

Transportation Impact Mitigation Strategies in WA

Prepared for: Lewis County WA



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EXECUTIVE SUMMARY

CURRENT REALITIES/POSSIBLE OPTIONS

Transportation Benefit Districts (TBDs), Road Improvement Districts (RIDs) and Impact Fees appear to be legislative tools created to help local agencies improve their aging infrastructures. The tools appear to be a consequence of fairly rapid development in the Puget Sound area. Rural transportation networks, such as Lewis County, are in a unique position to take pre-emptive actions relative to accommodating future transportation demand. While future land use development in Lewis County will likely not stress the network significantly (approximately a doubling of population by 2035), some declines in levels of service are likely to occur. Implementing transportation impact fees will likely provide far fewer benefits than costs associated with system creation, maintenance and implementation. RIDs will likely result in large unit costs to developers (relatively small geographic areas). Reliance on SEPA will most probably serve the County for the immediate future, but as capacity is absorbed by new development without increases to current Road Fund revenue, at some point the County may be forced to limit development in some areas of the County or – development will have to voluntarily construct off-site improvements with little or no cost recovery.

None of the mitigation schemes evaluated (TBDs, RIDs and Impact Fees) have been used (WA) in a fashion that could provide sufficient flexibility to allow the collection of “transportation access charges” as described in “Ideal Conditions” section of this report. Only TBDs appear to possess the flexibility to provide the County an opportunity to pursue the ability to “sell transportation system capacity” to future development. More work is required to definitively state that current legislation is sufficient for application in this regard.

SUGGESTED COURSE OF ACTION

- Comprehensively identify system capacity countywide and at intersections of regional significance
- Generate transportation system improvement plans that can be relied upon for decision making when large development stresses existing system capacity
- Plan financial reserves into the County’s TIP allowing fair share contributions to capacity projects of significant economic development interest
- Expand capacity for seeking grant funding or supplemental funding for capacity project of regional significance
- Define the extent to which TBDs can be used to generate existing system capacity charges for new development
- In the absence of being able to use TBDs, or concurrently, begin formulating a proposal for legislative support in the development and use of “transportation system access charges” for local government
- Implement “transportation system access charges” in the next several years while significant system capacity still exists and ahead of substantial new development.

INTRODUCTION

Perteet Inc., together with Cook Engineering and Development Services PLLC (CONSULTANTS), are currently preparing a transportation element supporting Lewis County's (COUNTY) pending sub-area plan for South Lewis County, WA. This work comes at the close of updating the County's EMME/2 transportation model. The model is now updated to base year 2008 and has evaluated various land use scenarios supporting development to forecast year 2035. The preferred growth scenario for 2035 utilizes a countywide population of approximately 133,000 residents.

In a companion effort, CONSULTANTS have created nine screenlines across thirty-five (35) collector and arterial roadways in Lewis County. Existing conditions (2008) have been evaluated at the various screenlines in addition to eight intersections of regional significance.

Predictive travel demand and associated declines in levels of service have been documented within the body of work performed in support of the COUNTY's sub-area planning process (2035). Mitigation designs for additional network capacity are being evaluated to determine likely mitigations along the SR 505 corridor to maintain a COUNTY selected level of service equal to service level "D" for segments and intersections. Local and state agencies are interested in evaluating potential mitigation strategies that could assist funding of forecasted improvements.

Currently, COUNTY relies on the state environmental policy act (SEPA) to identify the need for project specific traffic mitigation. While this process has been used to construct some limited offsite improvements identified by specific land use proposals, the process currently does not provide a comprehensive strategy for constructing future capacity improvements throughout the COUNTY's transportation network. CONSULTANTS believe that while a comprehensive approach to funding and constructing future network capacity projects using SEPA can be formulated for COUNTY decision-maker consideration, three additional mitigation strategies in WA law are evaluated in this report:

- Revised Code of Washington (RCW) Chapter 36.73 Transportation Benefit Districts
- RCW 36.83 Road and Bridges – service districts
- RCW 39.92 Local Transportation Act.

TRANSPORTATION BENEFIT DISTRICTS

AREAS SERVED

Any area within more than one county, city, port district, county transportation authority or public transportation benefit area - provided all participants agree pursuant to inter-local agreement (RCW 39.34).

EASTABLISHMENT

The general process is described below:

- Public hearing
- Establish district with adopting ordinance
- Ordinance shall describe the functions and transportation improvements (RCW 36.73.015)
- Notice of hearing must include functions and transportation improvements

FUNDING MECHANISIMS

- May levy an ad valorem (according to value) tax in excess on one percent for a one-year period whenever authorized by voters in the district (RCW 84.52.052)
- Voter approved general obligation bonds
- Fees, charges and tolls may be imposed by approval of a majority of district voters
- Vehicle fees in accordance with RCW 36.73.120
- General obligation bonds (conditions)
- Charges, user fees or special assessments may be used to pay down general obligation bonds
- Revenue bonds
- Fee or charge on the construction or reconstruction of commercial buildings, industrial buildings, or on any other commercial or industrial building or building space or appurtenance, or on the development, subdivision, classification, or reclassification of land for commercial purposes, only if done in accordance with RCW 39.92.

