

Resolution No. 3337

A RESOLUTION OF THE RED LODGE CITY COUNCIL TO ESTABLISH AND CREATE THE RED LODGE TOURISM BUSINESS IMPROVEMENT DISTRICT (RED LODGE TBID) CONSISTING OF NON-CONTIGUOUS PROPERTIES UTILIZED FOR SHORT TERM LODGING PURPOSES WHO HAVE VOLUNTARILY PETITIONED THE CITY TO ESTABLISH AND CREATE A TBID FOR THE PURPOSE OF AIDING TOURISM, PROMOTION, AND MARKETING WITHIN THE DISTRICT AND ALLOWING SIMILAR PROPERTIES SUCH AS HOTELS/MOTELS OUTSIDE THE CITY LIMITS TO DONATE FUNDS TO THE TOURISM BUSINESS IMPROVEMENT DISTRICT FOR SUCH PURPOSES.

WHEREAS, on October 25 2011, the Red Lodge City Council adopted Resolution 3334, a Resolution of Intent indicating the City Council's intention to create the Red Lodge Tourism Business Improvement District (the "District") pursuant to the provisions of §7-12-1101, MCA, et seq., and

WHEREAS, the recitals and items resolved by Resolution 3334 are incorporated herein by reference as if part of this Resolution; and

WHEREAS, the City Clerk published notice of passage of Resolution 3334 in compliance with §7-12-1112, MCA, by publishing the notice in the Carbon County News on November 4th and November 24, 2011, and by mailing a copy of the notice to every owner of real property potentially subject to assessments within the proposed District as indicated in Resolution 3334; and

WHEREAS, §7-12-1113, MCA allows the owner of any property liable to be assessed to make a written protest against the creation of the District. Pursuant to Montana law and Resolution 3334, any owner duly noticed was required to submit that protest in writing and deliver it to the City Clerk no later than 5:00 p.m. on November 21, 2011; and

WHEREAS, the City Clerk's Office did not receive any written protests; and

WHEREAS, §7-12-1114, MCA requires the City Council, after the protest period closes, to hear and pass all written protests received during the protest period as described above; and

WHEREAS, the City Council convened its regular meeting on November 22, 2011 and there were no protests received to present to the City Council for its consideration; and

WHEREAS, the City Clerk notified the Council that no written protests were received and as a consequence the protest thresholds provided in §7-12-1114(3), MCA were not met.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Red Lodge, Montana:

Section 1. The City Council hereby finds that no protests were received and as a consequence protests are not sufficient pursuant to §7-12-1114(3) (a) and (b), MCA to prevent the City's creation of the District.

Section 2. Creation of Tourism Business Improvement District (T.B.I.D.). Pursuant to its stated intention contained in Resolution No. 3334, the City Council hereby creates the Red Lodge Tourism Business Improvement District (Red Lodge TBID) for the purpose of promoting and marketing the City of Red Lodge and creating special benefit for the businesses within the District as described in Resolution 3334. The assessments collected shall be used for the purposes set forth in Business Improvement District Law, §7-12-1101 through 7-12-1144, MCA as amended.

Section 3. Number of District. The District shall be known and designated as the Red Lodge Tourism Business Improvement District No. 1 of the City of Red Lodge, Montana.

Section 4. Boundaries of District. The limits and boundaries of the District are the limits and boundaries of the City of Red Lodge as may be amended from time to time, which boundaries are designated and confirmed as the boundaries of the District as shown on "Exhibit A" attached hereto.

A. If property located within the city limits: 1) voluntarily petitions to be included in the district, and 2) meets the requirements contained in Section 5 and Resolution 3334, it is the City Council's intention that that property shall be incorporated into and become part of the Red Lodge TBID and subject to the Red Lodge TBID assessments pursuant to the process for amending the district provided in §7-12-1111 through §7-12-1115 MCA.

