

Good Owners, Good Partners

California Transportation Commission

“Workshop on Developer Fees”

September 6, 2006

Presentation by

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Background

- Processing of entitlement requests for development projects by local jurisdictions include CEQA review.
- CEQA documents include traffic studies.
- Most projects must engage in mitigation measures.
- Some jurisdictions and/or project sponsors are proactive regarding impacts on the state highway system, some are reactive or non-responsive.
- Caltrans' responsibility as a “good owner” and good steward of the existing \$300 billion state infrastructure system is to ensure it continues to operate effectively.

Background (continued)

- Caltrans has attempted to provide technical and political guidance to its District staff on how best to *engage* in the land use and entitlement process through the preparation of two documents:
 - The “Local Development – Intergovernmental Review Decision Process Guide” (2005); and
 - The “Guide for the Preparation of Traffic Impact Studies” (2002).

Statement of the Situation

- As a “good owner”, Caltrans has a responsibility – and a right – to protect the operational integrity of the state highway system. To effectively do so, Caltrans also must be a “good partner” in executing these responsibilities.
- Currently, there are a number of issues with how Caltrans approaches this role as it relates to local government processing of entitlements for development projects:

Methodology & Process

Methodology

- Caltrans' preferred methodology in the "Guide" is inconsistent with local government traffic study requirements.
- Incorporating the "Guide" approach into a typical traffic impact model analysis is, at best, cumbersome.
- The Guide's assumptions and methodology suggest a "one size fits all" approach to traffic analysis.

Methodology & Process (cont.)

Process

- Caltrans use of the Guide both statewide and within Districts is inconsistent.
- The timing in issuing comment letters is inconsistent.
- In its “Guide” letters to local agencies, Caltrans indicates that the CMP is not relevant to their analysis of impact on the state highway system.

Funding & Fees

- Caltrans does not have the existing statutory authority to collect fees from individual development projects.
- In some cases regional agencies have developed comprehensive countywide transportation fee systems that include detailed analysis of the state highway, regional arterial and local roadway systems.
- In instances where Caltrans has been able to leverage fees as a result of the development entitlement process, there has been no practical accounting established to segment said fees for application to a specific project.

Judgment

- Many EIR comment letters from Caltrans tend to be boiler plate and reference the TIS Guide methodology after a traffic impact study has been completed and reviewed by the lead agency.
- As the LD-IGR directive suggests, each district should use its discretion in how best to engage lead agencies in the development entitlement process.

Judgment (cont.)

- Both aspects of the definition of *discretion* need to be taken into account, pursuant to the following examples:
 - *South Orange County*
 - *North Los Angeles County*

Recommendations

- *Be strategic in your timing and clear in your objectives.*
 - Get involved early and implement the State's goal at the highest level.
 - Partner with regional and local agencies “up front”.
 - Address methodology at the CMP level.

Recommendations

- *Engage the CMP process as an “asset”, not a “liability”.*
 - *The Guide is “neither intended as nor does it establish a legal standard for determining equitable responsibility and cost of the projects’ traffic impact.”.*
 - The CMP is statutory.
 - CGC Section 65089.3 is an opportunity, not a problem.

Recommendations

■ *Be a good owner by recognizing good partners.*

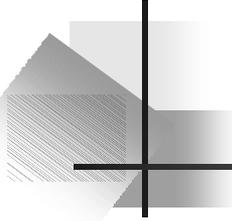
- There are those who will “do the right thing”
- They shouldn’t be *punished* for doing so.
- “Good owner, good partner” looks for opportunity for success for all parties.
- “Partners” could be “allies for equity” at the regional level.

Developer Impact Fees

California Transportation Commission
Developer Fee Workshop

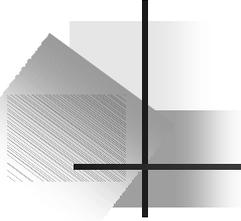
September 6, 2006

Presentation by
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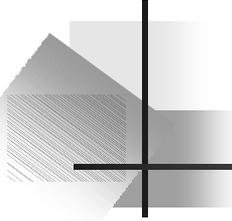
Gray-Bowen

- Local (county government) experience
- Consultant on Caltrans project development issues
 - Local agencies
 - Developers
- Experience with a number of situations where local agency/ developer/ Caltrans relationships have become “strained”



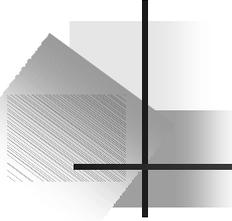
Observations

- Many local agencies collect impact fees
 - Local/ regional arterials, some SHS projects
 - Many relate to local sales tax programs
 - Some include “smart growth” incentives
- Caltrans interest
 - Address impacts to SHS
 - Encourage “smart growth”



