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ROAD MAINTENANCE FINANCING OPTIONS:
COUNTY SERVICE AREAS
PERMANENT ROAD DIVISIONS
ROAD MAINTENANCE DISTRICTS

Response to County Engineers' Association of California
Land Use Committee survey

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Executive Summary

There exist three financial mechanisms which are used in some California counties to provide additional financing for road maintenance, under various provisions of state law: (1) County Service Areas (CSA's), (2) Permanent Road Divisions (PRD's), and Road Maintenance Districts (RMD's). All three are subject to the requirements of the California Constitution (from Proposition 218) for establishment of the financing mechanism. This report provides a summary of each mechanism, and of several counties' experiences with them. Attachments to the report include applicable excerpts from state law for each mechanism, as well as a table summarizing each county's position on key policy questions to be considered in implementing such a program.

This report was originally prepared in 2007, based on a survey conducted by the author while employed with San Luis Obispo County. Based on the information from the report, San Luis Obispo County subsequently revised its policy on this subject. That revision has been incorporated into this 2009 Update of the report.

ROAD MAINTENANCE FINANCING OPTIONS:
COUNTY SERVICE AREAS
PERMANENT ROAD DIVISIONS
ROAD MAINTENANCE DISTRICTS

Introduction

County governments throughout California continue to struggle with meeting the financial needs of maintaining the infrastructure for which they are responsible. Adding to this challenge is the increasing burden which is created by new developments' construction of additional infrastructure (roads, drainage facilities and more) without adding substantively to the financial resources for the ongoing maintenance needs. There exist three financial mechanisms which are used in some California counties to address this challenge: County Service Areas, Permanent Road Divisions and Road Maintenance Districts. An informal survey was conducted by the Land Use Committee of the County Engineers Association of California (CEAC), to learn more about these mechanisms and prepare a summary to disseminate to all interested counties. The results of this survey are discussed in this report, describing each mechanism's use for financing road maintenance needs.

County Service Areas

Government Code Section 25210 *et seq.* (the "County Service Area Law") establishes the ability for County governments to create special districts known as "County Service Areas," or CSA's. A CSA is a geographic area formed to provide a wide range of possible extended public services, including roadway, drainage and lighting maintenance. Typically, counties form a countywide CSA for a particular service (road maintenance, for example), then form individual "Zones of Benefit" (ZOB) for each particular geographic area to be extended this service. The process for establishing the ZOB is set forth in the Government Code sections referenced above, generally involving a Resolution of Intent to form the zone, followed by a public hearing to consider another Resolution which will finalize the formation. The code prescribes specific noticing requirements and time requirements between the Resolution of Intent and the final action. Relevant excerpts from the CSA Law are included in Attachment 1 to this report.

The process of forming the ZOB is accompanied by a process to establish a financing mechanism, which is subject to the requirements of the California Constitution originally adopted by Proposition 218, passed by the voters in 1996. Through this process, a county can establish either a "special tax," which would require a 2/3 majority of registered voters in the proposed zone, or a "benefit assessment," which requires a simple majority approval by property owners, whose vote is weighted in proportion to the proposed assessment amount. In either case, the charge is placed on the annual property tax bill for all property in the zone. Counties typically include a provision for inflation adjustment in the ballot process for approval of the special tax or benefit assessment.

Placer County notes that the approval process for forming a CSA with new subdivisions can be shortened by having the developer (land owner) waive their protest rights so the ZOB can be formed in one meeting of the Board of Supervisors. They generally take the ZOB item and the approval of the Final Map to the Board as two parts of a single agenda item.

With a CSA, the roads being maintained are considered part of the County-maintained road system. As a result, if necessary a County can expend funding from its general road fund, and would not be limited to only what is in the account for the CSA or ZOB.

