

B. Carlson #37 BCS 9/13/16

September 13, 2016

Honorable Chairman Mikulako
El Dorado County Board of Supervisors
Community Development Director Steve Pedretti

Re: Hearing on Impact fees - El Dorado County's Transportation Impact Fee Nexus Failure

Dear Chairman Mikulako,

These public comments concern the transportation impact fee (TIM) and include links to 10 years of growth spatially located on maps with charts produced by the GIS team at the county surveyor's office. Also attached are a 2002 Cal Trans manual on the preparation of impact fees, historical fair share funding documents, Sac City's nexus report (properly done), EDD inter county commute statistics, two external trip studies, and EDD's commuting estimates. These documents debunk the current model and the entire policy of excluding fair share proportional funding of transportation projects, as well as, external trip projections. We show the county has neglected the states guidelines and the Mitigation Fee Act in calculating impact fees. We believe the county exposure to liabilities to repay the collected fees to the public are extreme, and, potentially 80% of the collect fees are subject to a fraud lawsuit. An overview and explanation for our concern is below.

The growth maps are on line in the county's map library. The maps have a spread sheet at the bottom which show tallies of final permits within the zones by year for the last 10 years. At issue is the forecasting policy and consequential funding allowing for major infrastructure projects - 4 interchanges and auxiliary lanes in zones 2 & 3. The State Highway TIM fee only has projects in three zones - 2,3,and 8 which is basically a swath of land from Placerville to the Sacramento county line. Zones 2 & 3 (13.5 miles long) are between Bass Lake Road and extending east of Placerville's HWY 49. In the last 5 years, growth has virtually stopped in zones 2 & 3 with roughly 16 units per year constructed. Zone 8 (El Dorado Hills area) has over 10 times the growth as zones 2 & 3 combined. The link to the map library is below.

http://edcapps.edcgov.us/maplibrary/html/ImageFiles/gi0072338g_res.pdf This link includes the latest TIM Fee Annual Reports -<http://www.edcgov.us/DOT/TIMReporting.aspx>.

THE GROWTH RATE IN ZONES 1-7 IS NOT THE GROWTH RATE IN ZONE 8.

However, zones 2 & 3 have the highest project costs with 4 interchanges and auxiliary lanes – substantially more than zone 8. In the last 5 years, zones 2 & 3 showed deep declines in permits from the earlier 2006-2010 period going from 605 units to 78 total units for the 5 years ending in 2015. Every transportation zone excepting zone 8 has slower growth than Lake Tahoe. In the last 5 years Zones 2 and 3 have 78 permits and Lake Tahoe had 131 final permits. El Dorado Hills Zone 8 had 995 permits in the last 5 years. In statistical analysis, the most current data is the most relevant data. No consideration is given to the decline trend in forecasting

transportation needs and indeed, to the extent that around 7,000 units are forecast in the next 20 years for these same zones 2 and 3.

Hardly any state highway mitigation is scheduled in El Dorado Hills – ED Hills zone 8 only has \$22,000,000 scheduled for highway projects for the next 20 years but zones 2 & 3 have \$186,000,000. Using the last 5 year permit averages to forecast, zone 8 would develop 3,980 units while zones 2 & 3 would total 312 units. We believe the data shows the disparity in fee burdens by zone and by users.

In order for the CIP to be legally defensible, the need for infrastructure must be demonstrated and the cause must be from new development not existing problems i.e. - (the Cameron Park interchange (south deck) is rated structurally deficient with low clearances) with short on and off ramps. Existing deficiencies exist at all 4 interchange projects. In 2009, a transportation study was conducted by the county indicating the Cameron Park Interchange and surrounding intersections at Coach Lane and Palmer Drive would approach Level of Service "F" by 2015. The interchange is at LOS "F" now as is Cameron Park Drive at the location. Traffic is NOW backing up on the westbound off-ramp preempting merging into the multi-purpose lanes. This is now a huge safety issue on most Friday afternoons. Safety is an existing deficiency. Impact fees may not be used to fund existing deficiencies.

The proper calculation for impact fee fair share proportions includes the deductions of external trips, existing deficiencies, and the percentage of the fair share of use (existing residents trips). The county is in error to ascribe 100% funding of capacity improvements to new development (the interpretation of Measure "Y") and exclude the impacts from existing residents – existing trips are an impact to transportation projects. The benefactors from a new interchange would primarily be existing residents. As such the cost of these projects should be borne by the users of the interchange.

Cal Trans provided instructions for preparing impact fee studies addressing fair share of use. The formula below is copied from the Cal Trans 2002 guide, GUIDE FOR THE PREPARATION OF TRAFFIC IMPACT STUDIES, and indicates the impact fees (for legal nexus considerations) are a user based cost. Existing development, according to the formula, does have a fair share responsibility for the Cameron Park Interchange improvements. All users are ascribed a portion in the calculation and thus new pays its fair share. Additionally, the Cal Trans guide includes cost formulas - included below this formula in the manual (attached).

