CITY OF HUNTINGTON BEACH
PUBLIC WORKS COMMISSION
REQUEST FOR ACTION

Item No. 08-06

SUBMITTED TO: Chairman Siersema and Members of the Commission

SUBMITTED BY: Travis K. Hopkins, PE, Director of Public Works

DATE: February 20, 2008

SUBJECT: Fair Share Traffic Impact Fee Program Annual Report for Fiscal Year 2006/07

Statement of Issue: In accordance with Section 17.65.130 of the Huntington Beach Municipal Code (HBMC), the Public Works Department is required to prepare an annual report of the status of the Fair Share Traffic Impact Fee Program for the City Council. The process also provides an opportunity for the Public Works Commission to review revenues and expenditures under the program.

Funding Source: No funding is required for the recommended action.

Recommended Action: Recommend approval of the 2006/07 Traffic Impact Fee Annual Report to the City Council.

Alternative Action(s): Recommend revisions to the report elements.

Analysis:

The Fair Share Traffic Impact Fee program is intended to implement the goals and objectives of the General Plan by providing revenue to ensure that the adopted Level of Service standards for arterial roadways and signalized intersection are maintained when new development is constructed within the City limits. The following sections comprise the annual report.

Fiscal Status

This report presents the fund information based on the City's final audit for Fiscal Year 2006/07. During FY 2006/07, $460,000 in Traffic Impact Fees was received and $1,645,000 expended. The program also received interest income and other adjustments for a closing balance of $6,717,000. Attachment 1 presents a more detailed accounting of the program balance over the past 6 years.

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2006/07 Funded Efforts

As detailed in the Fiscal Status section, $1,645,000 in expenditures was funded by the Traffic Impact Fee program in 2006/07. The expenditures reflect actual payments/expenses rather than commitments for expenditures (executed contracts/awards, or budgeted capital projects). The following expenses were incurred during FY 2006/07:

- Garfield Widening project near Delaware ($315,000)
- Heil Widening Project west of Beach Boulevard ($740,000)
- Traffic Signal Improvements ($230,000)
- Consultant Fees - Circulation Element Update and Signal Designs ($65,000)
- Newland Widening ($27,000)
- Ellis Widening east of Beach Boulevard ($108,000)
- Personnel and Payroll ($100,000)

Planned Capital Projects, Studies and Expenditures

The Public Works Department has prepared a 5-year Capital Improvement Program which includes projects funded by the Traffic Impact Fee Program. Some of these efforts have been initiated in prior years and funds have not been fully expended prior to October 2007. There have also been construction contracts awarded since the beginning of the current fiscal year that obligated a substantial amount of Traffic Impact Fee funds. In total, these projects are expected to expend approximately $7 million in Traffic Impact Fee funds. The following is a list of current capital improvement program projects funded all, or in part by the Traffic Impact Fee fund:

- Newland Street Widening – Channel to PCH ($4.3 million TIF)
- Heil Widening west of Beach – ($1.7 million TIF)
- Main/Utica/17th Street Signal Reconstruction – ($385,000 TIF)
- Atlanta Widening – Huntington to Delaware – ($688,000 TIF)

Planned Capital Project Reimbursements

Three projects which have been shown as expenditures (previous and planned) under the Traffic Impact Fee program have partial funding of grant projects administered through the Orange County Transportation Authority (OCTA) or Caltrans. The actual costs against the Traffic Impact Fee program are not accurately reflected until full reimbursement for these grants has been received. They are then shown as additional revenues to the program. Grant fund portions of two projects have been expended prior to October 2007 and are expected to be reimbursed during FY 2007/08. They are:

- Garfield Widening near Delaware – ($590,000)
- Heil Widening west of Beach Boulevard – ($780,000)

Additional reimbursements to the Traffic Impact Fee are expected from two current projects. First, the Garfield widening project included acquisition of two entire parcels. The revenues gained from the subsequent sale of these parcels will be returned to the Traffic Impact Fee fund. Potential revenues are estimated at $500,000 for the two parcels.

