



#5

June 22, 2012

Doreen Farr, Chair
And Members of the
Santa Barbara County Board of Supervisors
105 E. Anapamu Street, 4th Floor
Santa Barbara, CA 93101

Re: Agenda Item #5/June 26, 2012 Board Hearing
Hotel Incentive Program

Dear Chair Farr and Members of the Board:

Santa Barbara County Action Network (SBCAN) believes the proposed Hotel Incentive Program as a misuse of the voter approved Transient Occupancy Tax. Just two years ago this month, 71.56% of voters Countywide ratified the 10% transient occupancy tax with the understanding that

“Measure K would ensure that the many thousands of visitors, who travel our streets, enjoy our beaches, parks, trails and open space and rely on our sheriff, fire and medical services and clinics would contribute a portion of the cost of service.”¹

Revenue generated by the Transient Occupancy Tax (Bed Tax) is a portion of the General Fund, and represents the third largest discretionary tax source for the County, following property taxes and retail sales taxes. The proposal to rebate the TOT to developers of 4 and 5 star luxury hotels and set up a dedicated “Tourist Promotion Fund” is not in keeping with the voter’s intent. **Any change in the dedication of TOT should be approved by the voters.**

If the Board of Supervisors feels that it is good public policy to promote tourism with a dedicated fund, SBCAN feels that a better funding mechanism would be to charge a fee to hotel operators for this purpose. For example, the City of Anaheim has a 15% Transient Occupancy Tax, and charges an additional 2% (total of 17% of hotel bills) to fund a Tourist Improvement District, which not only promotes tourism, but dedicates 25% of the funds to improve transit and allow visitors to flow through the City more easily. We recognize that such a fee would require voter approval.

SBCAN also feels that any proposed long-term dedication of General Funds should be considered during overall budget discussions, where the pros and cons of each decision can be made in relation to other County priorities.

¹ Official ballot statement signed by then Chair, Supervisor Janet Wolf on behalf of the entire Board of Supervisors.

If the County desires to fund economic development projects with General Fund dollars, SBCAN feels that any County partnership with a private developer should produce a substantial public benefit. **The ordinance as proposed does not adequately protect the interests of County residents or ensure a public benefit.**

In addition, hotels in general employ a large number of lower paid workers. These workers are those most likely to require many of the social service programs provided by local government, generally through the use of General Fund dollars: including health clinics, children's services, food stamps, subsidized housing and child care, libraries, and parks. SBCAN is concerned that promoting development of traditionally low paid jobs will put a greater burden on the General Fund. We believe that any Countywide economic incentive program should focus on creating good high paying, green, tech type jobs.

SBCAN feels that County staff is erroneously relying on an increase in property tax revenue and projected sales tax revenue to determine the "public benefit" with no corresponding relationship to potential costs or alternative uses of the funds to generate true public benefits.

The emphasis on "high end luxury tourism," particularly as relates to Renovation Projects works against the interests of working class families by promoting the conversion of affordable tourist hotels into high priced luxury hotels. SBCAN feels this is bad public policy. This section of the ordinance should either be dropped or modified to protect moderately priced accommodations.

In addition, the criteria for participation in the Hotel Incentive Program is far too open ended, and the required "findings" which states that the finding of "public benefit" may be based on any one of seven listed items "or, any other factors as determined the Board:" [Sec. 49-4 Eligibility for Incentive Program]. SBCAN feels that these factors should be listed in the enabling ordinance, and provide clear direction to applicants of the type of "public benefits" that should be expected of all projects. At a minimum we feel that findings 1, 4 and 7 listed below must apply to all projects.

Staff recommended findings:

- (1) The participating project if constructed or improved will create a meaningful increase in the County's general revenues through the creation of new property tax, transient occupancy tax, or sales tax.
- (4) The economic value of the incentive provided is reasonable in relation to the anticipated economic benefits to the community.
- (7) The participating project will generate additional revenues to the County sufficient to defray the cost of the program to the County.

