Invited Paper

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Missing an Opportunity: In an Era of Fiscal Conservatism, Why Are Parkland Dedication and Park Impact Fees Underutilized?

John L. Crompton

* Department of Recreation, Parks and Tourism Sciences, Texas A&M University, elected council member for the City of College Station, Texas

Please send correspondence to John L. Crompton, jcrompton@tamu.edu

Executive Summary

Parkland dedication and park impact fees are governmental exactions that are imposed as a condition for permitting development. They are manifestations of the Benefit Principle of government. This recognizes that if taxes are not to be raised and quality of life is not to be reduced, then those who benefit from services should be required to pay for them.

In many communities, the political mantra is dominated by fiscal conservatism. Operationally, this generally means elected officials will not support increases in taxation. Hence, exactions designed to ensure growth pays for itself are consistent with this prevailing political mantra. Despite this “goodness of fit,” they remain underutilized. The paper examines the reasons for this and suggests strategies for surmounting these challenges.

The evolution of parkland dedication and park impact fees is described, and their complementarity is explained. Often, they are mistakenly regarded as operational synonyms, but different operational implications spring from their different geneses and these are highlighted. Reluctance to utilize the full potential of exactions stems primarily from the beguiling myth that population growth in a community expands the tax base which keeps taxes low. This myth frequently stems from the “urban growth machine,” which has a strong self-interest in perpetuating it and the loudest megaphones through which to disseminate this message. Evidence that exposes this shibboleth is presented.

Rationales for imposing maximum exactions are presented. In sum, those of us who are elected officials can address problems of growth in three ways: Raising taxes on existing residents, allowing the level of service to decline by doing nothing, or using parkland dedications and park impact fees to make new residents pay for the new parks demand they have created. An analysis is offered as to who ultimately pays for parkland dedications and park impact fees. There are three sets of stakeholders: New homeowners, developers, and landowners. The popular belief that the fees are passed forward to new homeowners is challenged. It is pointed...
out that the most likely scenarios are that (i) the costs are passed back to landowners, since developers will respond to higher dedications or fees by paying less for the land; or (ii) the costs of building a dwelling are mitigated by reducing its size and/or the quality of its fittings, finishing or landscaping. The concluding section examines why they are underused and suggests a viable strategy for surmounting opposition is to point out the opportunity cost to a community’s taxpayers of not implementing maximum dedications and/or impact fees.

**Keywords**

*Parkland dedication, park impact fees, underutilized*

The insights, examples, and conclusions in this commentary are derived from four sources:

- A review of the exactions’ literature.
- My experiences from discussions with multiple stakeholders in the course of developing ordinances for many cities; serving as an expert witness in court actions relating to exaction disputes; and as an elected councilman for seven years in a fast-growing city whose politics traditionally have been dominated by development interests.
- An analysis of exaction ordinances collected in cooperation with the Trust for Public Land from 29 of the 90 largest U.S. cities.
- An analysis of an additional 70 park dedication ordinances collected from Texas cities.

**Context**

Park and recreation exactions in the U.S. are governmental requirements, enforced as a condition for permitting development, that require developers to dedicate a portion of their land for use as a public park; pay a fee-in-lieu of such dedication based on its equivalent value; pay a fee to develop the land into a useable park; and/or pay an impact fee to the municipality. Exactions are used for acquisition and improvement of facilities and cannot be used to maintain or operate existing facilities. Municipalities operationalize exactions through either parkland dedication or impact fee ordinances.

Perspectives toward exactions vary among elected officials, developers, new residents, and existing residents (Crompton, 1997). However, it is a long-held principle of growth management that development must be supported by adequate public facilities and services, and private and public investment must be coordinated to achieve that objective. Exactions are intended to ensure that park facilities are available soon after homeowners buy their new homes.

Since the advent of the “tax revolt” in the late 1970s and early 1980s, the dominant political philosophy in many U.S. communities has been “fiscal conservatism.” Elected officials in these communities invariably incorporate this mantra into their political platforms. Operationally, it generally means they will not support increases in taxation. Hence, a bedrock principle of fiscal conservatism should be the Benefit Principle.
It states that those who benefit from government services should pay for them. This was first advocated by Thomas Hobbs and John Locke in the 16th and 17th centuries. Its theoretical foundations were developed in more contemporary times by Samuelson (1954) in his pioneering work on welfare economics, and the concept was institutionalized in the public administration literature by Musgrave (1959).