POWERS

A TBD is a quasi-municipal corporation, and independent taxing authority and a taxing district within the meaning of the state constitution. Powers include:

- Authority to hire employees, staff and services
- To enter into contracts
- Acquire, hold and dispose of real and personal property
- Sue and be sued
- Eminent domain
- Same power as a county or city to contract for street, road, or state highway improvement projects and to enter into reimbursement contracts provided in Chapter 35.72 RCW
- WSDOT, counties, cities and other jurisdictions may fund transportation improvements

DUTIES

- Development of a material change policy to address major plan changes that affect project delivery of the ability to finance the plan
- Issue an annual report, including the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the district

FORMULATION/GOVERNANCE

- The members of the legislative authority proposing to establish the district, acting ex officio and independently, shall constitute the governing body of the district. If the district is composed of more than one jurisdiction, the district shall be governed pursuant to inter-local agreement however the governing body shall be composed of at least five members including at least one elected official from the legislative authority of each participating jurisdiction.

TERMINATION

- Within thirty (30) days of the completion of the construction of the transportation improvement or series of improvements authorized by a district, the district shall terminate day-to-day operations and exist solely as a limited entity that oversees the collection of revenue and the payment of debt service or financing still in effect, if any and to carry out the collection of revenue and the payment of debt service or financing still in effect, if any and to carry out the requirements of RCW 36.73.160.

ROAD AND BRIDGES – SERVICE DISTRICTS

AREAS SERVED

Any area within the county excepting that cities may only be included by adopting city resolution supporting inclusion.

ESTABLISHMENT

- Public hearing following proper notice
- Following the public hearing the county legislative authority may establish the service district
- Legislation must specify the functions or activities to be exercised or funded and establish the boundaries of the district.

FUNDING MECHANISIMS

- Ad valorem property tax, in excess of the one percent limitation, upon the property within the district for a one-year period whenever authorized by the voters of the district (RCW 84.52.052)
- General obligation bonds
- Special assessment bonds
- Revenue bonds
- The governing body may establish and pay moneys into a local guaranty fund to guarantee special assessments bonds issued by the service district
- A service district may accept and expend or use gifts, grants and donations.

POWERS

- Quasi-municipal corporation
- All the usual powers of a corporation for public purposes
- Eminent domain
- The authority to hire employees, staff, and services, to enter into contracts, to hold, and dispose of real and personal property, and to sue and be sued.

DUTIES

- Revenue collection
- Ownership, operation and maintenance of improvements financed by the district.

FORMULATION/GOVERNANCE

- A board of three commissioners appointed by the county legislative authority
- County treasurer acts as ex officio treasurer for the service district
- The commissioners first appointed shall be designated to serve terms of one, two and three years respectively from the date of their appointment. Thereafter, service district commissioners shall be appointed for a term of office of five years.
- Any registered voter in the district may file a referendum petition to call an election to retain any or all commissioners. The county auditor shall assign an identification number and ballot title within ten days. The petitioner then has 30 days to obtain signatures of not less than 25 percent of the registered district voters. A special election is then held no later than 120 days after the signed petition is filed with the county auditor.

TERMINATION

- Dissolution upon providing notice and conducting a public hearing
- The governing body must make a determination that the proposed action is in the public interest and adopt a resolution providing for the action.

LOCAL TRANSPORTATION ACT

AREAS SERVED

- The geographic boundaries of the entire area generally benefited by the proposed off-site transportation improvements and within which transportation impact fees will be imposed under this chapter
- Local governments are authorized to enter into inter-local agreements to jointly develop and adopt the transportation programs authorized by RCW 39.92.

EASTABLISHMENT

- Adopt by ordinance after notice and public hearing
- Each program shall contain:
 - geographic boundaries of the entire area generally benefited by off-site transportation improvements
 - based on an adopted comprehensive, long-term transportation plan identifying the improvements
 - include at least a six-year capital funding program with a proposed schedule for construction and expenditure of funds
 - off-site transportation impacts shall be measured as a pro rata share of the capacity of the off-site transportation improvements
 - funds collected shall be used to pay for improvements mitigating the impacts of the development or to be refunded to the property owners of record
 - the program shall describe the formula, security, credits and other terms and conditions affecting the amount and method of payment
 - the administrative element shall include: appeal to an independent hearings examiner, establishment of a dedicated account, collection methods, designated responsible department including determination of fee amounts, transportation planning, and construction; and provisions for future amendment of the program
 - fees shall not be collected for any improvement that is incapable of being reasonably carried out because of lack of public funds or other foreseeable impediment
 - no fee imposed if the improvement is being required by any government agency pursuant to other local, state, or federal law.
- The program shall also define the criteria for establishing periodic fee increases attributable to construction and related cost increases.

