

California's oldest newspaper of continuous publication

Mariposa Gazette.

About face: Hospital tax initiative to be in board's hands, not citizens

By Christina Manuel, Staff Writer | December 2, 2021 | Reprinted with Permission

In an unexpected turn of events, the John C. Fremont (JCF) Healthcare District is now taking the reins on its sales tax initiative for the June 2022 election.

But that wasn't what the district intended in the first place.

After the failed Measure N attempt by the health care district in November 2020, efforts to “save the hospital” through another 1 percent sales tax have been currently headed by a citizen's group: Citizens to Save the Hospital — that is until last Tuesday.

The JCF hospital needs funding to be brought up to seismic code by 2030, or risks shutting its doors per Senate Bill 1953, hence the sales tax attempts.

Then came a statewide proposition, the Taxpayer Protection and Government Accountability Act, into the picture in October, throwing both the citizen's group and the district for a loop.

The Citizen's to Save the Hospital initiative

Efforts by the citizens group have been in the works after Measure N received only 63 percent approval out of the 66 percent — or 2/3 — needed to pass in 2020.

Their initiative presents the same 1 percent sales tax the district did for Measure N, but had four major differences. Most apparent, this time around all work has been completed by citizens of Mariposa County and not the JCF Healthcare District. This was accomplished through a petition process.

Community feedback was taken to figure out why Measure N ultimately failed, and as a finding, the group added a sunset date of 40 years to the tax as it was a major concern.

The expenditure plan was also changed to plainly detail how funds would be used and the citizen's group added an “accountability and transparency” section to have “rigorous accounting and public reporting of the tax receipts and all expenditures,” Beth Tomsick, co-chair of Citizens to Save the hospital, stated to the JCF Board of Directors at their Nov. 23 special meeting.

Packaging its newly branded initiative with all noted changes, Citizens to Save the Hospital received 1,706 signatures on their petition (only 823 were required), which was submitted to the county clerk on Sept. 28.

“We wanted to emphasize we do everything by the book and legally,” Suzette Prue, co-chair of Citizens to Save the Hospital, announced to the directors at their special meeting.

Following the petition submission, the Mariposa County Board of Supervisors then voted unanimously on Oct. 19 to put the sales tax on the June 2022 primary election ballot. And this

time around, because it was a citizen's initiative, only a simple majority would be needed to pass the tax for the hospital.

The Citizens to Save the Hospital were in the processes of celebrating its success when JCF Chief Executive Officer Matthew Matthiessen first informed the group of the Taxpayer Protection and Government Accountability Act, recalled Prue. "And if you can imagine, it was devastating."

The proposed Taxpayer Protection and Government Accountability Act changes regulations for sales tax efforts among its amendments, affecting the local citizens group's progress made up to this point.

"We spent the next few weeks scrambling to see if there was a way to save our initiative, but there wasn't."

Roger Biery, spokesperson for Citizens to Save the Hospital, addressed what some may be speculating: what if the state proposition doesn't pass? Regardless, he told the JCF directors, they will have to operate as if it will because it isn't sensible to continue pursuing their initiative if it doesn't meet all proposed requirements and the laws are retroactive.

"Any tax or exempt charge adopted after (Oct.) 1, 2021, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted in compliance with the requirements of this section," reads section six, Local Government Tax Limitation (sec. 2, H), of The Taxpayer Protection and Government Accountability Act.

So, it was then the decision by Citizens to Save the Hospital to come forward to the JCF Healthcare district and ask the board of directors to take on their own ordinance for a sales tax.

"But we do have some really strong recommendations for the hospital," Prue said.

Like Biery previously recommended, the district needs to operate under the assumption the proposed proposition will pass in November 2022 to replace the citizens initiative with its own. The committee also recommended the district stay consistent with the three major changes to the sales tax effort they identified, but adjust the initiative as needed to comply with the proposed legislative changes.

And above everything, both entities involved want to make sure the public clearly understands this was not the intention of the health care district or Citizens to Save the Hospital in the long run.