The Newland Widening project, north of Pacific Coast Highway, is a Redevelopment Agency project as part of the Southeast Redevelopment Area. The funding of this project through the Traffic Impact Fee fund results in the redevelopment area incurring debt to the fund. Over time, the debt is to be paid back to the Traffic Impact Fee fund. However, a repayment schedule has not been established at this time, pending analysis of future revenue potential within the redevelopment area.

Projected Program Balance

Assuming that full expenditures and reimbursements will be completed within the 2007/08 fiscal year, the Traffic Impact Fee fund is expected to have a balance reduced to approximately $2 million. This includes an assumption of less than $500,000 in new fee payments and no reimbursements from the Southeast Area Redevelopment Area for the Newland Widening project.

Conformance with Program Goals and Objectives

The Traffic Impact Fee Program is intended to implement the goals, objectives and policies of the City of Huntington Beach General Plan, as stated in the Municipal Code Chapter 17.65 (Attachment 2). Completion of the planned projects implements system improvements identified in the Circulation Element of the General Plan and is in conformance with the goals and objectives of the Fair Share Traffic Impact Fee program.

Attachments:

1. Traffic Impact Fee Program Fiscal Activity Summary
2. Municipal Code Chapter 17.65

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ATTACHMENT #1

ATTACHMENT 1
Traffic Impact Fee Program Fiscal Activity Summary
10/1/01 to 9/30/07

Activity	10/1/2001 to 9/30/2002	10/1/2002 to 9/30/2003	10/1/2003 to 9/30/2004	10/1/2004 to 9/30/2005	10/1/2005 to 9/30/2006	10/1/2006 to 9/30/2007
Fund Balance Beginning of Year	**5,941,000**	**6,898,000**	**7,448,000**	**7,612,000**	**8,985,000**	**7,480,000**
Revenues						
Interest and Other	224,000	201,000	149,000	201,000	887,000	422,000
Fees	1,142,000	739,000	889,000	1,706,000	428,000	460,000
Transfers from General Fund (matching funds required in previous program)						
Total Revenues	**$ 1,366,000**	**$ 940,000**	**$ 1,039,000**	**$ 1,907,000**	**$ 1,315,000**	**$ 882,000**
Expenses	**409,000**	**390,000**	**875,000**	**534,000**	**2,820,000**	**1,645,000**
Difference	957,000	550,000	164,000	1,373,000	(1,505,000)	(763,000)
Fund Balance End of Year	**$ 6,898,000**	**$ 7,448,000**	**$ 7,612,000**	**$ 8,985,000**	**$ 7,480,000**	**$ 6,717,000**

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ATTACHMENT #2

Chapter 17.65

FAIR SHARE TRAFFIC IMPACT FEE

(3048-9/90, 3477-11/00, 3617-10/03)

Sections:

17.65.010 Short Title
17.65.020 Intent and Purposes
17.65.030 Definitions
17.65.040 Applicability of Chapter
17.65.050 Establishment of a Fair Share Traffic Impact Mitigation Fee
17.65.060 Exemption
17.65.070 Calculation and Payment of the Traffic Impact Fee
17.65.080 Fee Adjustments
17.65.090 Fee Refunds
17.65.100 Fee Credits for Construction of Citywide Surface Transportation Improvements
17.65.110 Establishment of Reserve Account for Fees
17.65.120 Eligible Expenditures From Fee Reserve Account
17.65.130 Annual Program Review and Periodic Adjustment of the Fee
17.65.140 Preparation of Implementation Guidelines

17.65.010 Short Title

This Chapter of the Municipal Code may be cited as the "Fair Share Traffic Impact Fee Ordinance."

17.65.020 Intent and Purposes

This Chapter is intended to implement the goals, objectives and policies of the City of Huntington Beach General Plan, by ensuring that the City's adopted Level of Service standards for arterial roadways and signalized intersections are maintained when new development is constructed within the City limits. By imposing a fee that is reasonably related to the burdens created by new development on the City's surface transportation system, together with funding available from other City revenue sources, the City will be able to construct the required capital improvements, accommodate projected growth and fulfill the goals, objectives and policies of the City's General Plan.

It is the intent of the City Council that the fee required by this Chapter shall be supplementary to any conditions imposed upon a development project pursuant to other provisions of the Municipal Code, the Subdivision Map Act, the California Environmental Quality Act, other state and local laws, ordinances or Charter provisions which may authorize the imposition of conditions on development.