FUNDING MECHANISIMS

- Fees based on impact
- Fees may be secured by: recorded agreement, deed of trust, letter of credit, or other instruments determined satisfactory by the local government.

POWERS

- The authority to create and implement local transportation programs is intended to be supplemental to the existing authorities and responsibilities of local governments to regulate development and provide public facilities.

FORMULATION/GOVERNANCE

- Governed by the adopting body.

TERMINATION

- Upon legislative action of the adopting body.

ALTERNATIVES SUMMARIZED

A table summarizing key elements of each alternative is provided below in Table One.

Table One: Summary of key alternative elements

Alternative	Area	Establishment	Funding	Powers	Governance	Termination
TBD	County plus cities and other jurisdictions	Notice plus public hearing Majority vote of registered voters in the district	Ad velorem tax, General obligation bonds, Fees, Charges, Tolls, Revenue bonds, and Vehicle fees	Usual powers of a corporation for public purpose	At least five members with one elected official from each participating jurisdiction	30 days following completion
RID	Benefited area including portions of cities	Notice plus public hearing The absence of a verified declaration of termination by a majority of registered voters in the district	Ad velorem tax, general obligation bonds, and special assessment bonds,	Usual powers of a corporation for public purpose	Three commissioners plus Treasurer	Upon petition
Impact fees	County plus cities	Notice plus public hearing	Fees	Usual powers of a corporation for public purpose	Adopting body	Legislative action

EXISTING CONDITIONS

Currently, Lewis County's transportation network appears to have significant capacity with the possible exception of urbanized areas associated with the cities of Centralia and Chehalis (supplement to Lewis County's EMME/2 model contract with Perteet, Inc., development of ten countywide screenlines, December 2008). It appears that for the near term, sufficient capacity will be available to accommodate new development. For the past several years, Lewis County has relied upon the State Environmental Policy Act (SEPA) as the primary tool to collect mitigations for off-site improvements (Michael's Distribution Center, Cardinal Glass and Fred Meyer Distribution Center) generating additional transportation capacity as identified by the proponents traffic impact studies. While some off-site mitigations have been fully funded by project proponents, off-site project funding has generally been collected on a "pro-rata" share basis. In the case of Cardinal Glass, participation was collected based on its impact to the County's road network and contributions collected for area projects contained within the County's six-year Transportation Improvement Plan (TIP). Similarly, Fred Meyer made financial contributions to the Port of Chehalis that were incorporated with County and Port funds offsetting total project costs associated with Rush Road extension. In the absence of any additional impact funding scheme, it is reasonable for the County to expect increasing loss of system capacity associated with each future land use proposal. In the extreme case, a single development might make a successful case for allocation of remaining system capacity without meeting the test for providing (or contributing) to future capacity project costs.

IDEAL CONDITIONS

Ideally, future land use development proposals would acquire existing capacity in exchange for some financial contribution to the existing system. If such a condition could be created in the County, then new development would be paying for system access and providing additional financial resources for system maintenance along with identified future capacity related improvements. New development would still be required to mitigate local impacts (SEPA), but off-site improvements would become the focus of the County. Collected access charges would be invested based on local decisions focusing on economic development opportunities. The thought being that initially, a financial reserve will be generated from system access charges (unused capacity) and invested on a prioritized basis as new development consumes existing capacity. In the case that a future development requires off-site improvements that the County cannot afford at the time, the developer would construct improvements with a guarantee of eventual cost recovery from the County (late-comers agreement using future access charges from elsewhere in the system).

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RIDs and Impact Fees appear to be legislative tools created to help local agencies improve their aging infrastructures. The tools appear to be a consequence of fairly rapid development in the Puget Sound area. Rural transportation networks, such as Lewis County, are in a unique position to take pre-emptive actions relative to accommodating future transportation demand. While future land use development in Lewis County will likely not stress the network significantly (approximately a doubling of population by 2035), some declines in levels of service are likely to occur. Implementing transportation impact fees will likely provide far fewer benefits than costs associated with system creation, maintenance and implementation. RIDs will likely result in large unit costs to developers (relatively small geographic areas). Reliance on SEPA will most probably serve the County for the immediate future, but as capacity is absorbed by new development without increases to current Road Fund revenue, at some point the County may be forced to limit development in some areas of the County or – development will have to voluntarily construct off-site improvements with little or no cost recovery.

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