Permanent Road Divisions

Streets and Highways Code Section 1160 *et seq.* (the “Permanent Road Division Law”) establishes the ability for County governments to create special districts known as “Permanent Road Divisions,” or PRD’s. A PRD is a geographic area formed to provide road improvements and/or maintenance. In the counties which use this mechanism, PRD’s are sometimes used to provide maintenance service for existing roads which are not already in the County-maintained road system, which are not improved to full standards. Some counties form a countywide PRD, and then create individual ZOB’s for each geographic area; others form an individual PRD for each geographic area. The process for establishing the Division and/or Zone is set forth in the Streets & Highways Code sections referenced above, and is generally very similar to the process described for CSA’s above. The text of the PRD Law is included in Attachment 2 to this report.

One advantage of the PRD is the flexible nature of the level of maintenance and improvement. Placer County notes that they generally negotiate with the owners of the parcels as to the cost of the PRD on a per parcel/per year amount, and the maintenance work that can be accomplished with that level of funding. This differs from how they handle CSA’s, where they dictate to a developer what costs for maintenance are to be included for the subdivision.

Similarly, the formation of a PRD and/or zone is accompanied by establishment of a financing mechanism, which is the same as described earlier, although shortening the process by having the developer waive their protest rights, as described above for CSA’s, is not available with a PRD. The financing approval would include a provision for inflation adjustment, as noted above.

For roads maintained through a PRD, a County can only spend money that is in the account for the PRD or ZOB. This is why some counties work with advisory committees, so that the neighborhood being served has a clear understanding of what can be accomplished with the amount of funding that is available.

Road Maintenance Districts

One county responding to the survey, Santa Clara County, utilizes a road maintenance financing mechanism known as “Road Maintenance Districts,” or

RMD's, which is defined by Section 1550 *et seq.* of the Streets and Highways Code. The text of this law is included in Attachment 3 to this report. The law says that a county may form RMD's when additional road funds are necessary to properly maintain roads in "subdivided areas of the county wholly outside of incorporated cities." It establishes a process for forming districts at public hearings, with particular noticing requirements. Financing is then provided by the board of supervisors establishing a "property tax" for the purposes of the district. The law includes a provision that in no case shall the sum of this tax and all other property taxes exceed \$0.40 per \$100 of "assessable property" in the district. There is also a provision that a county may establish a countywide "special road fund tax" not to exceed 2 mills on each \$1.00 of assessed valuation, for the construction and maintenance of roads throughout the road districts, in proportion to the amount collected from each district. However, Santa Clara County Counsel has opined that these limitations do not apply to the voters' right to voluntarily impose taxes upon themselves. The establishment of either the district tax or the countywide tax would be subject to the "special tax" requirements of the California Constitution discussed above, including a 2/3 approval by registered voters in the proposed district. Therefore, with the required 2/3 approval, voters could approve an amount higher than the limitations in the referenced statute.

Counties' Experiences

During preparation of this report, an informal survey looked into the experiences of several Counties in California which have established road maintenance financing under these types of enabling legislation. Following is a brief summary of their experiences:

Butte County. Butte County has very recently created a countywide PRD for road maintenance, which can also include maintenance of drainage, landscaping, lighting, pedestrian and bicycle facilities incidental to highways, but has not established any ZOB yet. They have used CSA's for drainage, fire protection, street lighting and other services.

El Dorado County. El Dorado County uses ZOB within CSA's as a method of financing road and drainage facility improvement and maintenance. They have one CSA for a specific geographic area known as the Four Corners, and another which encompasses the western slope unincorporated areas of the county. The former has two ZOB and has seen relatively little change since its initial formation over 40 years ago. The latter accounts for the bulk of activity: there are a total of 100 ZOB – 32 for road maintenance, 48 for drainage maintenance, 2 for snow removal, 13 for road and drainage maintenance, one for drainage and wetland maintenance, one for erosion control and three for lighting. Two additional road and drainage maintenance zones are currently in the formation process.