17.65.030 Definitions

For the purpose of this Chapter, the following terms shall be defined as follows:

(a) "Applicant" shall mean any person or legal entity that applies for a permit or other entitlement for a new development project.

(b) "City" shall mean the City of Huntington Beach.

(c) "Commercial or Industrial Development Project" shall mean the construction of new Floor Area on a lot in any of the Non-Residential Zoning Districts of the City.

(d) "Development Project" means any residential, commercial or industrial Development Project.

(e) "Fair Share Traffic Impact Mitigation Fee" or "Fee" shall mean the fee imposed on new development projects pursuant to this Chapter.

(f) "Floor Area" shall mean the area of all floors and levels as defined in the Huntington Beach Building Code.

(g) "Government or Public Facilities" shall mean publicly owned buildings and structures used for the purposes of conducting City, County, State or Federal Government business. Such facilities shall include, but not be limited to, city halls, police and fire stations, offices, equipment yards, sanitation facilities, schools, recreation centers, and similar facilities. Private commercial Development Projects leasing publicly owned land shall not be considered Government or Public Facilities.

(h) "Land Use Category" shall mean any of the specific land uses that have been listed in the fair share implementation resolution authorized pursuant to Section 17.65.050, and used to provide the basis for future traffic projections.

(i) "New Development Project" shall mean any construction, addition, alteration or other change of use of a building or land that requires the City to issue a grading, building, plumbing, mechanical, or electrical permit, or any other form of entitlement.

(j) "Public Works Director" shall mean the Director of Public Works or the Director's designee.

(k) "Residential Development Project" shall mean the construction of a dwelling unit on a lot in any of the residential zoning districts of the City. For purposes of this Chapter, the addition of Floor Area shall be considered construction of a Residential Development Project if the additional Floor Area exceeds fifty (50) percent of the existing Floor Area, as determined by the Building and Safety Director.

(l) "Site-Related Right-of-Way or Improvement Construction" shall mean right-of-way or traffic improvements that must be constructed on the site of a new development project in order to comply with applicable City development regulations and standards.

(m) "Surface Transportation System" shall mean the City's system of streets, roads and intersections traversed by automobiles and other vehicles.

(n) "Fee Calculation Report" shall mean the report entitled "City of Huntington Beach Fair Share Traffic Mitigation Impact Fee Calculation Method and Justification" prepared by Hamilton, Rabinovitz & Alschuler, dated September 19, 2000.

(o) "Transportation System Needs Analysis" shall mean the report prepared for the City entitled *City of Huntington Beach Transportation System Needs Analysis 2000-2010*, prepared by JR Consulting Engineers, dated September 12, 2000.

(p) "Vehicle Trips" shall mean the number of average, daily trips generated by uses of land, as specified in the Santa Ana River Area ("SARA") traffic model, and at the discretion of the Public Works Director when the SARA traffic model does not provide vehicle trips, the most recent edition of Institute of Transportation Engineers, *Trip Generation*.

17.65.040 Applicability of Chapter

(a) **New Development Projects Deemed Complete After December 1, 2000**. The obligations established by this Chapter shall apply to all new development projects for which a development application was deemed complete on or after December 1, 2000. No building permit or any other entitlement for use shall be issued for a new development project unless such project complies with the requirements of this Chapter.

(b) **New Development Projects Deemed Complete Prior to December 1, 2000**. New development projects for which the last discretionary development application was deemed complete, or for which a building permit was issued, prior to December 1, 2000 shall be subject to the provisions of Municipal Code Chapter 17.65 or the Interim Traffic Impact Fee Ordinance as either existed on the date the application was deemed approved, or the building permit was issued, as applicable.

17.65.050 Establishment of a Fair Share Traffic Impact Mitigation Fee

A Fair Share Traffic Impact Mitigation Fee is hereby established. Any person who, after the effective date of this Chapter, seeks to develop land, or modify the use of land within the City, by applying for a building permit or other entitlement for use, or an extension of a building permit or other entitlement for use previously granted, for a development project that will generate net additional vehicle trips on City streets, is hereby required to pay a Fair Share Traffic Impact Mitigation Fee in the manner and amount specified herein.

