

**North Tahoe
Business Association**

Informational Meeting

“Property Based Improvement Districts”

**Friday, January 19, 2007
2:00 p.m. to 4:00 p.m.**

***Presented by
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Business Improvement Districts – General Discussion

In light of State and National cyclical economies, cities and redevelopment agencies experience depleted project and operation budgets which historically funded central business district related services and activities. Programs are eliminated, projects are shelved and levels of service, at times, reduced. In addition, with an increased awareness of social issues such as crime (swindlers, armed robberies, carjackings, terrorism, civil unrest) and environmental concerns (littering, natural resource depletion, graffiti), there is a greater perceived need by the public for supplemental downtown security and maintenance services.

Further, there is an ever-increasing amount of competition for downtowns from outer lying malls, off-price centers, big box warehouse retailers and factory outlets as well as a myriad of mail order catalogs home shopping TV and the Internet. There is a much greater need to aggressively market goods and services and create physical environments and services comparable to the competition. Business districts everywhere must work harder and smarter just to capture a portion of their proportionate marketplace share.

In order to survive and coexist in the myriad of competition, business districts cannot rely solely on discretionary government funding or normal tax supported programs and services. There is a need to pool private resources to independently fund, at least in part, vital activities, services and improvements. Business districts throughout California, from Chula Vista to Crescent City, have found that one of the most viable methods to accomplish this is through Business Improvement Districts. This unique assessment mechanism can fund an exciting array of activities ranging from farmer's markets, art festivals and street fairs to beautification projects such as banners, holiday decorations and landscape planters, to urgently needed services such as supplemental security and maintenance. By pooling private dollars, Business Improvement Districts are able to collectively pay for activities that would not be possible on an individual basis. In a time of dwindling public resources, Business Improvement Districts remain as one of the most valuable and effective finance tools available.

Business Improvement Districts

In California there are two types of Business Improvement Districts. One is a business owner based district referred to as a “BID”, and the second is a property owner based district referred to as a “PBID”. A “BID” in California is defined as a type of assessment district in which *business owners*, can assess themselves (via a City billing and collection) a mandatory fee to fund predetermined business related activities and improvements which will benefit the assessed businesses. Newer BIDs are structured on an annually renewable “pay as you go” basis without incurring long-term debt. BIDs have been in use since 1965 in California with an estimated 250 BIDs in place with more being formed or contemplated on a regular basis. While BIDs have historically been synonymous with downtowns, they have also been used to fund a variety of programs and improvements for auto rows, tourist and entertainment centers and citywide marketing and promotions.

A related business district funding tool is a “PBID” or a Property and Business Improvement District. While PBIDs were new to California in 1995, and there are now over 50 in place throughout California, they have been used successfully in larger cities throughout the country for several decades. A PBID in California is defined as a type of assessment district in which *property owners*, can assess themselves (via the County property tax billing) a mandatory fee to fund predetermined property and business related activities and improvements which will benefit the assessed properties. The primary difference between a PBID and a BID is that PBIDs assess property owners only, not business owners, and may be established in increments up to five years initially and ten years thereafter. While PBIDs have been associated with more ambitious and expensive business district programs, often heavily geared towards security, maintenance and physical improvements, a cross section of annual PBID budgets around the State reveals a range from a few thousand dollars all the way up to several million dollars.

Common features to both BIDs and PBIDs:

- Highly flexible funding tools that can fund a vast array of activities, programs and improvements ranging from physical improvements to security to business promotions.
- Require minimal government involvement and typically allow for a large degree of programmatic and administrative control by those paying the assessments through either a BID Advisory Board or a PBID Property Owners Association of their peers.

- They are often associated with very visible and tangible program elements which, in turn, can produce very colorful and exciting business enhancing results.