In addition, we feel that these findings must be backed up with specific financial performance obligations in the Implementation Agreement. For example, if there is an anticipation of a particular dollar amount of new property tax to be generated and an expectation of a certain amount of sales tax to be generated, then this should be one of the measures of performance. In no case, should the amount of the "rebate" be in excess of the amount actually paid into the General Fund.

While we recognize that the stated purpose of the ordinance is to establish a flexible program, we feel that the enabling ordinance should include more specificity regarding the types of conditions to be imposed on participations. As currently written the ordinance is silent as to any conditions that may be imposed to protect the interests of County voters. If not included in the ordinance, there may be difficulty in reaching agreements with potential applicants.

Under no circumstances should the Implementation Agreement be able to change the conditions set out in the Ordinance. As currently drafted, “Sec. 49-6. Incentive Program Early Termination” which limits the time in which an applicant must construct the project and allows for the early termination of the agreement upon sale of the property, may be changed by the Implementation Agreement. The ability to change this provision of the Ordinance should only be to reduce the duration of time to construction. The Board of Supervisors must be able to approve any transfer of ownership in order to ascertain that the new owner is able to abide by the terms and conditions of the Agreement and has the financial capacity to complete the project. This is particularly important to see that projects, once begun are completed in a timely manner.

In addition, as originally discussed in March, to be considered a project must have received final development plan approval. The stated purpose of this clause was to attempt to separate the land use entitlement process from the economic development program. This is not included in the draft ordinance, and should be re-instated.

At the very minimum, your Board should review and approve any program to implement the ordinance, BEFORE applications are accepted.

In addition to the items listed in the staff report, SBCAN believes the following items are necessary to protect the public interest and ensure a public benefit:

- (1) **“Corporate Benefits Agreement”** where the County can enforce good corporate behavior. In addition to prevailing wages for construction (which by law is included), such an agreement would include local hiring on the construction project. Employment policy for the hotel operation should be part of an agreement. The hotel should agree to high standards for the hotel staff including neutrality toward union organizing, job training, wages at the highest standard of the industry, health benefits for workers, and non-discrimination in employment. Of particular interest to SBCAN: An agreement for supporting affordable housing for hotel staff.
- (2) **The TOT returned to the developer should be less than the general fund revenue the project generates.** For example: The County projects that upon completion the Miramar Hotel will provide an increase in property taxes to the County of approximately \$114,766,018/year. Of this amount a projected at \$256,634.90 will go to the County General Fund (the rest goes to other districts). The County also projects that the Miramar project will produce taxable sales of \$20 million. At the current 7.75% county tax rate, the County General Fund would receive 3.25%² - or \$650,000. If these estimates are correct, SBCAN believes that the TOT rebate should be no greater than these two items combined or approximately \$906,000. This amount could be reconfigured each year based on actual performance of the project. However, County staff is proposing a rebate valued at approximately \$1.5 million/year for either 10 or 15 years to the Miramar project.
- (3) **Any use of the County General Fund (which is funded in part by the TOT) should be part of the County Budget process and compete for funding with other vital programs.** The proposed ordinance guarantees a percentage of the TOT for hotel industry promotion outside of the budget process.

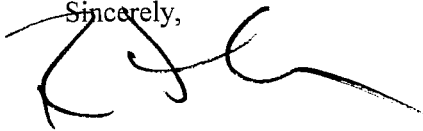
² Sales Tax of 7.75% consists of 2.5% Local Tax to general fund, and 0.75% “Bradley Burns” portion to general fund. All other funds are remitted to the state or earmarked for special programs.

- (4) **An independent business evaluation** of the project must be conducted to ensure that it is feasible and likely to produce the returns claimed. The fact that developers have not been able to get financing for this kind of project and that other luxury hotels in the area appear to be underutilized ought to raise a red flag. Such an independent evaluation is provided in some other communities that have enacted a TOT rebate.

For the many reasons stated about Santa Barbara County Action Network urges you to vote No on the proposed changes to the Transient Occupancy Tax Program, and that you carefully consider any program touting "economic development" to make sure that the interests of all the residents of Santa Barbara County are protected.

Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Flacks', written over the word 'Sincerely,'.

Richard Flacks,
Vice President, South County