The City Council shall, by resolution, set the specific amount of the fee, a formula for adjusting the fee to account for annual inflation in transportation improvement construction costs, describe the benefit and impact area on which the development impact fee is imposed, list the specific public improvements to be constructed, describe the estimated cost of these facilities, and describe the reasonable relationship that exists between the fee, the various types of new development permitted in the City and the cost of improvements necessitated by new development. The specific amount of the fee shall be based upon the category for the development, multiplied by the vehicle trip for Land Use Category multiplied by the size of the use.

This fee shall be adjusted on December 1, 2001, and annually thereafter by an amount equal to the change in the construction cost index for the preceding year, as determined by the Engineering News Record, published by the McGraw Hill.

17.65.060 Exemptions

(a) **Exemption Categories**. The following development projects shall be exempt from the requirements of this Chapter:

(1) Government and public facilities.

(2) Alteration or expansion of an existing building in which no additional dwelling units are created, the use is not changed, and where no additional vehicle trips will be produced over and above those produced by the existing building.

(3) The construction of accessory buildings, structures or uses which will not produce additional vehicular trips over and above those produced by the principal building or use of the land.

(4) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use, provided that no additional vehicle trips will be produced over and above those produced by the original use of the land.

(b) **Claim for Exemption Required**. Any claim of exemption must be filed in the same manner and will be considered pursuant to the same procedure as for a fee adjustment as provided in Section 17.65080(c).

17.65.070 Calculation and Payment of the Traffic Impact Fee

(a) **Fee Calculation**. The Public Works Director shall be responsible for calculating the Fair Share Traffic Impact Mitigation Fee required by this Chapter, in accordance with the Fair Share Traffic Impact Mitigation Fee Schedule adopted by resolution of the City Council. The applicable amount of the fee shall be estimated at least 60 days prior to the first public hearing for any discretionary planning approvals required by City Zoning and Subdivision Ordinance. The estimated fee shall identify the use category, the vehicle trips for the use and the total estimated for fee based upon the proposed size of the developments. The fee estimated shall be recalculated as needed at the time a building permit is issued, based on the vehicle trip generation characteristics of the final development plan for which the building permit is issued.

(b) **Payment Procedure for Commercial or Industrial Development Projects**. Fees required by this Chapter from a New Commercial or Industrial Development Project shall be paid at the time that the City issues a building permit for the Project.

(c) **Payment Procedure for Residential Development Projects**. The fee required by this Chapter from a New Residential Development Project shall be paid before final inspection of the dwelling unit on which the fee was imposed. However, the Planning Director may adopt procedures to advance the time the fee is due on Residential Development Projects consistent with *Government Code* Section 66007, as amended.

(d) **Fee Payments for Phased Development Projects**. If a Development Project will be constructed in phases, and separate building permits and certificates of occupancy will be issued for each phase, fees imposed pursuant to this Chapter shall be calculated on the basis of the vehicle trip characteristics of the entire Development Project. Payment of the fees may be made separately for each phase, provided the amount paid for each phase shall be equal to the percentage that the vehicle trips for that phase represent of the total development project's vehicle trips. The fee per vehicle trip shall be the fee in effect at the time payment is due.

(e) **Deposit of Fees**. All Traffic Impact Fees collected shall be transferred for deposit into a separate reserve account, as specified in this Chapter, and used solely for the purposes specified in this Chapter.

17.65.080 Fee Adjustments

(a) An applicant for a New Development Project subject to a fee required by this Chapter may apply to the City for a reduction, adjustment or waiver of the fee.

(b) **Circumstances That May Justify a Fee Adjustment**. Examples of circumstances that may justify a fee adjustment include, but are not necessarily limited to the following:

(1) The Development Project includes an existing building that is proposed to be demolished, provided the building proposed to be demolished was capable of being used at the time of the Development Project application, and sufficient information about its prior use is available to determine its trip generation characteristics. Any such adjustment is limited to the amount of the fee that would otherwise be due for the New Development Project.

(2) The physical or operating characteristics (e.g., hours of operation) of the New Development Project produce trip generation characteristics that are substantially different from the land use on which the fee calculation is based.

