

Funding Options and Transportation Development District (TDD) Overview

Chapter 5 of the Plan (“What Comes Next”) indicates the following under the topic “Generating the Revenue” (see pages 20 – 21):

“In the event that Town or Village funds are required to implement the High Priority Projects, the Town and Village have various options available to them. The Town and/or Village could choose to form a Transportation Development District. This would allow the costs of constructing the High Priority Projects to be raised and financed by levying assessments on a benefits-derived basis. It requires that the Town Board and/or Village Board take various actions to generate revenue for the High Priority Projects and (per their discretion) additional future improvements. These include delineating the boundaries of the TDD and receiving approval from the State Legislature and the Governor to establish it. Once the TDD is established, financing could be obtained at a low interest rate since there would be an ascertained source for repayment for the upfront costs of construction.”

“The Town has already delineated a Route 96/251 Overlay District that adheres to the boundaries of parcels that would benefit from the improvements resulting from the construction of the High Priority Projects. The Village could do the same and consider adding most, if not all, of the properties in the Village as the area impacted by traffic on Route 96 includes a large proportion of the municipality. Another option would be town-wide and village-wide transportation assessments added to current property taxes, but this may be less palatable to property owners. Preservation and maintenance of the High Priority Projects subsequent to their implementation would best be factored into municipal-wide tax assessments as the costs would be significantly less compared to those for the initial construction and the amounts would be representative of the benefits accrued by all property owners.”

The topic of a potential TDD (typically conceived of as a type of “Development Facilitation Improvement District”) was first raised in Town of Victor traffic discussions in 2013. Subsequent research outlined the following findings regarding funding of potential improvements to Route 96 and other roadways proposed in response to increasing traffic congestion within the corridor:

- In general, the responsible entity both approves and funds improvements on highways over which they have jurisdiction. For example, improvements to State highways are typically funded by the State, those to County roads are funded by the responsible County, those to Town roads are funded by the responsible Town, and those to Village streets are funded by the responsible Village.
 - As NYS Route 96 is State roadway, it is within the jurisdiction of the NY State Department of Transportation (NYS DOT) rather than that of either the Town or the Village. Accordingly, and regardless of how any such improvements might be funded, NYS DOT would ultimately be responsible to approve or disapprove any proposed Route 96 improvements.
- In general, and despite ongoing traffic congestion on Route 96, NYS DOT has been forthcoming regarding the difficulty of securing state funding adequate to make any extensive Route 96 improvements. NYS DOT has, nonetheless, indicate a willingness to cooperate and work

together with the Town and other interested entities to ensure that necessary improvements to Route 96 are approved and implemented.

- Federal discretionary grant or aid funding may also play a part in funding any of the above.
- With respect to Town funding for roadway improvements, NY State Law envisions transportation as a municipal/regional/town-wide issue and authorizes taxation as such. Accordingly, imposition of a town-wide Ad Valorem tax is the preferred method for NYS towns to raise funds for roadway improvements.
 - The Ad Valorem tax is not based upon use or benefit.
 - NY State Law prohibits imposition of a benefit tax for roadway improvements as an impermissible traffic impact fee.
- State Environmental Quality Review (“SEQR”) mitigation imposed as a condition of approval for specific private development project frequently involves some level of improvement to state or local roads.
 - Common examples include construction or improvement of turning lanes, signals, and similar.
 - Although questions remain regarding the legality, some municipalities have required developers required to mitigate project impacts to do so by contributing funds (e.g., a given amount per generated trip) rather than by constructing specific improvements.
- Transportation Development District (“TDD”)
 - Often referred to as Development Facilitation Improvement Districts (DFIDs).
 - Allows the assessment, via taxation, of costs within a geographically defined transportation district area. The collected fees may then be utilized to improve transportation infrastructure within the defined district (similar to a sewer or water district).
 - Only those owning property within the TDD pay - those traveling through, e.g., customers, outside visitors, etc., are not charged.
 - Compared to other methods of financing (and Ad Valorem taxation, in particular), a TDD would localize expenses and help to focus the cost of transportation improvements on those businesses and entities that are significant generators of traffic.
 - A municipality does not have the inherent authority to form a TDD, as it would for the formation of a sewer or water district. Instead, the municipality must gain special NY State legislation authorizing the implementation of a TDD. This would require a legislative sponsor and a unusual procedure for which there is little precedent and could become both complex and time consuming.
 - Past examples include the Town of Henrietta where a TDD formed in the area of Jefferson Road and E Henrietta Road authorized the collection of up to \$1 million in taxes. (The stated amount was subsequently collected and the TDD is now no longer active.
 - Other Examples include Batavia, where a TDD was authorized, but never implemented, Greenburgh in Westchester County, and Walkill in Orange County.