Fresno County. Fresno County uses two types of CSA, one for roads and one for other services. For road maintenance, the CSA boundary includes the entire

County. When the need for services arises, through development activity or in response to residents' petition, a ZOB is formed. Road maintenance services can also include snow removal, bridges and culverts. For other types of service, individual CSA's are formed with services approved through the LAFCo process, including water, sewer, open space maintenance, landscaping, lighting, police protection, parks, etc. They have formed well over 100 CSA's and only experienced three dissolutions over the years.

Humboldt County. Humboldt County is using PRD's to finance road maintenance in new subdivisions. A countywide PRD was established in 2003, within which individual ZOB are created for each subdivision that wishes to have publicly-maintained roads. Four ZOB have been established so far, and one other is in progress.

Kings County. Kings County has been using CSA's for some time now. They have a countywide CSA for miscellaneous water, sewer and road maintenance services. ZOB are formed as a condition of approval of new subdivisions. Generally, the zones are formed at the time a subdivision is recorded.

Placer County. Placer County uses both CSA's and PRD's for road maintenance. Their typical application is to form CSA's for new subdivision streets, although they will sometimes use this for existing streets that meet County standards. PRD's are commonly used for existing roads where a more formal maintenance program is desired, but where improvement to full County standards is not desirable or achievable.

San Luis Obispo County. San Luis Obispo County uses CSA's for road maintenance in two specific areas. This has been used to pay for maintenance of unpaved roads, including graveling, grading and dust control, and in some cases, paving limited stretches. One of the two areas was established prior to the passage of Proposition 13 in 1978, so its revenue comes only from an increment of property taxes in the CSA boundary. The other was established with an extra "service charge" which is collected on the property tax bills in the area.

Update – San Luis Obispo County adopted new requirements for maintenance of streets and roads constructed by subdivisions. Their first evaluation is whether new streets/roads will be accepted for County maintenance; only those above a certain density are accepted (based on the ratio of centerline-feet of new streets/roads to the number of new lots). Those not accepted for maintenance are required to establish a Property Owners' Association. For those accepted for maintenance, the development is required to annex to the above-mentioned CSA and establish service charges through a Prop 218 election process (a one-property-owner ballot before subdividing). An exemption from the financing requirement is provided for those developments which satisfy the County's "smart growth" criteria. Only one subdivision has been processed since the

adoption of these new requirements, and it qualified for the “smart growth” exemption from the financing requirements.

Santa Clara County. Santa Clara County uses RMD's for road maintenance. Two such districts have been formed; one in 1956 and one in 1986. Each has recently been reauthorized, and a policy established for potential creation of new districts. RMD's also use the “special tax” financing mechanism, subject to the Proposition 218 requirement for approval by 2/3 of registered voters in the proposed district. As part of the establishment of the RMD policy, the County considered CSA's and PRD's as alternatives. As noted in this report, the differences between CSA's and PRD's are minor, and Santa Clara County's established mechanism of RMD's is also quite similar; as a result, they opted to stay with what they already had as there was no clear benefit from going through the process to change to another financing mechanism.

Santa Cruz County. Santa Cruz County formed several countywide CSA's in the 1980's for maintenance of roads, highway safety lighting, residential lighting and solid waste/recycling programs. Over the years, the County has also formed CSA's for fire, mosquito abatement, landscaping, sewers, and drainage. The majority of these CSA's were formed prior to Proposition 218 and fees cannot be increased without following the Prop 218 process. The County is currently conducting a voter survey to gauge reaction to increasing its CSA road maintenance fees, in comparison to establishment of a sales or utility tax to augment their road maintenance funding needs.

Over 40 individual road CSA's have been formed at the request of property owners in specific, well-defined neighborhoods, with services approved through the LAFCO process and administered by property owners' representatives through the Public Works Department. Fees are reviewed annually by each CSA's representatives and any property owner requested increases must be approved through the Prop 218 mail-out ballot procedure.

Shasta County. Shasta County uses PRD's to raise about \$800,000/year to maintain about 70 miles of road. They form PRD's for all new subdivision roads, including emergency fire escape roads. Assessments are in the range of \$200-300 annually. Work is done by contract, with all PRD's being bid as a single contract.