Parkland dedication and park impact ordinances are manifestations of the Benefit Principle. They can be conceptualized as a type of user fee. The intent is to assign the cost of accommodating increased demand for parks created by new residences in a community to the landowners, developers, and/or new homeowners who are responsible for creating the additional demand. Exactions are especially effective in fast-growth cities. If this principle is not followed, then the alternatives are to raise taxes on existing residents, which is anathema to fiscal conservatives, or lower the level of service which reduces the quality of life for existing residents.

Exactions may not be effective in cities experiencing slow growth or declines in population, but in fast-growth cities they provide elected officials with at least a partial solution to their capital funding challenges. One of their appealing features is that they respond to market conditions. If fewer new people come to a city than predicted, less money is forthcoming and fewer parks are built. Similarly, as costs for acquisition and development of parks increase or decrease, the exaction requirements can be increased or decreased accordingly.

In my experience, exaction ordinances for parks are substantially underutilized, despite their potential for reducing taxes and their centrality to the prevailing fiscally conservative political philosophy. Many fast-growth cities have not enacted such ordinances, while many of those that have done so set the levels of land dedication and/or fees at only a small fraction of the amount which they legally could require. The only empirical study of which I am aware that examined this hypothesis, used a sample of parkland dedication ordinances collected from 48 Texas cities. The author concluded:

The disparity is striking between the current level of park provision and the parkland dedication requirement. If the criterion of “rough proportionality” was being applied, then these ratios should be identical. These comparative data indicate that based on the Supreme Court’s ruling, in almost all Texas cities the current parkland dedication requirement is much too low. (Crompton, 2010, p. 76)

The Genesis of Parkland Dedication

The authorization for municipalities to impose parkland dedication emanates from a city’s police powers that authorize officials to protect their residents’ “health, safety, and welfare.” In his pioneering treatise on parks, Weir (1928) noted, “There were numerous examples of reserving squares, commons, plazas, and similar spaces in the early plans of many American cities, but subsequent generations failed to profit by these examples” (p. 490). Nevertheless, he identified some emergent examples that indicate that mandatory parkland dedication in the United States has a 100-year history. The first ordinance was passed by the state of Montana in 1919. It stated, “For the purpose of promoting the public comfort, welfare, and safety, such plat and survey must show that at least one-ninth of the platted area, exclusive of streets, etc., is forever dedicated to the public for parks and playgrounds” (p. 490). In 1923, the City of Bluefield, West Virginia, required “not less than five percent of the area of all plats shall be dedicated
by the owner for parks and playground purposes except in the case of a very small area” (p.490). However, these early ordinances were isolated outliers. Neither Huus (1935) nor Butler (1949) referenced mandatory park dedication in their classic texts, which reflected its lack of adoption.

Parkland dedication did not become prominent until the 1950s and 1960s. The vanguard were the fast-growing suburbs in California and Florida that resurrected the concept to mitigate the costs of growth. Their efforts were persistently contested in the courts by the development community which claimed exactions were an unconstitutional violation of the Fifth Amendment, the last 12 words of which are “nor shall private property be taken for public use without just compensation.” Confronted with this opposition and faced with huge cost increases caused by substantial and inexorable suburban growth, California cities lobbied their state legislature to remove the constitutional question by passing an Act granting explicit statutory authority for parkland dedication ordinances that would compel developers to provide land or fees in lieu for local parks.

Consequently, in 1965, the California Legislature passed the Quimby Act. In contrast to cities in most other states that rely on the courts’ interpretations of the appropriateness of parkland dedication ordinances for their authority to enforce them under the “health, safety, and welfare” mandate of home rule cities, California cities and counties have this statutory template. The statute directs the magnitude of exactions, and the conditions and procedures for implementing them. Essentially, Quimby provides a floor and a ceiling for the magnitude of an exaction. If the existing level of service is lower than three acres of neighborhood and community parks per 1000, then three acres is the maximum that can be required. If it is between three and five acres, then the actual level of service can be used. If it is more than five acres, then it is capped at that level.

