Nevada County Transportation Commission meeting – March 20, 2024

Regional Transportation Mitigation Fee Program 2023 Nexus Study Update Final Report – 2024 Revision and Annual Inflation Adjustment
Presentation by Deputy Executive Director Aaron Hoyt

Aaron Hoyt:

Good morning, Commissioners. Today we're asking you to review and consider adoption of revisions to the 2023 Nexus Study Update that will address an error in the calculation for residential fees. A second component to this revision to the 2023 Nexus Study Update is incorporation of an annual inflationary adjustment that is allowed under the Regional Transportation Mitigation Fee Program. I will touch on the background of the program itself, the revisions that are necessary, the inflationary adjustment, and then what are the next steps. I'd also like to introduce today Rosanna Southern and Todd Tregenza from the consulting firm GHG, who are here to help answer any technical questions that may come up.

The RTMF program was established in 2000 to provide a mechanism for uniform funding for new development to pay towards the cost of the construction and enhancements of the regional transportation system in Western Nevada County. The cities of Grass Valley, Nevada City, and then the unincorporated part of Nevada County within the Western portion all participate in this program. The Eastern part of the county and Truckee have their own separate transportation improvement programs. It is worth noting that the cities of Grass Valley and Nevada City also have their own local Transportation Mitigation Fee programs, but these programs fund different projects, there's no overlap between them.

Like any fee program, there is a Nexus Study that is required. The Nexus study looks at the proportional contribution of new development to traffic and to help determine the cost that new development should pay towards those improvements. The program was initially adopted in 2000, subsequently updated in 2008, 2016, and most recently in 2023. The main focus of the program is to make sure that new development is only paying for their fair share of costs towards those improvements, not towards existing deficiencies, and only their fair share. So, with the 2023 Nexus Study, it departed from prior versions of our Nexus Studies, and specifically in terms of the way fees are calculated.

The enactment of Assembly Bill 602 required all new and updated fee programs to look at residential fees based on the size or square footage of the homes. That was a departure from previous, where it was just division of single-family, multifamily, mobile home, and senior-type homes, but now we have disaggregated into these various sizes. What it essentially aimed at doing was reducing the burden of fees and costs on affordable housing as well as smaller units. The 2023 program categorizes the housing into what we're considering small units, less than 1,500 square feet in size, medium-sized units that are 1,500 to 2,500 square feet in size, and large units that are greater than 2,500 square feet.

Senate Bill 13 exempted Accessory Dwelling Units (ADUs), so anything less than 750 square feet is exempt from building construction fees. Anything greater than 750 square feet is assessed at a proportional fee in comparison to what the primary house size is. The fee before AB 602 for single-family residential units was $4,621. Under the new Nexus Study, smaller units under 1,500 square feet are assessed a fee of $4,030. Medium-sized units are assessed a fee of $4,868, and larger units greater than 2,500 square feet are assessed a fee of $5,396.

It is interesting to note that approximately 65% of single-family homes constructed in the last five years are less than 2,500 square feet. So, that just provides a little perspective of historically, and maybe even going forward, where we'll see those permit fees coming from in those size categories. Multifamily residential homes saw the greatest decrease in fees being assessed, which was the intent of AB 602. So, previously a fee of $3,199 was assessed on all multifamily units. Traditionally, apartments could also be duplexes or triplexes. Currently, the fees assessed are $1,128 for the smallest, under 1,500 square feet, $1,363 for units in the medium-sized category, and $1,511 in the largest category. 100% of all multifamily permits in the last five years have been under 1,500 square feet, so they would be assessed that lowest fee.

Mobile home parks did see a larger increase in fees. This is primarily due to the trip generation rates that are used. So, every house, every business, every kind of unit is assumed to generate so many trips based on their size and types of use, based on the Institute for Traffic Engineering trip generation manual that is used across all jurisdictions in the consulting field to asset trips. We can see that the pre-AB 602 fee was higher. Now the fees for small units will be assessed to $2,775, medium category $3,352, and the largest $3,716. Senior housing also saw their fees decrease within the small, medium, and large categories.

Question:

When we talk about small units, for example in senior housing, are we talking about each apartment in a complex? Or are we talking about the overall size of the complex? I'm just not clear about that.

Aaron Hoyt:

Yeah, so when we're talking about the size, if it was a standalone senior home, it would be considered more of a single-family, but it would be within the senior category. So, if we think of Placer County, there are Del Webb communities that are a traditional single-family home that individuals can purchase, and those would be assessed based on those categories. If we're looking at more of an assisted living care, that would most likely be more of a multifamily-style housing, and so that would be... That's actually a good technical question: whether it'd be assessed on the multifamily fee versus the seniors. Because most of those would probably be less than 1,500 square feet. Based on the last five-year records of permits, there have been no senior family permits.