(3) The New Development Project includes multiple land uses whose trip generation characteristics are complementary, such that the Development Project's total trip generation is anticipated to be less than the sum of the vehicle trips associated with its individual land uses.

(c) An application for a fee adjustment shall be made and decided as follows:

(1) **Application**. A separate application shall be filed for each adjustment request made pursuant to this Section. Such application shall be made on a form provided by the Public Works Director and shall be filed with the Public Works Director not later than:

(A) thirty (30) days prior to the first public hearing on an applicable discretionary permit application for the Development Project, pursuant to the City Zoning and Subdivision Ordinance; or

(B) if no such discretionary permit is required, at the time of application for a building permit for the Development Project. Each application shall state in detail the factual basis for the requested fee reduction, adjustment or waiver. The Public Works Director shall determine if the application is complete, and if not, may cause the public hearing to be continued until the application is determined to be complete.

(2) **Hearing**. The Planning Commission or the Zoning Administrator shall consider the fee adjustment application at the same public hearing as the application for a discretionary development permit for the Development Project, or, if no such permit is required, the Public Works Commission shall consider the application at a separate hearing within (sixty) 60 days after the fee adjustment application is deemed complete by the Public Works Director.

(3) **Appeal**. Any person may appeal the decision of the Planning Commission, Zoning Administrator or Public Works Commission to the City Council, by filing a written appeal with the City Clerk within ten (10) days of the Planning Commission's decision.

17.65.090 Fee Refunds

Upon application, fees collected by the City pursuant to this Chapter shall be refunded only under the following circumstances:

(a) **Erroneous or Illegal Collection**. Fees will be refunded if the applicant demonstrates to the satisfaction of the Public Works Director that they were erroneously or illegally collected, or if the City is compelled to do so pursuant to a final judgment by a court of competent jurisdiction. An application for a refund pursuant to this Section shall be filed within ninety (90) days after the payment of the fees pursuant to Section 17.65.070.

(b) **City Failure to Commit Funds**. Pursuant to Government Code Section 66001(e), fees will be refunded if the City fails to commit them to a surface transportation improvement project of the nature or type identified in the Transportation System Needs Analysis within five years from the date that the fees were collected from the applicant. For purposes of this subsection, fees are deemed to have been "committed" if they have been budgeted or otherwise encumbered by the City for an eligible improvement, studies, design drawings or any necessary applications for approval by other governmental agencies have been initiated, construction bidding has been initiated, or improvements are under construction. Eligible refunds, plus interest at the City's average annual cost of funds, will be made only upon an application filed within 180 days of the expiration of the fifth anniversary of the fee payment.

17.65.100 Fee Credits for Construction of Citywide Surface Transportation Improvements

(a) An applicant for a New Development project shall be entitled to a credit against the amount of the Fair Share Traffic Impact Mitigation Fee otherwise required by this Chapter, if the applicant agrees to dedicate right-of-way needed for, or construct a traffic improvement listed in, the Transportation System Needs Analysis. No credit shall be given for site-related improvements or site-related right-of-way dedications.

(b) **Application**. A separate application shall be filed for each adjustment request made pursuant to this Section. Such application shall be filed with the Public Works Director on a form provided by the Director, not later than:

(1) Thirty (30) days prior to the first public hearing on an applicable discretionary permit application for the development project, pursuant to the City Zoning and Subdivision Ordinance; or

(2) If no such discretionary permit is required, at the time of application for a building permit for the development project. Each application shall provide the documentation and assurances specified below.

Any credit application shall be considered pursuant to Section 17.65.070 in the same manner as the fee calculation adjustment.

(c) **Credit for the Dedication of Non-Site-Related Right-of-Way**. Credit for the dedication of non-site-related right-of-way for streets or street segments listed in the Transportation System Needs Analysis shall be valued at 115 percent of the most recent assessed value as determined by the Orange County Assessor, or at the fair market value established by a private appraiser acceptable to the City. In no event shall the credit exceed the right-of-way costs for the street segment specified in the Transportation System Needs Analysis, or other applicable basis for the fee, nor shall the credit exceed the amount of the Fair Share Traffic Impact Mitigation Fee that would otherwise apply. Credit for the dedication shall be provided when the property has been conveyed at no cost to, and accepted by, the City in a manner specified by the City.

