Transportation Improvement District Fees – Proposed modifications to 10 VSA Chapter 151, Subchapter 5

VPA Comments as of February 3, 2014

1. The cost of development within historic settlement patterns should not be disproportionately high to rural development as a result of new transportation mitigation fees:

- The initial take on the language was that it was supposed to increase the cost of "greenfield development" to make it on par with the cost of infill development. If a property is outside of a TID and not along a State highway it is unclear what the proposed fee if any will be. If a property is inside of a TID and subject to an Act 250 or T-1111 permit, there will be a fee. This could have the opposite effect of pushing development outside of TIDs to areas that do not have the need for transportation improvements and further exacerbating the current problem of incremental development that does not trigger Act 250. Is there a way to encourage growth in areas that already have public investments? If an area has other significant transportation assets, public water, sewer, sidewalks, and a bus route, maybe the required contributions can be reduced, considering all other public investments.

- While the proposed language stops the existing unfair situation of the last developer in pays for improvements within an area of traffic concern, the proposal will create TIDs mostly within developed areas such as Chittenden County. This could perpetuate the perverse incentive for development in rural areas. The impacts of rural development in Addison, Franklin, and Lamoille Counties are already being felt on the Chittenden County Highway Network (development north of the County Line on Route 15 is contributing to the "poor" LOS at the Route 15/River Road intersection in Riverside/Underhill Flats). A statewide or countywide transportation impact fee for all development may be a solution.

- While refinements to state policies relative to acceptable levels of service are not part of this bill, nor should they be, it is nonetheless a critical issue that must be addressed in parallel with this legislation. Referred to in this bill as "Performance Standards" the current state LOS policy is widely considered unsustainable. Perhaps the Transportation Criterion should be reworded to focus more on safety and less on congestion. At minimum, VTrans and the District Commission could use a different criteria than LOS,

such as Vehicle to Capacity Ratio. This may assist in creating greater equity between infill development and greenfield development in creating future improvement areas.

2. The creation of a cohesive framework for fees to be paid for traffic impacts creates a positive and transparent regulatory environment with better predictability. There are several areas of the proposed language though that should be re-examined so as to not create unintended consequences:

- The transportation fee formula does take into account growth centers now (Section 6106(a)(4). This is a great addition.

- In Section 6106(a)(4), states that the public share is intended to be that share paid by VTrans and not the developers. Another way of viewing this is that VTrans would fund the improvements that are required to improve the LOS from its current level, up to the established performance standard. Improvements that increase LOS above the established performance standards would be allocated to new development. While there is language proposed to the effect that applicants in a TID will not pay for background traffic, this language could be clearer.

- While the proposed language in Section 6106(a) will consider all transportation improvements, the proposed amendments to the criterion may inadvertently discourage "congestion" on sidewalks, bike paths, etc. While the intention is good, the wording needs to be tweaked to have the desired result.

- The impact fee statute should be re-examined to perhaps allow these fees to be used for "betterments" other than the creation of new vehicle capacity. This would allow rural areas to take advantage of safety improvements as well as aesthetic improvements through local impact fees.

- Within Section 6107(1), the Commission may direct that the fee be paid to another fund if the development project's impacts are limited to municipal highways. This language would address those projects requiring Act 250 approval that are outside of a TID. For municipalities where traffic impact fees do not exist, this language will in essence create them through the District Commission and a mechanism should be put into place to allow these fees to be paid directly to the municipality. Under Findings Section (5)(a), the definition of "Capital transportation project" should probably include those done by municipalities as well as those by the state or developers and (5)(b) changed to include municipal studies.

3. The creation of a summer study committee under Section 6111 would be well served to include a representative from the Vermont Planners Association with expertise in municipal development review and planning.

4. There are other minor amendments to the proposed language that would help to clarify intent and execution:

- Section 6102(13) would be better phrased as: “A defined geographic area that includes one or more transportation infrastructure project, and for which the Agency has established transportation fees that can be assessed pursuant to Section 6105.”

- Section 6105(b)(3) This section states that notice shall be provided property owners within the TID. If electronic notice suffices, it should be specifically stated as such.

- Section 6106(e). The authority of the Commission to determine required mitigation in this section is intended to address such improvements that may not be included in any planned VTrans project. The “or” should be changed to “and” in the first sentence to avoid confusion over whether the Commission’s requirements can supersede those of VTrans.

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