EQUITABLE SHARE RESPONSIBILITY: Equation C-1

NOTE: $T_E < T_B$, see explanation for T_B below.

Where:

$$P = T/TB - TE$$

P = The equitable share for the proposed project's traffic impact.

T = The vehicle trips generated by the project during the peak hour of adjacent State highway facility in vehicles per hour, vph.

- T_B = The forecasted traffic volume on an impacted State highway facility at the time of general plan build-out (e.g., 20 year model or the furthest future model date feasible), vph.
- T_E = The traffic volume existing on the impacted State highway facility plus other approved projects that will generate traffic that has yet to be constructed/opened, vph.

NOTES

1. Once the equitable share responsibility and equitable cost has been established on a per trip basis, these values can be utilized for all projects on that State highway facility until the forecasted general plan build-out model is revised.
2. Truck traffic should be converted to passenger car equivalents before utilizing these equations (see the Highway Capacity Manual for converting to passenger car equivalents).

The manual also includes the legal justification for the impact fee fair share formula (page 2 Cal Trans 2guide, Exhibit "B") and fair share proportional funding formula for new developments costs.

In 2002, the county performed studies for the general plan which show the county's fair share funding for both LOCAL TIM and STATE HWY TIM fees. Existing (capacity) deficiencies for the LOCAL TIM were figured at 42% of trips and STATE HWY TIM at 52% trips (attached). These were based on future and existing trips 20 years out. The March 5, 2002 County DOT workshop handout also quantified the amounts of \$162,000,000 in STATE HWY, and \$83,000,000 for LOCAL TIM **existing deficiencies** (attached). It should be noted that existing deficiencies are not confined to capacity considerations – safety, grade, regulatory changes, and narrow lanes are examples of existing deficiencies.

Sometime after 2002 and before 2006, the county abandon fair share funding. In the 2006 fee program, the entire burden for all future trips is placed on new development (minus 3% for external trips). Even though the county said they funded projects with transportation grants, the current fee (2006) is based on new developments full funding of infrastructure as shown in Resolution 06-266. (The county's new draft nexus report has somewhat improved the fee calculation to include a slight increase in external trips.) However, NO deduction for existing residents trips is included in the fee calculation. Existing residents impacts should be treated the same as external impacts and existing deficiencies – because new development is only required to pay for impacts caused by new development. Existing development is a substantial 80% of all trips at 20 years out. This benefit to existing users is evidenced in the current 2006 fee program and is also carried forward in the proposed draft nexus. We request the impact fees be changed and calculated appropriately to include existing users trips per the Cal Trans GUIDE FOR THE PREPERATION OF IMPACT FEE STUDIES and not based on an interpretation of Measure "Y".

In short, just including the existing trips in the formula reduces the newly proposed impact fees by 80%. This alone is grounds for a legal challenge and possibly a fraud allowing for an 80% re-coup of fees charged under the 2006 program.

Further, growth location maps compiled by the county GIS department show that zones 2 and 3 combined only had only 78 permits in the last 5 years. In the last 10 years, under \$10 million in STATE HWY TIM fees were collected. Yet, \$186,000,000 in projects is included in the new draft nexus report to mitigate growth in 20 years. However, the traffic model is grossly inaccurate predicting about 7,000 residential units in 20

years for the two zones (combined by board action) or 350 new homes a year. The 7,000 forecast by consultants is not justified by permit histories, census, Department of Finance, or The Census Transportation Planning Package data (CTPP)

http://download.ctpp.transportation.org/profiles_2015/transport_profiles.html .

We submit with this document a study showing external trips average from 35%-64% conflicting with the county's figures. Also, the Bay to Basin Transportation study indicates that inter-regional traffic is at 50% of HWY 50's peak hour usage. As time passes, this percentage increases because of exponential growth in surrounding counties which use HWY 50.

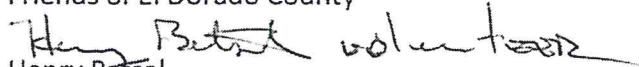
Measure "Y" allows our land use policy to be dictated by external trips caused by other communities using the highway and local roads – with the strong potential of shutting down all projects over time. DOT staff member Claudia Wade indicated that recently a fruit stand was turned down because of Measure "Y".

We request the board revise the draft nexus report per the Cal Trans 2002 manual, quantify the external trips and existing deficiencies and finally make it right with the citizens who have paid the fees.

Respectfully,


Bernard Carlson

Friends of El Dorado County


Henry Batsel

Friends of El Dorado County