In the two decades after Quimby, state courts gradually ruled the ordinances were legal. The last state to do so was Texas, which in 1984 concurred with other states that requiring parkland dedication “was a valid exercise of the city’s police power because it was substantially related to the health, safety, and general welfare of the people” (Texas Supreme Court, 1984). Once the legality of parkland dedication had been established, the number of cities adopting ordinances increased markedly (Crompton, 2010).

The earliest ordinances were confined to land and to neighborhood parks. They required the developer to deed a specified amount of acreage based on the number of residents expected to live in the area. These ordinances had three inherent weaknesses:

- Because most developments are small, only small, fragmented spaces were provided.
- Land dedicated by the developer was likely to be the least suitable for building (often drainage ditches, flood plain, or detention ponds), and was often also unsuitable for park use.
- The location of the parkland was determined by the location of the development, rather than by where it was most needed (Crompton, 1997).

These limitations encouraged cities to broaden their ordinances to require developers to pay a fee-in-lieu of dedicating land. The expanded ordinances gave a jurisdiction the option of declining a dedication of land and instead requiring a developer to
pay a sum based on the fair market value of the land that otherwise would have been dedicated.

**Figure 1**

The Incremental Expansion of Parkland Dedication Ordinances

In subsequent years, the scope of parkland dedication ordinances was considerably broadened as courts showed increasing judicial acceptance of their role in growth management. Figure 1 is my conceptualization of this expansion which has taken two forms. First, the land exaction has been supplemented with an additional park development fee to pay for improvement on the park land. Providing only land, resulted in some “parks” being desolate open spaces devoid of park-like qualities that were a blight rather than a benefit (Jacobs, 1961), because communities had no funds to transform the land into a park. The second form of expansion recognized that new residents do not confine their use only to neighborhood parks. Rather, in many suburban communities, most people travel by automobile to the park whose characteristics best meet their needs for a desired experience instead of walking or biking to the nearest park. Thus, fees-in-lieu were extended beyond neighborhood parks to also provide community and city-wide parks.

The land exaction origin of parkland dedications provides parameters that guide contemporary expenditures of fees-in-lieu. First, expenditures must be on outdoor park-like facilities, since they are substituting for park provision. There is no basis for expanding them to specialist indoor recreation facilities. Typically, eligible facilities would reflect the basic infrastructure and amenities included in a jurisdiction’s parks which might include playground equipment and shade structures; barbecue equipment; a pagoda or pavilion; picnic areas; a basketball or volleyball court and lighting; and walking and jogging trails.
Second, the courts’ acceptance of parks as contributing to the health, safety and welfare of a community’s population is predicated on the premise that they have widespread use from a relatively large proportion of the population. This premise is consistently supported by surveys (for example, Mowen et al., 2015). In contrast, specialized recreation activities such as athletic fields deliver benefits that are primarily confined to relatively small numbers of participants, and do not extend to the rest of the community (Ham, Kruger, & Tudor-Locke, 2009). This directs that fees-in-lieu of a land exaction should not be expended on specialist outdoor recreation facilities.

Third, parks contribute economic and environmental benefits that extend to non-users. They enhance residents’ real estate values (Crompton & Nicholls, 2020), and provide extensive environmental and ecological services such as protecting and cleaning drinking water, controlling flooding, cleaning air, reducing energy costs, and preserving biological diversity. These contributions are cost effective alternatives to expensive investments in technology and infrastructure that are required when nature’s role is usurped by development (Crompton, 2008). No such community-wide benefits accrue from athletic fields or other specialized recreation activities.

**The Supreme Court’s ‘Rough Proportionality’ Rule**

As parkland dedication ordinances multiplied, so did the differences in the magnitude of exactions cities were imposing. The ambiguity as to what constituted a “fair” exaction was resolved in 1994 by the U.S. Supreme Court’s ruling in *Dolan v City of Tigard*. The court ruled there must be a “rough proportionality” between the exaction imposed on a developer and the demand from the projected development. The Court stated, “no precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development.”

