that portion of the unincorporated area of the county of Placer, state of California that lies West of the following described line: Beginning at the southwest corner of Section 30, T14N, R16E, M.D.B.&M. being a point on the Placer-El Dorado County line, and running thence north along section lines to the northwest corner of Section 6, T15N, R16E, M.D.B.&M., being a point on the south line of Section 36, T16N, R15E; thence east along the south line of said Section 36 to the southeast corner thereof; thence north along section lines to the quarter-section corner on the east line of Section 25 of the last mentioned township and range; thence westerly along the east-west centerlines (the half section lines) of Sections 25, 26 and 27 of the last mentioned township and range 2 3/4 miles more or less to an intersection with a branch of the North Fork of the American River located in said Section 27; thence northwesterly and westerly along said branch and said river, 9 1/2 miles more or less to the north-south centerline of Section 20, Township 16 North, Range 14 East M.D.B.&M.; thence north along the north-south centerline of Sections 20, 17, 8, and 5 of said township and range and along the north-south centerline of Sections 32 and 29 Township 17 North Range 14 East, M.D.B.&M. to the north line of Placer County. (Ord. 5006-B (part), 1999: prior code §21.3)