Question:

If we're talking about an apartment building that has small apartments, but overall has a lot of square footage, how does that fit into the chart?

Aaron Hoyt:

Per unit. So, if there's a 200-unit housing apartment complex, and maybe they have one bedrooms that are 750 square feet, up to two bedrooms that are 1,100 square feet, those would all fall under the 1,500 square foot category line within the small category.

Question:

In Nevada City we looked at this when AB 602 was first awarded. One of the concerns with the sub 750 square feet, was that it didn't take into consideration the number of vehicles within that dwelling. We have a 480 square foot guest cottage next to the bike shop, four vehicles from the people that are renting that, and so, there was something that I know some of the other communities out in SoCal, when they saw this, I think they were talking about trying to add a stipulation of two cars or less based on that, and not just a blanket exemption automatically when we have people that are actually putting more vehicles on the street in front of that dwelling when it's permitted, than a single-family home next door that's 1,500 square feet. Has anything materialized from that?

Mike Woodman:

I haven't heard those conversations, but I would think with Senate Bill 13 exempting the Accessory Dwelling Units under 750 foot, I'm not sure if it would require change in legislation, or if you are allowed to make some stipulations on top of that. I don't know if GHD may have an answer to that.

Question:

We actually sent photos in two years ago on this one house in question, because they have three vehicles to the primary house and then four all parked together, but the ADU in the backyard that they have, so it seemed like that was a legitimate request, and we are seeing other communities bring that up as a concern. When you come to a blanket exemption with no control…

Mike Woodman:

You would think that the Senate Bill could have had a parking limitation built into it, but that may be something that has to come as a future correction.

Todd Tregenza:

I think that the legislation is relatively clear as to the exemption under 750 square feet, notwithstanding any observed local parking and vehicle ownership. I don't think there's any way, at this point, to charge it based on vehicle ownership or parking.

Mike Woodman:

Okay, thank you. I think the concern there is, each city was afraid if they added a stipulation, it would maybe go into conflict with AB 602 and all of a sudden then you've got state municipal groups butting heads against each other. And usually, we lose when we're fighting that big of a battle.

Question:

I think maybe just to clarify, why are we going through all this again? Because this is going to create the public process all the way through, correct? The Board of Supervisors will have to do this also, correct?

Mike Woodman:

Aaron is just about to jump into that, there's two key things that he'll talk about. There was an error in one of the calculations in the formula, and then also an inflationary adjustment.

Aaron Hoyt:

So, to get to your question, why are we coming back to the Commission? Why are we going back to the Board of Supervisors? Why are we going back to the city councils of Grass Valley and Nevada City? Well, unfortunately, we found an error in one of the calculations that is driving us to bring this back to everyone for discussion and for approval again. AB 1600 that oversees and governs fee programs such as this, indicates that you cannot overcharge developers or individuals for permit fees. Well, currently, with the error in the calculation, we are indeed overcharging permits for that. So, we do need to go back and correct it, and we are working with each of the jurisdictions to correct anything that may have happened in terms of permits being pulled and reimbursements.

So, moving into the AB 602 realm, we had to estimate the number of trips by each size of the housing unit. We also then had to calculate what is each housing size's proportional share of the overall transportation cost, the project list, that is in the fee program. And so, that introduced an error in the calculation where there was a square foot ratio being taken twice as opposed to once. So, we were essentially double counting the calculation, overcharging single-family units, so charging them in excess of what their actual proportional share should be. We were then undercharging multifamily, mobile home, and senior housing permits.

We have talked with the local agency staff. This was brought up to us back in early February, we've talked to them since. We've talked through how do we fix this, what is the process to come back to the Commission Council and Board, and are there any fees that we need to look at? We've talked with Nevada County staff in Community Development, Trish Tillotson, and she's worked with finance staff to go back and look. Going back to the county, for example, the county approved the fee program in September of 2023. So, the fee program was adopted September 2023, and with no sooner than 60 days from that point in time, could that new fee be assessed. So, we were still working on the old fees at that point in time, so that puts us really in the November timeframe that these new fees would've been charged.

So, they were looking back at what permits have come in? Do we need to give any refunds for the single-family sector of homes? Now, on the multifamily, senior, and the mobile homes, if there are any fees that were paid for permits on those types of units, there is no reimbursement that would occur, because they were actually charged lower than the actual number should have been. And we are not going to go back to ask for those individuals who pulled permits to pay the higher amount. Within AB 1600, it does allow you to charge less than what the proportional share is, but it does not allow you to charge more than the proportional share.