Some perceived advantages of BIDs over PBIDs:

- New BIDs are, technically speaking, relatively simple to establish. Very few legal documents are required - a public notice, 2 public meetings/hearings, a resolution, an ordinance and a management agreement with a business association.
- New BIDs are easier to “sell” than other forms of assessments and taxes in that they are structured on an annually renewable “pay as you go” basis without incurring long-term debt. *(Older BIDs do not require annual renewal steps)*
- New BID budgets, work programs, assessment levels and boundaries can be adjusted relatively easily each year as recommended by a BID Advisory Board based on changing conditions and needs. *(Older BIDs cannot be modified without compliance with Prop 13 voting requirements)*
- BIDs can be established without a formal majority support. State law does not mandate a specific level of support to establish, but rather places burden on opposition to register a majority protest to formally stop or disestablish a BID.
- New BIDs can fund virtually all the same activities and improvements that a PBID can, but with a much simpler and quicker establishment and renewal process.

Some perceived advantages of PBIDs over BIDs:

- PBIDs can assess all properties in a district, including, government and utility owned properties, non-profit properties such as churches and lodges, problematic ones with vacant buildings, unimproved lots and absentee ownerships. In turn, revenue levels may be much higher.
- PBIDs constitute, in a sense, a mandate by those assessed by virtue of the formal advanced 50% support requirement and the subsequent Prop 218 Ballot Procedure.
- PBIDs typically draw from a more stable and larger assessment base (i.e. building and land square footage or amount of frontage). In turn, revenue levels may be much higher.
- PBIDs can secure revenue via property liens for delinquent assessment payments.

- PBIDs incorporate longer term planning considerations by setting programs, budgets, and assessment rates for up to five or ten years in advance via district management plans.
- While not precluded by BID law, PBID law specifically references the adoption of a pre-PBID base level City service contract to identify and set existing municipal services after the PBID is formed.

Some perceived disadvantages of PBIDs:

- PBIDs are, technically and legally, more complex and expensive to establish.
- PBIDs need “majority” written support in advance before being established and then a “majority” approval in a subsequent Prop 218 ballot procedure
- PBIDs are more difficult to “sell” than BIDs in that they are established on a multi-year basis where more substantial longer-term debt may be incurred.
- PBID budgets, work programs, assessment levels and boundaries must be set in advance for the life of the PBID, in most cases 5 years (up to 10 years after first renewal), with interim modifications being a somewhat cumbersome process. In turn, a PBID may be less flexible in keeping up with changing conditions and needs.
- PBIDs require much more advance lead time prior to actual receipt of funds for use in district due to the need to coincide with County property tax collection cycle. A missed cycle deadline could postpone PBID fund collection an entire year. Cities may use a first year supplemental direct billing process if the County cycle is missed, but this is not a preferred method due to delinquency and collection issues.
- PBIDs assess property owners who in turn can pass on costs to tenants who have no legal say in a PBID establishment.

Some perceived disadvantages of BIDs:

- BIDs can legally (though perhaps not politically) be established with no discernible formal support by those being assessed in that the legal burden rests with opponents to submit a majority written protest to formally stop a BID from being established or renewed.
- BIDs typically draw from a less stable and quantitative assessment base (i.e. number of businesses, number of employees, gross sales etc.) and cannot assess government, utility or vacant parcels or buildings.
- BIDs may have more difficulty in securing delinquent assessment payments and must rely on cumulative penalties and interest, unsecured property liens, Small Claims Courts and revocation of business licenses, where applicable.
- BIDs, by virtue of the annual City Council renewal hearing requirement, have a lower degree of long-term stability which could stifle the ability to effectuate long range planning.

PBIDS

PBID Legislative Background

In an effort to develop a business district funding tool in California for more complex and expensive programs and improvements than are typically funded with business-based BIDs, the “Property and Business Improvement District Law of 1994 “ was enacted by AB3754. This newer legislation provides for a longer-range property-based assessment for business districts (PBIDs) in California, similar to what is used in most other states in the Country. PBID legislation appears as Section 36600 in the Streets and Highways Code. Over 50 PBIDs have been formed in California with several dozen more either contemplated or in various formation stages.

Establishing a PBID

The PBID process can be initiated by an existing property owner organization or a group of progressive property and business owners desirous of promoting and upgrading their business area. The overall PBID establishment process can take from 12-24 months to complete and is divided into three phases; the PBID Management District Plan development phase, the “sales”/support petition phase, and the formal adoption phase. Each phase is required by law.

