

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

In the matter of:

AN ORDINANCE RENEWING THE
OLYMPIC VALLEY | ALPINE MEADOWS
MICROTRANSIT DISTRICT

Ordinance No.: 6179-B

Th The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held December 6, 2022, by the following vote:

Ayes: GORE, WEYGANDT, HOLMES, JONES, GUSTAFSON

Noes: NONE

Absent: NONE

:

Signed and approved by me after its passage.


Chair, Board of Supervisors

Attest:


Clerk of said Board

WHEREAS, the County of Placer created the Olympic Valley | Alpine Meadows Microtransit District (OV | AM MD), formerly known as the Squaw Valley | Alpine Meadows Micro Mass Transit District, in 2018 by Resolution No. 2018-140; and

WHEREAS, the OV | AM MD was created for a five (5) year term, which ends on September 30, 2023; and

WHEREAS, lodging businesses, including short-term vacation rentals, and ski resort businesses, who will pay more than fifty percent (50%) of the proposed assessment have petitioned the Board of Supervisors to renew the OV | AM MD; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on lodging businesses, including short-term vacation rentals, and ski resort businesses within the OV | AM MD; to pay for transportation services, and other improvements and activities set forth in the Plan; and

WHEREAS, the assessed businesses within the OV | AM MD will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on October 11, 2022, at the Placer County Administrative Center, located at the 175 Fulweiler Avenue, Auburn, CA 95603, the Board of Supervisors adopted a Resolution of Intention, Resolution No. 2022-219; and

WHEREAS, the public meeting and public hearing to consider the renewal of the OV | AM MD have been properly noticed in accordance with Streets and Highways Code §36623; and

WHEREAS, on November 8, 2022, at the Placer County Administrative Center, 175 Fulweiler Avenue, Auburn, CA 95603, the Board of Supervisors held a public meeting regarding the renewal of the OV | AM MD and the Board of Supervisors heard and received objections and protests, if any, to the renewal of the OV | AM MD and the levy of the proposed assessment; and

WHEREAS, also on November 8, 2022 at Placer County Administrative Center, 175 Fulweiler Avenue, Auburn, CA 95603, the Board of Supervisors introduced an uncodified ordinance and waived the first reading to renew the OV | AM MD and continue the levy of assessments, and the Board of Supervisors heard and received all objections and protests, if any, to the renewal of the OV | AM MD and the levy of the proposed assessment; and

WHEREAS, a second reading of this ordinance to renew the OV | AM MD and to continue the levy of assessments is set to be heard on December 6, 2022, at Placer County Administrative Center, 175 Fulweiler Avenue, Auburn, CA 95603. At the conclusion of the second reading of the ordinance, the Board of Supervisors may adopt the ordinance, renewing the OV | AM MD and levying the assessment ; and

WHEREAS, the Clerk of the Board has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in renewed OV | AM MD which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; and

WHEREAS, the County bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the County in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Renewal

The County of Placer hereby renews the Olympic Valley | Alpine Meadows Microtransit District (OV | AM MD), for a five (5) year life, beginning February 1, 2023, or as soon as possible thereafter, and end five (5) years from its start date, under the provisions of the Property and Business Improvement District Law of 1994, as set forth in California Streets and Highways Code Section 36600 et seq.

Section 2: Management District Plan

The Management District Plan (Plan) dated August 17, 2022, on file with the Clerk of the Board of Supervisors, is hereby adopted and approved.

Section 3: Activities and Improvements

1. The activities to be provided to benefit businesses in the OV | AM MD will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the OV | AM MD; to provide activities or improvements outside the OV | AM MD; or for any purpose other than the purposes specified in this ordinance, the Resolution of Intention, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the OV | AM MD boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the OV | AM MD.
2. The Board of Supervisors finds as follows:
 - a. The activities funded by the assessment will provide a specific benefit to assessed businesses within the OV | AM MD that is not provided to those not paying the assessment.
 - b. The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
 - c. The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
 - d. Assessments imposed pursuant to the OV | AM MD are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient or customer, that portion shall be specifically called out and identified for the transient or customer in any and all communications from the business owner as the "OV | AM MD Assessment" as specified in the Plan.
3. The assessments levied for the OV | AM MD shall be applied toward diminishing the negative effects of high vehicle traffic on area roads and parking lots by providing a microtransit program available to assessed lodging and ski resort businesses, and other improvements and activities as set forth in the Plan.