So, staff is aware of this at the local agencies, they are looking at what type of reimbursements and to who need to be made. They are also working on getting these items ready for the Board of Supervisors and the respective councils in the coming months. The intent with these revisions is to have everything approved by July 1st, in order to go in effect this summer. So, that would allow 60 days from the adoptions of each of the various agencies to then begin assessing those new fees. We have given the corrected number to local agency staff. So, they will begin charging the lower fee, which is the proposed amount for a single-family residential, that way they'll be compliant with AB 1600. They will continue, though, to charge the old fee for the multifamily mobile home until it gets corrected. So, that way we'll be compliant, there will be no overcharging that will occur. Any reimbursements that are needed will be addressed.

Table One in your memo compares the pre-AB 602 fee, which is essentially what was in effect back in 2022. It shows what we recommended for adoption last July, and subsequently, local agencies adopted in the summer and fall of 2023. It also shows what the revised fee is for 2024, moving forward. And then the last column shows what the change in the revised fee from 2024 to 2023 is. You'll notice that with the new calculation there is a reduction, several hundred dollars for single family residential units. And within the multifamily, mobile home, and senior housing categories, you'll notice that there's roughly a 300 to $1,100 increase on various size units within those categories.

Mike Woodman:

And I would just add, if you look at the pre-AB 602 fees, the recommended correction with the 2024 revised fee, majority of those fees are all less than what they were in 2022.

Question:

How many permits are pulled, roughly?

Aaron Hoyt:

I unfortunately do not have that answer for you right now. We, NCTC, will typically get a status report from local agencies. It used to be quarterly, we're moving more to every six month receiving status on how many permits were pulled, what type of permits that include the APM number and then the corresponding fee amount.

Question:

Just an observation, but it seems an odd way to encourage construction of new family dwellings, especially for lower income people who tend to live in smaller dwellings and mobile homes, yet their fees are going up.

Question:

We have on our future agenda at the City of Grass Valley to change this fee to $1 and back fund the RTMF with general fund dollars. We have that discussion coming up. Because exactly what you just said, you hate to dis-incentivize new building, especially when we're going to collect property tax on a regular basis. So, over time, basic economics would tell us that there's more money for all of us, every single person in the room, the consumers, the governments, if we don't go about charging fees in this manner. But we're here now, can't change it immediately. So, we would concur.

Question:

In terms of the number of cars at a residence, up in Truckee, we find that many apartment units have multiple cars, three and four cars, and it's usually a case of the occupants all having different jobs at different times. And despite our effort to increase public transportation, that remains a big problem. And so, on trip generation, what that also partly gets into, this is usually the lower economic group of people crowded in apartments all having jobs to afford to live there. So, that's a real conundrum on how to address that.

Question:

I thought that we were now going by square footage rather than trips generated. But are trips generated completely ignored? I heard you talk about them with mobile home stuff. Is it a combination calculation?

Aaron Hoyt:

It is a combination calculation. They are not weighted as one being more than the other. So, Rosanna or Todd, please step in to fill, and I'm going from memory here. In the Nexus Study, we'll start with the single-family homes, it will break down the single-family homes into those three different categories. A single-family residential unit is assumed based on the Institute for Traffic Engineering trip generation manual to generate approximately 9.43 trips per unit. Now, that calculation is taken further into the small, medium, large categories and how many occupants might be in there, and it's a proportional calculation of that 9.43 trips per unit.

So, it would say that a smaller unit would potentially generate or be equivalent to less than that 9.43 trips per unit. A medium size would be slightly less or comparably equivalent. And then the large category would be greater than that typical trip generation for a single-family unit. So, that's kind of how we've taken what we've historically known as a set number of trips per unit, and try to disaggregate it into these multiple categories of sizes, assuming that certain size units may have less occupants, therefore could have less vehicles.

Question:

Well, and a lot of that's handled mostly by the property owners. You only get one parking or two parking places, period. I'd see where the problem is in more residential, unless you're in an HOA that says you can't do it. And my house, when everyone's home, there's six cars there. They're not all getting driven, but I'm just saying, there's no legislative or anything that tells you what kind of cars you can and can't have. It only tells you when you build what the average is. It kind of handles itself in the way that the units are built at some point.

Mike Woodman:

There's a methodology that was established with the Nexus study to try to lay out how that is done to the best of our abilities.

Question:

So, these fees are mandatory?

Mike Woodman:

They're not mandatory unless adopted and enacted by the local jurisdictions. NCTC administers the Regional Transportation Mitigation Fee program and then it is adopted and then goes into enactment for each of the jurisdictions, and at that point it does become mandatory upon pulling permit fees.

Question:

If the city of Grass Valley were to determine that apartment housing is so compellingly important, they just want to not charge those fees at all, are they at liberty to simply not charge that fee?