The Court went on to note that in making the individualized determination, “the city must make some effort to quantify its findings in support of the dedication.” Before the Dolan case, developers challenging a city’s dedication ordinance had to prove it was unfair. The Dolan decision shifted the burden of proving ‘rough proportionality’ from the challenging landowner to the defending municipality. Cities must now proactively demonstrate that the amount required by the parkland dedication ordinance is fair.

The most widely accepted approach to proactively meeting Dolan’s “rough proportionality” criterion is to assume that new residents’ demands for parkland will be the same as those of existing residents in the service area of the city in which they have elected to build. In essence, what a community says to new residents is: “This is the quality of life we have here. If you build here, we expect you to contribute to maintaining our existing level of provision. If the fee needed to sustain the level of service for parks in our zone is not acceptable to you, then please go and build a housing unit in another service area or community where the fee is lower because the area has lower quality park provision.” Operationalizing this conceptualization requires identifying the existing level of service, measured in acres per dwelling unit. This is the exaction that can be required from new developments.

**The Genesis of Park Impact Fees**

Ostensibly, impact fees are functionally similar to parkland dedication fees in that both are required payments for capital facilities. Indeed, sometimes they are incorrect-
ly used interchangeably as synonyms. However, it is important to differentiate between them, because their differences have operational implications.

Whereas parkland dedications stem from subdivision regulations, impact fees are charges for facilities that emanate from statutory legislation. Invariably, impact fee statutes authorize funding for a much wider array of park and recreation facilities, since they are not limited by the land exaction subdivision origins of parkland dedication fees that were described above. The legislation may authorize exactions for swimming pools, recreation centers, theaters, ball field complexes, libraries, or whatever. Further, impact fee statutes generally extend beyond residential dwellings to include commercial properties. Statutes typically not only authorize impact fees, but also specify procedures that must be taken when implementing them. In contrast, parkland dedication ordinances are not as specifically proscribed and rely very much on interpretations of court rulings for their legal legitimacy.

The first impact fee for parks that was upheld by the courts was assessed by Broward County, Florida, in 1977 (Auerhahn, 1988; Hollywood, Inc. vs. Broward County). However, like parkland dedications, impact fees surged in prominence in the 1970s and 1980s in Florida and California when hostility to property taxes forced governments to look elsewhere for funds. For example, a Florida survey showed a tripling of impact fees between 1985 and 1991 (Alschuler & Gomez-Ibanez, 1993). In the early years, enabling ordinances were designed by municipalities using the same “health, safety, and welfare” authorization that was used to justify parkland dedication ordinances.

The first state enabling legislation for general impact fees was passed in Texas in 1987, but it prohibited rather than enabled the imposing of park impact fees stating, “The term [impact fee] does not include dedication of land for public parks or payment in lieu of the dedication to serve park needs” (Texas Local Government Code). However, 28 other states subsequently have passed general impact fee enabling legislation, and 23 of them authorize impact fees for park and recreation amenities (Duncan Associates, 2015).

It is not uncommon for cities to assess both fees-in-lieu using their parkland dedication authority and impact fees using statutory authority. This is especially prominent in California, where state legislation authorizes cities to impose impact fees for all types of “park and recreation facilities.” These are tied to project costs without a statutory cap, whereas the Quimby Act confines parkland dedication ordinances to only neighborhood and community parks and caps the amount of fee-in-lieu that can be imposed.

Their potential complementary roles are explicitly recognized in a City of Sacramento ordinance that states: “The dedication of land for neighborhood and community parks is a requirement for new residential subdivisions through the City’s “Quimby” ordinance, but there is no land dedication requirement for regional parks, citywide park facilities or for non-residential subdivisions.” Hence, the city passed an impact fee requirement for those facilities to complement the funding authorized by Quimby.