Policy Questions

In the consideration of implementing any of these financing mechanisms for road maintenance, there is quite a bit of flexibility to tailor the program to its needs, as demonstrated by the summaries above. Following is a list of questions that are more “policy” questions than technical ones, which can guide the discussion for any county considering beginning such a program.

1. Who should this type of road maintenance financing be applied to?
 - a. Required of all new land development projects
 - b. Required of only some new land development projects
(Based on what criteria?)
 - c. Made available to maintain roads in existing neighborhoods
2. Which mechanism should be used, CSA, PRD or RMD?
3. What work should be financed?
 - a. All road maintenance work, including related pedestrian, bicycle, drainage and lighting facilities
 - b. Only that maintenance work which is considered “extended”
(Which would be defined as what activities?)
 - c. Administrative and insurance costs
4. Who will perform the maintenance work: County forces, contractors or a combination?
5. What will be required for those roads to be provided this type of maintenance?
 - a. Construction to full County standards
 - b. Construction to minimal standards which satisfy fire safety requirements
6. Who will perform the work of initiating the Zone?
 - a. New land development – developer and/or their agents will initiate and do all required reports and documents
 - b. Existing neighborhoods – residents initiate by petition, County does work following successful petition (County costs reimbursed through funding mechanism)
7. What will be the role of the public?
 - a. “Steering Committee” basically runs the program
 - b. “Advisory Committee” reviews budget and advises Board of Supervisors
 - c. No organized involvement; individuals contact County with maintenance requests

On the following page is a table summarizing each county’s responses to the questions above.

Table 1

ROAD MAINTENANCE FINANCING OPTIONS:
COUNTY SERVICE AREAS
PERMANENT ROAD DIVISIONS
ROAD MAINTENANCE DISTRICTS

	Butte (PRD)	El Dorado (CSA)	Fresno (CSA)	Humboldt (PRD)	Kings (CSA)	Placer (CSA)	Placer (PRD)	San Luis Obispo (CSA)	Santa Clara (RMD)	Santa Cruz (CSA)	Shasta (PRD)
Who is it applied to? (N=new, O=old, B=both)	N	B	B	N	N	B	O	N	B	O	B
Required for new land development? (Y=yes, N=no)	Y	Y	Y	N	Y	Y	N	Y*	N	N	Y
What work is financed? (A=all, E=extra)	A	A	A	E	A	E	A	A	A	A	A
Who performs the work? (C=county, O=outside, B=both)	B	B	B	B	C	C	B	C	B	O	O
What is required of the roads to be served? (Y=full standards, N=not)	Y	N	Y	Y	Y	Y	N	Y	old=N new=Y	N	old=N new=Y
Who initiates the Zone? (C=county, P=petitioners, B=both)	P	P	B	P	C	P	P	P	P	C	C
What is the role of the public? (Y=advisory committee, N=not)	N	Y	Y	N	N	N	Y	N	Y	Y	N

* (1) Low-density subdivisions not accepted for maintenance; (2) Financing required for all which are accepted, except those which qualify as "smart growth."

Conclusion

These three financing mechanisms are valid options for addressing the challenges that face California counties. All are well-established provisions of state law and are being used successfully within their own framework. As with other financing questions, the restrictions created with the passage of Proposition 218 can be a substantial hurdle to overcome. This limitation should be of less concern to the application of these mechanisms as a requirement upon new development, as the developer can go through the balloting procedure prior to completing the subdivision of land. To apply these mechanisms to existing neighborhoods, they can be successful if the residents and/or property owners are sufficiently motivated to pursue this course of action.

- Attachments:
1. Section 25210 *et seq.* Government Code (excerpts) – CSA’s
 2. Section 1160 *et seq.* Streets & Highways Code – PRD’s
 3. Section 1550 *et seq.* Streets & Highways Code – RMD’s