"Keeping these provisions in this new measure will be acceptable," Tomsick said, to those who signed the original Citizens to Save the Hospital petition in the first place.

Major changes

Proposals detailed in the Taxpayer Protection and Government Accountability Act will change few details in the original citizens' initiative if passed. Simply put, Prue described it as the state just wanting more accountability.

First and foremost, a . approval would be required to pass the tax regardless if the citizens' initiative was heading the measure efforts.

Candy O'Donel-Browne, chair of the JCF Board of Directors, read off a letter from the district's attorney, Jim Priest, as they asked him to take a close look at the citizen's initiative to identify needed corrections.

"There do appear to be some disconnects between this measure and the new statewide initiative because the statewide initiative purports to be retroactive on these issues to any tax passed after (Oct.), 2021," Priest stated in his letter to Matthiessen, advising changes be made.

Priest identified two major concerns needing to be addressed to comply with the Taxpayer Protection and Government Accountability Act.

First, the initiative needs to include a specific time frame that the tax will be imposed and an estimation of annual revenue from the tax. "Section 18 of the tax ordinance indicates the term will have 40 years so that element is satisfied," Priest stated. "But I don't see a revenue statement in there."

The next inconsistency Priest picked out had to do with a legally binding and enforceable limitation on how the tax revenue can be spent, which needs to be included in a separate section in the ordinance that stands alone. And on top of this, county sales and use tax law requires an expenditure plan that describes specific projects that tax revenue is being used for.

Priest said the Citizens to Save the Hospital initiative had two separate stand alone sections on the required information, but while they identify specific purposes, "do they identify specific projects?" he questioned. "Likely OK, but debatable."

If both the JCF Healthcare District and county were willing to take on the ordinance, Priest said he would help tweak the language to comply with the proposed proposition as there were a few other, minor details needed to be changed beyond the two he identified. The county would then need to take action, calling the measure by early March 2022 to have the tax on the June 2022 ballot.

Moving forward, if the ordinance is approved by the county, the district's hands and lips are tied 88 days before the election. Also detailed in the proposition, any neutral discussion of the measure by the district is no longer permitted. Once the sales tax is on the ballot, the district cannot expend any funds on any communication that references its name or subject matter, O'Donel-Browne explained.

The star question of the night for the directors, O'Donel-Browne said, was "do we go ahead with what we have, which is a sure thing, or do we put an ordinance on the ballot the way we did before, following the procedure we did before the back up of the citizens committee?"

"It's worth saying every month we put this off the rates for construction go up," O'Donel-Browne added for emphasis.

JCF Director Philip DeBry was the first to say he didn't see an alternative. With the citizens group now "hogtied," he recommended moving forward with the district working toward their own June 2022 sales tax.

"I agree with Dr. DeBry," said Brenda Forrest, a JCF director. "I don't think we have a choice. I do believe our hands have been tied by the threat of this statewide proposition and we really can't take the chance of the citizens initiative passing but not meeting the requirements of the statewide proposition and then challenges being made and funds being tied up."

JCF Director Linda Pribyl agreed with her other board members and O'Donel-Browne made the district's direction to take on the sales tax initiative unanimously. JCF Director Joseph Rogers was not present at the meeting.

District takes on sales tax efforts

The citizens group will withdraw its initiative after the district submits its ordinance.

Tomsick said Citizens to Save the Hospital will then reorganize as a campaign committee to oversee the "Yes on Measure O" campaign. Through campaigning, the group additionally wants to continue fundraising, recruiting volunteers and planning, as well as keeping the community informed. Speaking events have already been booked, Prue said.

Now, the JCF Board of Directors and citizens group plan to inform the Mariposa County Board of Supervisors of the major shift in plans and explain why.

Above everything, the citizens committee and the district want to explain to the public why this major change is happening.

Both groups made it clear they are very worried about conspiracy theories rising from community members who may claim this was the plan for the sales tax all along.

"We have not done this to ourselves, this has happened to us," said Citizens to Save the Hospital member Dan Wasil.

"We did everything we could to make this happen."

###