(d) **Credit for Construction of Non-Site-Related Improvements**. Applications for credit for construction of non-site-related improvements shall submit acceptable engineering drawings, specifications and construction cost estimates to the Public Works Director. The Director shall recommend to the Planning Commission the amount of the credit for improvement construction based on either these cost estimates or alternative estimates if the Director determines reasonably that the estimates submitted by the applicant are either unreliable or inaccurate. In no event shall the amount of the credit exceed the improvement cost specified in the Transportation System Needs Analysis, or other applicable basis for the fee, nor shall the credit exceed the amount of the Fair Share Traffic Impact Mitigation Fee that would otherwise apply.

No final inspection or certificate of occupancy for the Development Project may be issued until: (1) the construction is completed and accepted by the City; (2) a suitable

maintenance and warranty bond is received and accepted by the City; and (3) all design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with City paving, drainage and other applicable requirements.

17.65.110 Establishment of Reserve Account for Fees

Pursuant to *Government Code* Section 66006, fees paid to the City pursuant to this Chapter shall be deposited into a separate Reserve Account in the City's General Fund and used solely for the purposes of providing surface transportation improvements. All monies deposited into the Reserve Account established by this Chapter shall be held separate and apart from other City funds. All interest or other earnings on the unexpended balance in the Reserve Account shall be credited to the Reserve Account.

17.65.120 Eligible Expenditures From Fee Reserve Account

All monies and interest earnings in the Reserve Account established by this Chapter shall be expended on the construction of surface transportation projects of the nature or type identified in the Transportation System Needs Analysis, or such other report as may be prepared from time to time to document the reasonable fair share of the costs to mitigate the traffic impacts of new development. Such expenditures may include, but are not necessarily limited to the following:

(a) Reimbursement for all direct and indirect costs incurred by the City to construct surface transportation improvements pursuant to this Chapter, including the cost of land and right-of-way acquisition, planning, legal advice, engineering, design, construction and equipment.

(b) Reimburse the City for the construction of surface transportation projects of the nature or type identified in the Transportation System Needs Analysis, or such other report as may be prepared from time to time to document the reasonable fair share of the costs to mitigate the traffic impacts of new development constructed by the City with local funds from other sources.

(c) Costs of issuance or debt service associated with bonds, notes or other security instruments issued to fund surface transportation improvements identified in the Transportation System Needs Analysis.

(d) Reimbursement for administrative costs incurred by the City in establishing or maintaining the Reserve Account required by this Chapter, including the cost of studies to establish the requisite nexus between the fee amount and the use of fee proceeds. City administrative costs shall not exceed ten (10) percent of the Reserve Account balance in any fiscal year.

(e) No Reserve Account funds shall be used to pay for capital improvements that are associated with existing arterial street segment or signalized intersection Level of Service deficiencies, nor shall Reserve Account funds be used for periodic surface transportation system maintenance.

17.65.130 Annual Program Review and Periodic Adjustment of the Fee

Within 180 days after the last day of each fiscal year, the City Council shall review the status of compliance with this Chapter, including the amount of fees collected, expenditures from the Reserve Account, and the degree to which the fees collected pursuant to this Chapter are assisting the City to mitigate the surface transportation impacts of new development. At least every five (5) years after the effective date of the Ordinance enacting this Chapter, the Public Works Director shall prepare, and the City Council shall consider, the fee formula established to implement this Chapter, whether any adjustment in the fee formula or use of fee proceeds is warranted, or any other changes are needed to the procedures established by this Chapter, to fulfill the goals, objectives or policies of the City's General Plan. Each year between periodic reviews of the fee formula, the fee shall be increased by a factor to account for inflation in surface transportation construction costs, as provided in the City Council resolution setting the fee amount. (3617-10/03)

17.65.140 Preparation of Implementation Guidelines

Within sixty (60) days after the effective date of the Ordinance enacting this Chapter, the Director of Public Works shall prepare administrative guidelines to implement the provisions of this Chapter. The guidelines shall include administrative procedures, example fee calculations, application forms and such other information that will assist City staff, decision makers, developers ands the public to understand how the provisions of this Chapter are to be implemented."