



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Paul Krutko

SUBJECT: SEE BELOW

DATE: December 5, 2005

Approved

Ray Winec

Date

12/12/05

Council District: Citywide

SUBJECT: ESTABLISHMENT OF A HOTEL BUSINESS IMPROVEMENT DISTRICT AND APPROVAL TO LEVY ASSESSMENTS IN THE HOTEL BUSINESS IMPROVEMENT DISTRICT FOR THE REMAINDER OF FISCAL YEAR 2005-2006 (ENDING JUNE 30).

RECOMMENDATION

1. Public hearing to consider the establishment of the Hotel Business Improvement District.
2. Adoption of an ordinance establishing the Hotel Business Improvement District.
3. Public hearing to approve the budget and the levy of assessments for the Hotel Business Improvement District for the remainder of Fiscal Year 2005-2006 (ending June 30).
4. Adoption of a resolution approving the budget and authorizing the levy of assessments for the Hotel Business Improvement District for the remainder of Fiscal Year 2005-2006 (ending June 30).
5. Approval of an agreement with San Jose Hotels, Inc. for the administration of the Hotel Business Improvement District.

BACKGROUND

Business Improvement Districts are formed pursuant to the California Parking and Business Improvement Area Law (BID Law) to allow businesses or property owners to assess themselves to support joint efforts such as physical maintenance, marketing and promotions. Under BID Law, the Council may establish a Business Improvement District (BID) by adopting a resolution of intention, conducting a public meeting and a public hearing, fulfilling certain notice

requirements and adopting an ordinance on the establishment of the BID. The BID must be renewed annually by action of the City Council. BID Law also requires that an Advisory Board be appointed by the City Council to advise the City Council on all issues related to the Business Improvement District.

On November 15, the City Council appointed the governing board of San Jose Hotels Inc. as the Advisory Board for the Hotel Business Improvement District (HBID). On that day the Council also adopted resolutions setting the dates for a public meeting and a public hearing on the establishment of the HBID and indicating their intention to levy an assessment for the remainder of Fiscal Year 2005-2006.

On November 29, Council received a report on the establishment of the Hotel Business Improvement District (HBID) and conducted the public meeting to provide an opportunity for public comment on the establishment of the HBID. No members of the public spoke regarding the item.

ANALYSIS

Proposal

In order to increase the occupancy rates at hotels within the city limits of San Jose, the Hotel General Managers' Committee of the San Jose Convention & Visitors Bureau has proposed that hotels with at least 80 rooms levy an assessment on themselves to raise an estimated \$1.6 million per 12-month period. Proposed uses for this money, consistent with BID Law, include: Research/Re-Branding of San Jose, Co-Op Promotions, New Promotional Materials, and Sponsorship of Room-Night Generating Events. If approved, assessments will range from \$0.75 to \$2.00 per occupied room per night depending on the distance from the San Jose McEnery Convention Center.

Attracting additional hotel guests to San Jose through increased promotion of the area and seeking new event opportunities is consistent with the City's Economic Development Strategy (Diversify San Jose's Economic Base and Encourage Sporting Teams, Events, and Facilities: Initiatives 8 and 12). These new hotel guests drawn to the area will help drive new money into the local economy generating additional jobs and opportunities for the community.

The fee for the HBID will be collected by the City and then passed on to the non-profit corporation to spend as set forth in the contract with the City and pursuant to the annual budget submitted to the City Council. City Staff, working with San Jose Hotels Inc., has developed a tentative process for handling the collection that will entail the new assessment being collected at the same time and in a similar manner as the City's Transient Occupancy Tax.

To make the HBID operate efficiently, it is recommended that the levy of assessments for the remainder of Fiscal Year 2005-2006 be approved. Annual renewals (if approved by the City Council) would then correspond to the City's fiscal year (ending June 30).

Noticing Status

Notifications were sent to all 35 hotels subject to the proposed assessment informing them that the Hotel BID is being considered by the City and the outlines of the proposal. The letter also identified November 29, 2005 and January 10, 2006 as dates during which Council would hear public comments on the proposal and that written objections may be submitted at or prior to the public hearing on January 10. The participating hotels were informed that if hotels paying 50% or more of the assessments proposed to be levied protested, no further proceeding would be taken for a period of one year to establish a BID or levy assessments.

The Clerk's Office has published the required notices.

Remaining Steps in the Creation of a New BID and the Levying of Assessments

1. **Holding Public Hearing.** At the public hearing scheduled for January 10, Council shall hear and consider all protests on the establishment of the BID, the boundaries of the BID, the annual budget of the BID and the types of activities proposed to be funded from the assessment. Protests may be made orally or in writing. If protests are made in writing by the hotels that would be responsible for paying a majority of the HBID assessment, the proceedings shall terminate for establishing the HBID and levying assessments. If the majority protest is only against the furnishing of a specified type of activity within the HBID, that activity shall be eliminated.
2. **Ordinance Reading.** The first and second reading of an ordinance establishing the BID are the final steps in the creation of the BID. Ordinances are effective 30 days after the second reading.
3. **Adoption of a Resolution.** At the conclusion of the public hearing on the levy of assessments, the Council may adopt a resolution confirming the budget report prepared by the Advisory Board and attached hereto as Exhibit 1. The adoption of the resolution constitutes the levy of the assessment for the remainder of fiscal year 2005-2006.
4. **Approval of an Agreement.** An agreement between the City and San Jose Hotels, Inc. would provide for the operation and administration of the HBID. The agreement would be effective until the end of the fiscal year (June 30) but the approval of each subsequent annual budget would automatically renew the agreement for that fiscal year.

The following is a proposed timeline for the creation of the BID and initial funding of the BID's activities.

Public Hearing to establish a BID	January 10, 2006
Ordinance 1 st Reading	January 10, 2006
Public Hearing to Levy Assessment	January 10, 2006
Resolution to Approve Budget and Levy Assessment	January 10, 2006

Ordinance 2 nd Reading	January 24, 2006
Ordinance becomes effective	February 23, 2006
Assessment Begins	March 1, 2006
1 st Month's Assessment due City	May 1, 2006
1 st Payment from City to BID Corporation	May 22, 2006

OUTCOMES

Council may incorporate any input from the public hearing on January 10, 2006 into its evaluation of the merits of the creation of the Hotel Business Improvement District. Council will take formal action on the proposal on January 10, 2006.

PUBLIC OUTREACH

Staff from the San Jose Hotels Inc. has met with all large San Jose hotels with at least 80 rooms. The City has also sent notifications to these hotels informing them of the proposal and their rights.

CONCLUSION

The creation of a Hotel Business Improvement District to increase occupancy rates at participating hotels is consistent with the City's Economic Development Strategy and is supported by the hotels that would be subject to the assessment.

The public comment received in this public hearing is a requirement of BID Law.

COORDINATION

This memorandum was coordinated with the Finance Department, the City Attorney's Office, the Convention and Visitors Bureau, and San Jose Hotels Inc.

BUDGET IMPLICATIONS

Any expense to the City for the services of the City Finance Department and OED are expected to be covered through a deduction from HBID assessments. Staff anticipates that new promotional activities funded by the hotel BID will result in modest additional Transient Occupancy Tax and Sales Tax revenues.

CEQA

Exempt, File No. PP05-203

A handwritten signature in black ink that reads "Paul Krutko". The signature is written in a cursive, slightly slanted style.

PAUL KRUTKO
Director, Office of Economic Development