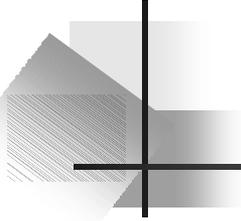
Observations (con't)

- Departmental guidance
 - LD/ IGR process guide
 - Guide for preparation of Traffic Impact Studies
- Implementation by Caltrans
 - Sometimes inconsistent
 - Often not timely
 - Not sensitive to local land development approval process



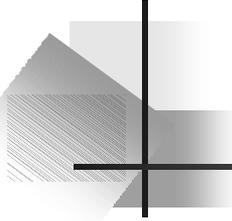
Observations (con't)

- Traffic reports and studies
 - Caltrans TIS guidelines sometimes conflict with local requirements
 - LOS C not realistic in urban areas
- Use of Caltrans TIS “methodologies” can sometimes be problematic
 - Conflicts with local CMP/ Air quality conformity studies
 - Can open CEQA document to challenge



Observations (con't)

- Developer Impact Fees
 - Many local governments collect
 - Caltrans has no statutory authority
- Caltrans is collecting fees!
 - Aggressively in some areas
 - Lacks public disclosure and accountability required of local governments
 - Nexus unclear in many cases



Observations (con't)

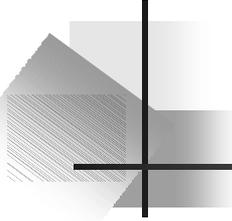
- Litigation

- Now in the Caltrans LD/ IGR “toolbox”

- May be necessary in some cases, but only as last resort
 - extreme discretion is needed

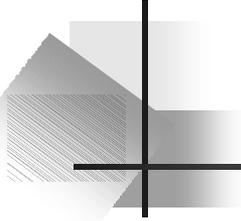
- Issues

- Methodologies used to calculate “fair share” contributions
 - Relationship to regional fee programs
 - Status of suggested mitigations – already funded?
 - Attempt to rely on “science” – not that simple!



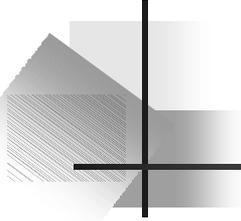
LD/ CEQA - Opportunities

- Be more consistent in application of policies
- Better understand and be sensitive to:
 - Local government approval process
 - CEQA and nexus relationships
 - Local CMP and local agency traffic impact study requirements/ methodologies
- Engage early – as a “partner” not as a “bully”
- Encourage comprehensive local and regional impact fee programs



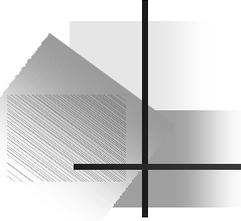
LD/ IGR - Opportunities (con't)

- Calculating “fair share” contributions
 - Nexus
 - Other factors – local priorities, affordability, infill, commercial versus residential, etc.
 - Existing deficiencies – not necessarily the developers responsibility!
 - Other funding – STIP, etc.
- Be sensitive to “context”
- Training – include local agency/ developer perspectives



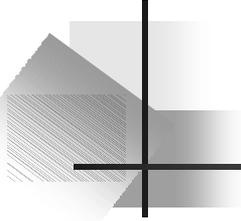
Impact Fees – Opportunities

- Encourage local and regional impact fee programs to include projects on SHS
- Identify incentives for local governments/ developers - avoid the “bully” approach!
 - Partner – early scope consensus
 - Consensus – avoids delays and litigation
 - Permitting – process faster!



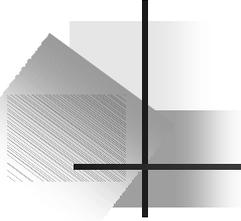
Impact Fees – Opportunities (con't)

- If Caltrans want ability to collect:
 - sponsor legislation
 - model after AB 1600 process
 - Use CTC as hearing body
 - Recognize and acknowledge “other factors”
 - economic development
 - Affordability
 - “smart growth”
 - Need to balance with other fund sources



Recommendations

- Focus on “partnering” with local governments and developers – try to avoid the “big brother” approach.
- Continue LD/IGR training program
 - Include local government/ developer perspectives
 - Include more focus on validity of alternative traffic studies methodology
 - Review various methods to calculate “fair share” contributions



Recommendations (con't)

- Provide guidance to Department (and local agencies) as to when a project should be considered “funded”
 - Programmed for construction in STIP
 - Identified in Tier 1 of local RTP
 - Included in Expenditure Plan for local sales tax program
- Review various methods used to calculate “fair share” contributions