



CALAVERAS COUNTY BOARD OF SUPERVISORS AGENDA SUBMITTAL

ITEM TITLE: Resolution Updating the Bret Harte Benefit Basin		BOARD MEETING DATE April 21, 2009	AGENDA NUMBER
Dept:	Public Works	Supervisorial District Number 4	
Contact:	Robert J. Pachinger, PE		
Phone:	754-6401	Published Notice Required?	No: _____
		Public Hearing Required?	No: _____
		Yes: <u> X </u>	Yes: <u> X </u>

DEPARTMENTAL RECOMMENDATION:

The Department recommends that the Board convene a public hearing to accept citizen input regarding the adoption of updates and revisions to the Bret Harte Benefit Basin, a traffic impact mitigation fee program (Program). Pending public input, Public Works recommends that the Board adopt the *Implementation Plan* for the Bret Harte Traffic Impact Mitigation Fee Program presented as Attachment A and, in doing so, take the following actions:

- A. Affirm existing boundaries of the Bret Harte Benefit Basin shown as Exhibit A of the *Implementation Plan*; and,
- B. Identify public roadway improvements necessary to mitigate traffic impacts associated with new development shown as Exhibit B Capital Improvement Plan of the *Implementation Plan*; and,
- C. Adopt the Fee Schedule shown as Exhibit C of the *Implementation Plan*, which is based on \$14,184 per PM peak hour trip yielding a fee of \$14,541 per residential dwelling unit; and,
- D. Establish an interest-bearing designated fund to receive all fees collected by the Program; and,
- E. Authorize transfer of all monies previously collected by the Program and deposited in the Road Commissioner’s Fund to the fund established pursuant to item D; and,
- F. Adopt an urgency measure as an interim authorization for Program implementation.

SUMMARY:

To fund the infrastructure improvements needed to mitigate the traffic impacts resulting from anticipated growth in the Bret Harte community, the Board adopted a resolution implementing a traffic impact mitigation fee program, aka Bret Harte Benefit Basin, in 1995. As stipulated by that resolution and State law,¹ such programs must be reviewed and affirmed every five years. Consistent with these requirements and recognizing that

¹ Government Code §66000 et seq

substantive changes had occurred since the most recent program review, Public Works has contracted with Veras Resources, Inc. (Veras) to update the Program. Veras has completed its scope of work and submitted the attached Technical Report, which recommends a series of revisions and those actions necessary to update the Program and meet anticipated transportation infrastructure needs. Most significant among the recommended changes are revisions to the capital improvement plan and increases to the fee schedule. At this time, Public Works is soliciting public input and seeking Board direction on the recommended update to the Program.

FINANCING:

The Bret Harte Benefit Basin is an impact mitigation fee program intended to equitably distribute the cost of public facility improvements directly to the benefiting parcel owners. As such, the Program is intended to function independent of other County funding sources. As a “self-supporting” program, Board action will affect neither the Road Fund nor the General Fund.

DISCUSSION:

Existing Traffic Impact Fee Program

On March 6, 1995, the Board adopted Resolution No. 95-59 approving the formation of the Bret Harte Benefit Basin for the purpose of mitigating traffic impacts in the Bret Harte Center of Murphys. As adopted, the program levied fees on new development within the basin (see attached Exhibit A) to fund their fair share of roadway improvement projects, which were designed to alleviate the traffic impacts resulting from that new development. Specifically, the improvements identified for the program included:

- Realignment and reconstruction of Bret Harte Drive to meet County standards for Template “J”, a three lane community connector road; and
- Intersection improvements at State Highway 4 and Bret Harte Drive to meet Caltrans standards.

At the time of program adoption, the total construction cost for the cited projects was estimated to be \$892,900. Program costs were allocated on the basis of average daily trips associated with particular land uses and amounted to \$94.77 per average daily trip. The resulting fee schedule for residential land uses was \$710.79 per dwelling unit² and for commercial uses was \$14,359 per acre. The Program was affirmed without modification by Resolution No. 01-128, adopted by the Calaveras County Board of Supervisors on May 14, 2001. The Fee Schedule has remained unchanged since Program formation.

² The current fee schedule is not uniformly applied throughout the basin. A fee of \$711.76 per dwelling unit was collected for most residential land uses in the basin. The basis for this difference is not known. Residential parcels in the Golden Acres subdivision are assessed \$12,073.56 per acre.

Changes Within the Basin Since Program Adoption

Since adoption of the original Program in 1995, a number of changes have occurred that prompt review and modification of the existing Program, including:

- Intersection improvements at State Highway 4 and Bret Harte Drive, a key project in the existing capital improvement plan, were determined to be infeasible due to conflicts with the existing truck scale and the Big Trees Road/SR4 intersection approximately 600 feet to the west;
- Discretionary approvals of development projects within the Benefit Basin stipulated Program updates as necessary to conform the Program's capital improvement plan to traffic impact mitigations required by discretionary approvals;
- Requests and recommendations from Caltrans relating to the operational characteristics of the Bret Harte Drive intersection with State Route 4; and
- Highway construction costs have increased by 120%.³

Since Program adoption, fees in the amount of \$217,266.88 have been collected.⁴ While no funds have been expended for roadway improvements, about \$3,700 have been expended for geotechnical studies and other administrative expenses. As of January 2009, a balance of \$213,548.08 in Program funds was reported.