Question:

I think the law says that up to, like they just explained, yeah, you can charge, this is the maximum you can charge. The practicality of it is we have quite an extensive set of staff, projects, involvement set up that we are not interested in unwinding. So, practically it would be very complicated and not very fun to open that can of worms. I don't think you can propose changing the system, I think we could propose how we fund it. That's the argument that we're considering, albeit it's just an entry-level conversation in Grass Valley. But since we only pull four single-family home building permits per year in Grass Valley and then, say if you're going to build a million dollar home, you're going to collect roughly 1% sales tax per year, well hell, our general fund might consider just giving the $20,000 a year to the fund because we know that we'll be collecting property tax in perpetuity thereafter at a higher rate. It's just a conversation about economics, but it's not going anywhere yet.

Mike Woodman:

The issue becomes if you eliminate the fee for a certain category, there's a reasonable expectation that those projects and the project lists can be funded by the others paying the fee and you're not allowed to shift the burden. If you eliminate the fee on a certain category, you're not allowed to shift that burden for the other categories to cover. So if we charge a dollar, we would backfill the rest with the general fund or some other source.

Question:

The thing that does bother me though is the mobile homes. I don't understand the calculations there that says a mobile home is different. I tend to think of, and I might be totally wrong, but I tend to think of mobile homes as a lower income type opportunity, and so I hate to see them getting charged more. I don't know if there's anything that could be done on that level. If we said hey, we don't want them to be charged any more and we've already said they're going to be charged.

Todd Tregenza:

I can weigh in a little bit if it's helpful. What we've also done is we've updated the ITE rates, the Institute of Transportation Engineers rates, and these are national surveys of trip generation by unit type. Not unit size, that's a separate calculation. That's what added the complexity here. But even without the size difference, the AB 602 portion of this, just the raw trip generation observed for mobile home is nationally seen as rapidly approaching a single-family unit, and a single family trip generation is going down slightly, whereas multifamily mobile homes are going up. So that's why you're seeing that increase, regardless of the redistribution by size.

Aaron Hoyt:

I mentioned there's two components to this revision today that we're asking you to consider. The first was correcting the calculational error. The second is the annual inflationary adjustment. We typically bring an annual inflationary adjustment as a separate item. Given the timing of these revisions and talking with the Regional Transportation Mitigation Fee program's technical advisory committee, we thought it might be best to bring these together at the same point in time.

The inflationary adjustment allows for the annual adjustment to try to keep pace with construction costs indexes. We know that inflation and other costs continue to go up and adjusting these on annual basis helps to ensure that when a project goes to be constructed, we'll have collected commensurate amount of fees to deliver that project. Otherwise, we would continuously be undercharging and the program would be underfunded.

Looking back at the Engineering News Record that tracks Construction Cost Index across the nation, we identified that the Construction Cost Index increased 3.59%. What the RTMF Technical Advisory Committee is recommending is that we also add to these revisions for the 2024 fees an inflationary adjustment of 3.59%.

Table three in your memo shows the previously adopted 2023 fees, the revised 2024 fees, the inflation rate, and the final proposed 2024 fee for all residential unit types. Table four in your memo shows the increase with the inflationary rate for the non-residential uses. For example, an office complex previously in 2022 was assessed a fee of $1,033 per thousand square feet. The proposed 2024 fee for the revision would assess $755 and with the inflationary rate of 3.59% would now be assessed a fee going forward of $782 per thousand square feet. You'll notice that in some of these, it will continue to be less than what we previously had adopted in 2022. The main reason the fee went down for commercial was just in doing the travel demand model, the trip distribution amongst residential versus commercial, we were seeing more trips generated on the residential side than the commercial. So, the burden of the fees shifted a little more to residential.

Finally, next steps. Today we're asking you to consider the revisions to the 2023 Nexus study, and then we would coordinate with the jurisdictions to update the revised fee schedules. We'd work with local staff to ensure that there's adequate public noticing. The fees would then go into effect no sooner than 60 days after the adoption by each individual agency. NCTC's Executive Director would execute administration agreements with each of the agencies that specify the collection of the fees, the transfer of fees, and any reporting requirements for those.

Mike Woodman:

And I would just quickly add, when we looked at the need to correct the fee based on the error in the formula, and then we were also doing this process to look at the annual inflation adjustment, and any time you increase the fee, you have to notice it, adopt the fees, and go through the whole process. Rather than go through two different processes, we said this is a perfect opportunity. Let's correct the calculation error and do the inflationary adjustment at the same time.

Aaron Hoyt:

Today we're asking the Commission to accept Resolution 24-11 to incorporate the 2024 revisions into the 2023 Nexus study update final report. The resolution identifies the required findings by state law for the adoption of a fee program. It identifies the purpose of the fee to fund regional transportation improvements.

The Nexus study contains a list of projects that would be funded by the said fee and includes documentation on the development of the fee methodology and showing that the fees are reasonable. It also incorporates the AB 602 requirements to develop fees based on size categories of residential units. With that, I'd be glad to answer any questions that you may have.

Resolution 24-11 was passed unanimously by the commission.