The Management District Plan phase includes the identification of PBID boundaries, benefit zones and a maximum assessment formula as well as development of an annual program and budget for each program year of the PBID (initially up to five years maximum, and 10 years thereafter). This

phase requires a PBID formation committee comprised of a cross section of representational property and business owners. The committee should include City representatives for continuity and an experienced outside PBID consultant. This phase may take up to 6 months or longer, depending on the size of the area and complexity of programs proposed. The PBID Management Plan must be prepared and available for public review prior to seeking support petition signatures.

During the “sales”/support petition phase, written support of the PBID must be obtained from property owners who will collectively pay 50% or more of the proposed total PBID assessments. Each signer must be presented with at least a summary copy of the proposed PBID Management Plan. This can be done through mailers, one on one meeting with owners, and/or public workshops. This must be completed prior to beginning formal hearings at the City Council level. The PBID Management Plan may have to be reworked until sufficient written support is obtained. When complete, the PBID support petitions and Management Plan are submitted to the City.

The formal adoption phase begins when the City Council adopts a resolution of intention to establish the PBID and sets a date for a public hearing. A copy of the resolution, including the Management District Plan and a Prop 218 ballot is sent to all affected property owners. Each owner is given the opportunity to “vote” for or against the PBID. Only returned ballots then are tabulated to determine if a majority support or protest exists for the PBID. Following the hearing, provided written protests are not received from property owners who will represent 50% or more of the total assessments to be collected, the City Council can establish the PBID by adopting a final resolution. Following PBID adoption, a notice and map of the PBID are recorded, thus confirming the assessments and district.

Assessments are levied on each property within the PBID and typically collected by the County along with ad valorem property taxes. Delinquent payments, thus, have the same lien priority and penalties as property taxes; an added incentive to discourage sluggish payments. Assessments collected are returned to the City and in turn remitted to a third party property owners management entity. A PBID management agreement is developed which stipulates the responsibilities of each, the City and the Property Owner’s Association (POA) management group. The POA must submit an Annual Report for City Council approval on activities, expenditures and budgets on the recent and next fiscal years.

PBID Mechanics/Formula Options

Similarly, PBID boundaries are scribed around a geographic area which includes all properties expected to derive benefit from the activities and improvements to be funded by the PBID assessments. Within the overall boundaries, sub areas or zones may be established which reflect varying conditions, settings or land use patterns which, in turn, could affect the level of benefit derived by respective properties.

PBID assessment formulas typically relate to parcel and building size and location, which affect the amount of assessment to be paid. A sample formula may base assessments on a combination of parcel size, building area, number of floors, street or building frontage and location within the PBID boundaries. This could vary from one PBID to another depending on the specific programs and improvements to be funded and the projected level of benefit to be derived by various parcels.

PBID USES

PBID assessments are levied directly on property owners within a prescribed area on the basis of relative benefit from the improvements and activities to be funded and defined in the State law as follows:

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, *but not limited to*, the following:

- (a) Parking facilities
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs
- (c) Trash receptacles and public restrooms
- (d) Lighting and heating facilities
- (e) Decorations
- (f) Parks
- (g) Fountains
- (h) Planting Areas
- (I) Closing, opening, widening, or narrowing of existing streets
- (j) Facilities or equipment, or both, to enhance security of persons and property within the area.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures

“Activities” means, *but is not limited to*, all of the following:

- (a) Promotion of public events, which benefit businesses or real property in the district.
- (b) Furnishing of music in any public place in the area.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.

- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Activities, which benefit businesses and real property located in the district.

The Future of PBIDs

Property-based Business Improvement Districts, while newer on the scene in California, have been very successful throughout the Country for several decades and should enjoy equal success in California. While there have been some conversions of BIDs to PBIDs, it is not anticipated that there will be a mass exodus or conversion from BIDs to PBIDs since many BID districts operate quite successfully today and change is not warranted. Business areas without a BID, but considering a district, should seriously review and consider the pluses and minuses of each option before forging ahead with one or the other. PBIDs and BIDs may be overlain, where appropriate.

At times a hybrid or combination of the two district types is the best solution, where each segment - the property owners and the business owners - pay for and manage those activities and programs from which they directly benefit the most.