4. Assessments levied on lodging businesses, including short-term vacation rentals, and ski resort businesses pursuant to this ordinance shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals and ski resort business, an assessment based on short term room rental revenue and ski lift ticket revenue is the best measure of benefit.

Section 3: Budget

The assessments for the entire OV | AM MD will total approximately \$1,073,000 in year one (1), subject to adjustment as provided in the Plan.

Section 4: Bonds

Bonds shall not be issued to fund the OV | AM MD.

Section 5: Boundaries

The renewed OV | AM MD includes all lodging, including short-term vacation rentals and ski resort businesses located within the boundaries of Olympic Valley and Alpine Meadows in unincorporated Placer County as described in the Management District Plan.

Section 6: Assessments

1. The annual lodging business assessment rate is one and one-half percent (1.5%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any federal or state officer or federal credit union employee when on official business; stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays pursuant to rooms donated or paid by the Red Cross or other charitable organization for the express purpose of providing temporary emergency shelter; complimentary stays where no rent is received; stays by the owner of a timeshare estate occupying a room or rooms in a timeshare project, as defined in California Business and Professions Code Section 11212 or its successor statute; stays by the owner of a membership camping contract as defined in California Civil Code Section 1812.300; and dwellings provided by agreement with a state or local government entity for placing occupants directly in response to the COVID-19 emergency including the placement of occupants pursuant to contracts that satisfy the Federal Emergency Management Agency's approval of Project Roomkey. The assessment of one and one-half percent (1.5%) of gross short-term room rental revenue as levied pursuant to the Plan will also not be collected on stays pursuant to contracts executed prior to February 1, 2023. Stays pursuant to contracts executed between October 1, 2018 through January 31, 2023 shall instead be subject to assessment at the rate of one percent (1%) of gross short-term room rental revenue.
2. The annual ski resort assessment rate is one and one-half percent (1.5%) of gross daily lift ticket and pack product revenue. Lift tickets that are valid at multiple ski resorts will be assessed for that portion of the sales price that is attributable to the ski resort businesses within the OV | AM MD boundary. Season passes will not be subject to the assessment.

3. The assessments shall be used for the purposes set forth herein and any funds remaining at the end of any year may be used in subsequent years in which the OV | AM MD assessment is levied as long as they are used consistent with the requirements set forth herein.

Section 7: Collections

The County will be responsible for collecting the assessment on a monthly or quarterly basis (including any delinquencies, penalties and interest as set forth in the Plan) from each lodging business operator and ski resort business located in the boundaries of the OV | AM MD. The County shall take all reasonable efforts to collect the assessments from each lodging business operator and ski resort business.

Section 8: Owners' Association

The Board of Supervisors through adoption of this ordinance and the Plan, has the right pursuant to California Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the OV | AM MD as defined in California Streets and Highways Code §36612. The Board of Supervisors has determined that the Squaw Alpine Transit Company (SATCo) dba Mountaineer Transit Company shall be the OV | AM MD Owners' Association. Passage of this ordinance authorizes the Board of Supervisors to contract with the Mountaineer Transit Company to administer the OV | AM MD.

Section 9: Annual Report

The Mountaineer Transit Company, pursuant to California Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the OV | AM MD.

Section 10: Amendments to Enabling Legislation

The OV | AM MD renewed pursuant to this ordinance shall be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

Section 10: Severability

If any section, subsection, sentence, clause or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors of the County of Placer declares that it would have passed and adopted this ordinance and each and all provisions irrespective of the fact that any one or more of said provisions may be declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

Section 11: Effective Date

This ordinance shall be effective thirty (30) days after its passage. This ordinance or a summary thereof, as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the County of Placer, along with the names of the Board of Supervisors voting for and against its passage.

Section 12: Uncodified

This ordinance is adopted as an uncodified ordinance.