

Ordinance No. 22

AN ORDINANCE OF THE RAVALLI COUNTY BOARD OF COMMISSIONERS ESTABLISHING A TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID) CONSISTING OF NON-CONTIGUOUS LANDS OF LODGING FACILITIES WITHIN THE BOUNDARIES OF RAVALLI COUNTY.

Whereas, Pursuant to the provisions of sections 7-12-1101 through 7-12-1151, Montana Code Annotated (MCA), Ravalli County Board of County Commissioners (BCC) is authorized to create a business improvement district upon receipt of a petition signed by the owners of more than 60% of the area of the property proposed in the petition to be included in such a district.

Whereas, Subsection 7-12-1111 (4), MCA allows that such a district may be composed of noncontiguous areas if the properties in the district have the common purpose of providing overnight stays at lodging facilities, provided that the boundaries of a district with noncontiguous areas encompass all properties in the district with the same identified purpose; and

Whereas, the County Clerk and Recorder received a petition signed by real property owners and/or their legally authorized representatives requesting that the BCC establish a Tourism Business Improvement District in Ravalli County as required by section 7-12-1111, MCA; and

Whereas, the County Clerk and Recorder has certified that the petition contains the signatures of property owners or their authorized representatives totaling greater than 60% of the area of the proposed TBID that is subject to assessment under the proposed TBID; and

Whereas, at the public meeting on April 5, 2011, the BCC considered the petition and received public input regarding the petition to create a TBID

Whereas, at the public meeting on April 5, 2011, the BCC adopted Resolution 2673, the County's intention to create a TBID (the "Resolution of Intention") under § 7-12-1111, MCA, and describing how such TBID would operate, ordering that a public hearing be held on May 18, 2011, and establishing a protest period.

Whereas, the Clerk and Recorder caused a notice to be published, as provided in section 7-1-2121, MCA, in the Bitterroot Star, a newspaper of general circulation in the County on Wednesday, April 27, and Wednesday, May 4, 2011, in the form and manner prescribed by law giving notice to the public that the BCC had adopted the Resolution of Intention, advising affected property owners opposed to creation of a TBID to file a written protest with the Clerk and Recorder no later than 5:00 pm on May 12, 2011, and giving notice of a public hearing to consider creation of a TBID on May 18, 2011; and

Whereas, the Clerk and Recorder mailed a copy of said notice to every person, firm, corporation, or the agent of such person, firm, or corporation believed to have real property within the proposed TBID listed in the owner's name upon the last completed assessment roll for state, county, and school district taxes, at the owner's last-known address, on the same day such notice was published in the newspaper; and

Whereas, during the protest period, the Clerk and Recorder received two written protests from property owners liable to be assessed; and

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Whereas, the Clerk and Recorder also received one written protest from a member of the public who is not a property owner liable to be assessed; and

Whereas, the BCC conducted a properly noticed public hearing on May 18, 2011 to consider the written protests received before the deadline in the notice of public hearing, and to hear other public comment regarding creation of a TBID as described in the Resolution of Intention.

NOW THEREFORE BE IT RESOLVED, as follows:

1. **Petition.** The BCC affirms that the County has received petitions signed by more than the minimum requirement of 60 percent of the owners of the property proposed to be included in the TBID.

2. **Findings on creation of TBID.**

2.1 **Protests threshold.** The BCC finds that protestants combined do not satisfy the requirements of taxable value, number of owners, or proportion of total projected assessments to prevent establishment of a TBID under section 7-12-1114(3), MCA.

2.2 **Protest findings.** The BCC considered the two written protests of property owners liable to be assessed and found that the protests' weight and credibility were insufficient to overcome the wishes of more than 60% of property owners that signed the petition to create a TBID, as well as the comments from the property owners liable to be assessed that expressed support for creation of the TBID.

2.3 **The public record.** The record supports creation of a TBID based on the written record in the public file, based on the deliberations and public testimony at the April 5, 2011 meeting, and based on the deliberations and public testimony at the May 18, 2011 public hearing

2.4 **Protest of non-owner.** The BCC considered the written protest from a person who is not a property owner liable to be assessed; because this person is not a property owner liable to be assessed, his protest is accorded less weight than protest by directly affected property owners.

2.5 **Overall finding.** Creation of a TBID is in the best interest of the County.

3. **Creation.** The BCC hereby creates a TBID effective according to this Ordinance.

4. **Purpose.** The purpose of the TBID is to aid in tourism, promotion, and marketing within Ravalli County, and to create special benefit to property within the boundaries of the TBID.

5. **Use of TBID funds.** Any assessments shall be collected and used by the TBID for the statutory purposes set forth in sections 7-12-1101 through 7-12-1144, MCA, as amended and in compliance with any applicable Montana law, rule, or regulation. Expenditure of funds shall be as specified in a Ravalli County TBID work plan and budget which will be reviewed and approved by the County Commissioners on an annual basis pursuant to sections 7-12-1121 and 7-2-1133, MCA.

6. **Name of the TBID.** The TBID shall be known and designated as the Ravalli County Tourism Business Improvement District.