B. Annexed properties subject to the Red Lodge TBID. Upon annexation, any property or structure, or part thereof, which meets the criteria outlined in Section 5 and Resolution 3334, and that voluntarily petitions to be included in the district shall automatically become part of the Red Lodge TBID and subject to assessments as provided herein.

C. Properties located outside of the city limits of Red Lodge are not included in the Red Lodge TBID and are not subject to assessments may voluntarily contribute donations to the District to assist with its mission and goals and to share its benefits. Pursuant to §7-1-4124 (7) MCA, the Red Lodge TBID is authorized to solicit and accept contributions, bequests, donations, or grants of money, property, services, or other advantages as long as the donations are not contrary to the public interest.

Section 5. Benefited Properties. Pursuant to §7-12-1111 MCA, Benefited properties within the Red Lodge TBID include specific non-contiguous properties used for the common purpose of providing overnight stays at lodging facilities as further described in Section 9 herein, are the properties subject to Red Lodge TBID assessments. The current listing of the properties included in the District are listed₂ on "Exhibit B".

Section 6. General Character of the Services to be Performed. The services to be performed shall be all uses and projects for tourism promotion within the District as specified in the Red Lodge TBID budget. It includes, but is not limited to, marketing convention and trade shows that benefit local tourism and lodging businesses in Red Lodge; marketing Red Lodge to the travel industry in order to benefit local tourism and the lodging businesses located within the District; and marketing Red Lodge to recruit major sporting and non-sporting events in order to promote local tourism and to benefit the properties and businesses located within the District.

Section 7. Appointment of Board of Trustees. Upon adoption of this Resolution, the Mayor, with the approval of the City Council, shall appoint 5 owners of property or their assignees within the District to comprise the Board of Trustees of the District, hereinafter "Board." The Board shall be appointed in compliance with §7-12-1121, MCA and Resolution 3334.

Section 8. Powers and Duties of the Board. The appointed Board shall have the powers and duties set out in §§7-12-1121 through 7-12-1133, MCA, and any other applicable laws, ordinances or regulations. At a time determined by the City Council, the Board shall submit, for City Council approval, a work plan and budget for the ensuing fiscal year. The City Council may modify the work plan and budget as deemed necessary and appropriate.

Section 9. Assessed Property. Pursuant to §7-12-1133 (2)(c) MCA, the City Council shall assess all "lodging facilities" located within the boundaries of the District that are defined as any building or structure 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 "lodging facility" includes 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.

Section 10. Assessments. All property within the District, as defined in Section 9, will be assessed one dollar (\$1.00) per occupied room night for the costs of operating the Red Lodge TBID. The assessments are intended to pay for the costs of maintaining the services provided by the Red Lodge TBID and are payable, as prescribed in §7-12-1133 (2) (c), MCA.

Section 11. Duration of District. The duration of the Red Lodge TBID shall be for a period of 10 years as prescribed in §7-12-1141, MCA.

Section 12. Liability insurance required. Pursuant to §§7-12-1132 and 7-12-1133 MCA and Resolution 3334, the District shall obtain and provide liability insurance coverage insuring the District, its Board, and the City of Red Lodge against legal liability for personal injury and property damage in an amount determined to be sufficient by the City Council.

Section 13. Obligations of the district not obligations of local government. Pursuant to §7-12-1144, MCA and Resolution 3334, the City Council declares that any obligation or debt of any nature of the Red Lodge TBID is not an obligation or debt of the local government that established the District, and in no event is a debt or obligation of the District payable out of any funds or properties of the local government. The debts and obligations of the Red Lodge TBID are payable solely from the funds and properties of the District.

Section 14. Severability. If any section, subsection, sentence, clause, phrase or word of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution 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 resolution should be declared invalid or unconstitutional, then the remaining resolution provisions will be in full force and effect.

PASSED and APPROVED by the City Council this 13th day of DECEMBER, 2011.

FOR THE CITY OF RED LODGE, MONTANA:

By: _____

Brian C. Roat, Mayor

Attest: _____

Debbie Tomicich, City Clerk