Proposed Program Highlights

Key elements and proposed revisions to the Program are presented in the attached *Technical Report* (Attachment B) and highlighted as follows:

- ***Basin Boundaries*** – No changes to the basin boundaries are proposed at this time.
- ***Capital Improvement Plan*** – Proposed changes to the capital improvement plan include the following:
 - Replace SR4/Bret Harte Drive intersection improvements with SR4/Big Trees Road intersection improvements
 - Modify road template for improvements to Bret Harte Drive
- ***Fee Schedule*** – Proposed changes to the fee schedule are summarized as follows:
 - Change fee basis from \$94.77 per average daily trip to \$14,184 per PM peak hour trip
 - Establish uniform residential development fee of \$14,541 per dwelling unit

³ California Department of Transportation, Summary, *Price Index for Selected Highway Construction Items*, December 2008.

⁴ Calaveras County Department of Public Works, Email correspondence, *Bret Harte BB* with attachment <APN within BHBB.xls>, Brenda Taylor, Calaveras, February 21, 2009.

- Change commercial development fee from a uniform \$14,359 per parcel acre to either a designated fee per 1,000 square feet of enclosed building space or an amount based on a fee of \$14,541 per PM peak hour trips⁵

Implementing the Updated Bret Harte Benefit Basin

Formation and implementation of impact mitigation fee programs are governed by Government Code §66000 et seq. The nexus requirements of §66001 and §66002 do not apply to a fee imposed pursuant to a reimbursement agreement conforming to the requirements of §66003 and providing supplemental capacity pursuant to County Code §12.02.080. Pursuant to Government Code §66000 et seq, implementation of the updated Bret Harte Benefit Basin will require a public hearing and Board adoption of a resolution reflecting the updated capital project list and fee schedule. The Board Resolution and implementing provisions will be effective 60 days after adoption. Approval of the attached resolution will supersede all prior resolutions and actions relative to this Program. Adoption of a fee program for funding capital projects, such as this Program, is exempt from CEQA.⁶

Urgency Measure

Per State law, Board action to increase any fee or charge upon a development project shall not become effective until 60 days following Board action unless the Board adopts, by a 4/5 vote, an urgency measure as an interim authorization to protect the public health, welfare and safety.⁷ According to code, the interim authority must contain findings describing the current and immediate threat to the public health, welfare and safety. Public Works does view the 60-day delay in fee implementation as a threat to the viability of the program, thus a threat to public welfare. Based on our experience with RIM implementation, we can expect building permit applications to be submitted in advance of the effective date thus avoiding the basin fee.⁸ A 60-day delay in Program fee implementation will likely deprive the Program of critical revenue and further erode the viability of completing the capital improvements. By law, the Board's interim authorization is limited to 30 days. Therefore, a second authorization will be presented to the Board for its consideration in 30 days. Board approval of the two-stage interim measure will authorize all proposed Program revisions immediately upon Board action.

ALTERNATIVES:

If the Board chooses not to adopt the resolution as recommended, the Board may consider any one of the following alternatives:

- Adopt Program without urgency measure in which case the revised Program elements would not become effective for at least 60 days.

⁵ As an example, the development fee for professional office space would change from \$14,359 per acre to \$19,093 per 1,000 square feet.

⁶ CEQA Guidelines, §15237(a)(4)

⁷ Government Code §66017

⁸ In the months preceding the RIM effective date, building permit applications rose more than 200%, presumably to avoid the RIM fee, and deprived the RIM designated fund of more than \$745,000 in revenue.

- Direct staff to return with modifications to the proposed Program, such as the effective date, proposed road template for Bret Harte Drive, cost indexing, fund priorities, reimbursement provisions, etc. Changes to the proposed Program will require appropriate revisions to the Technical Report to assure internal consistency amongst the supporting documentation.
- If the Board chooses not to adopt the recommended actions and takes no action, the current Program would remain unchanged and potentially subject the Program to legal challenge presumably leading to the alternative described in the following paragraph.
- Direct staff to return with a resolution terminating the Program and authorizing either the return of unexpended funds or reimbursement for work completed.

OTHER AGENCY INVOLVEMENT:

Board approval of the recommended actions will require the Auditor to create new designated fund and to transfer monies from the Road Commissioner's Designated Fund to the newly-created designated fund. Public Works will also coordinate with Community Development Agency to assure that new Board policy is reflected in any forthcoming project approvals within the basin.

In bringing this item to the Board for its consideration, the County Clerk has published a legal notice pursuant to Government Code §65090 and Public Works has mailed such notice to all owners of undeveloped parcels in the basin. County Counsel has reviewed the Resolution and approved it as to form.

CAO RECOMMENDATION:

DEPARTMENT HEAD SIGNATURE:

Robert J. Pachinger, P.E., Acting Director

Date

Attachment A - Resolution, Page 6 - 9

Attachment B - Implementation Plan, Page 10 - 19

Attachment C - Technical Report, *Bret Harte Benefit Basin Update*, on file with the Public Works office and posted online at: <http://www.co.calaveras.ca.us>