7. **Limits and boundaries of TBID.**

7.1 **Boundaries of the Ravalli County TBID.** The boundaries of the TBID shall be identical to the boundaries of Ravalli County.

7.2 Properties included within the Ravalli County TBID. In accordance with section 7-12-1111, MCA, the only properties subject to Ravalli County TBID assessments shall be those specific non-contiguous properties used for the common purpose of providing overnight stays at "hotels" meeting the criteria outlined in Section 10. A current listing of the properties currently known to be included in the Ravalli County TBID is on file with the Clerk and Recorder.

7.3 New and/or expanded facilities subject to Ravalli County TBID. If property located within Ravalli County TBID meets the requirements contained in Section 10 subsequent to creation of the TBID, such property shall be incorporated into and become part of the Ravalli County TBID and will be subject to TBID assessments.

8. Benefited property. The hotels and lodging facilities described in Section 10 within the territory included within the boundaries described in Section 7 are hereby declared as the Ravalli County TBID, and it is hereby recognized those properties will benefit and be benefited by the Ravalli County TBID, and as such, will be assessed for the costs of the Ravalli County TBID in accordance with section 7-12-1133(2)(c), MCA.

9. General character of the services to be performed. The services to be performed by the Ravalli County TBID will be the funding of all uses and projects of special benefit to the property owners liable to be assessed and for tourism promotion within Ravalli County as specified in the Ravalli County TBID annual work plan and budget, once developed. The Ravalli County TBID work plan and budget will be developed by a TBID Board of Trustees composed of property owners (or their legally designated representatives) in the district, and the budget and work plan will be subject to BCC approval pursuant to Sections 7-12-1132 and 7-12-1133, MCA.

10. Assessment methods; property to be assessed. In accordance with section 7-12-1133 (2)(c), MCA, all hotels within the boundaries of the TBID as defined in Section 7 will be assessed one dollar (\$1.00) per occupied room night for the costs of operating the Ravalli County TBID. A "hotel" is defined as any building containing individual sleeping rooms or suites providing overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term "hotel" includes (but is not limited to) a facility represented to the public as a hotel, motel, resort, condominium inn, dude ranch, guest ranch, hostel, public lodging house, bed and breakfast facility, or other similar structure or portion thereof which meet these criteria and are located within the boundaries of the TBID.

11. Collection of assessments. The method for collection and distribution of assessments shall be agreed upon by the TBID Board of Trustees, Clerk and Recorder, Treasurer, and Montana Department of Revenue.

12. Duration of TBID. The duration of the Ravalli County TBID shall be for a period of 10 years from the effective date of this ordinance.

13. Governance.

13.1 Board of trustees. The TBID shall be governed by a board of trustees with powers in accordance with section 7-12-1131, MCA.

13.2 Number of trustees. The board of trustees shall be composed of five (5) owners of assessed property within the TBID -- or an owner's designated representative, and members shall be appointed by the BCC according to section 7-12-1121, MCA.

13.3 Chair. The initial chair of the board of trustees shall be appointed by the BCC, and subsequently a Chair shall be elected by the sitting board of trustees according to the TBID bylaws.

13.4 Term of trustees. Initially appointed trustees shall be appointed with staggered terms; subsequent trustees shall serve four-year terms.

13.5 Bylaws. The board of trustees shall submit bylaws to the BCC for approval.

14. Liability insurance required. In accordance with sections 7-12-1132 and -1133, MCA, the TBID shall submit an annual work plan and budget for approval by the BCC. In accordance with section 7-12-1143, MCA, the work plan and budget will not be approved unless the TBID provides for liability insurance coverage insuring the TBID, the board and Ravalli County against legal liability for personal injury and property damage in an amount determined to be sufficient by the BCC.

15. Obligations of the TBID not obligations of local government. In accordance with section 7-12-1144, MCA, any obligation or debt of any nature of the TBID is not an obligation or debt of Ravalli County, and in no event is a debt or obligation of the TBID payable out of any funds or properties of Ravalli County unless the County has custody of TBID assessments. The debts and obligations of the TBID are payable solely from the funds and properties of the TBID.

16. TBID shall not invalidate other regulation or covenant. The creation of the TBID shall not serve to allow a lodging facility that is not permitted under other types of regulation or zoning, including without limitation, voluntary zoning district regulations promulgated under Title 76, Chapter 2, Part 1. See § 7-12-1111(2), MCA. The creation of a TBID shall not serve to allow a lodging facility that is not permitted under any private covenant or agreement.

17. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The BCC hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

18. Effective date. The TBID shall be created no earlier than the later of: (1) July 1, 2011; or (2) the date the TBID board of trustees has been appointed, a method of collecting assessments has been agreed to according to this Ordinance, and the BCC has approved a set of bylaws for the TBID.

APPROVED by the County Commissioners of the County of Ravalli, Montana, this 18 day of May, 2011.

Attest:

Regina Plettenberg
Regina Plettenberg
Ravalli County Clerk & Recorder

Approved:

J.R. Iman
J.R. Iman, Chairman

Absent
Greg Chilcott, Vice-Chairman

Matt Kanenwisher
Matt Kanenwisher, Member

Abstained
Ron Stoltz, Member

Suzy Foss
Suzy Foss, Member