**Exposing the Myth that Growth Enhances a Community’s Economic Viability**

In my experience, reluctance to utilize the full potential of exactions stems primarily from the beguiling myth that population growth in a community expands the tax base, and, thus, keeps taxes of existing residents low. This resides deep in the American psyche and perhaps explains the lack of taxpayer protest against the large tax subsidies expended to fund new infrastructure needed to support new growth.
Articulation of this shibboleth and the momentum for growth invariably spring from a coalition of those who directly profit from it: Landowners, real estate developers and investors, mortgage bankers, realtors, construction contractors, cement suppliers, sand and gravel companies, building suppliers, media outlets, architects, engineers, lawyers, and landscape architects. Although individuals within these groups may differ in their political perspectives, they are able to unite around their common interest in benefitting from growth. Because they often control or have the funds to dominate the loudest media megaphones in a community, their arguments are often persuasive to well-intentioned residents who genuinely wish to better the community and are unfamiliar with cost and tax increases which inevitably accompany growth.

Members of this growth coalition are likely to perceive that the greater the growth, the more profitable their businesses will become. If the coalition is comprised of leaders from (say) 100 businesses and they seek passage of a $20 million bond issue then, on average, the revenue accruing to each of their businesses soon after the bond referendum is approved will be $200,000. This is sufficient for them to invest in substantially financing a public relations campaign to secure approval of the bond referendum. In contrast, if there are 100,000 people in the community, then if the proposal is approved, each person will pay $200 spread over (say) 25 years. With interest charges on the bonds, this is likely to amount to around $20 a year. This is sufficiently small that it is unlikely many residents will be motivated to expend personal resources and energy to actively oppose the proposal. Thus, the end result is that local growth often results in a transfer of wealth and quality of life from the general public to a segment of the local elites (Fodor, 1999).

Elected officials often are entwined with the growth coalition and sympathetic to its agenda. In some cases, they may be drawn from the coalition’s ranks, in others the coalition may have financed their rise to power, while others may believe that financing growth is tangible evidence they can offer to voters that the community is moving forward and is a manifestation of their leadership ability. It is often many years after projects are authorized before the negative implications of growth emerge, by which time many of those who authorized them are no longer in office.

Together these economic and political forces create an “urban growth machine” whose momentum is difficult to slow (Molotch, 1976). As a result, some local governments appear to be on “growth ‘autopilot’...whose primary function is to build roads and infrastructure and to provide development services for an ever-expanding mass of subdivisions, industrial parks, and shopping centers” (Fodor, 1999, p.11)

The mathematics inherent with fast growth cities makes an increase in costs to existing taxpayers inevitable. If a city’s population increases by 20%, the infrastructure needed to support that increase is not paid for by those 20%. The amount of property and sales taxes those new properties generate is far below the amount needed to pay for the infrastructure costs their developments create. Rather, a large proportion of these costs are paid for by 100% of the population through the issuance of general obligation bonds or certificates of obligation. This has two consequences. First, it explains why almost every fast-growth city reports substantial increases in property taxes. Second, the reluctance of existing taxpayers to approve the magnitude of property tax increases needed to pay the full costs of new infrastructure means that levels of city services frequently decline with growth (Crompton & Ellis, 2021).
The likely increased costs to local taxpayers are listed in Table 1 (Fodor, 1999). The first column in the table lists facilities that require an incremental increase in capacity to serve each new development. The second column lists environmental costs and other impacts that are more difficult to quantify (Fodor, 1999).

The identification of costs was aided by the emergence of standardized fiscal tools in the late 1970s and 1980s for measuring them. One of the fiscal analysis techniques that has been widely embraced is Cost of Community Services (COCS) analyses (American Farmland Trust, 2016; Bucknall, 1989; Burchell & Listokin, 1995; Crompton, 2001). They are case studies that recognize the three different land uses in a community, comprising residential, commercial/industrial, and agricultural/forest/open space, produce different amounts of tax revenues and cost different amounts to service.

The methodology has been continually refined over the past three decades, and although the results are best estimates, rather than irrefutably accurate, they give a clear sense of the likely effects of various land uses. They are a relatively inexpensive tool which assigns a community’s public service costs and revenues to each of the three land uses and determines the surplus or deficit associated with each land use.

Figure 2 reports averages of studies undertaken in 151 communities in the past 30 years. The studies were undertaken by over 40 different research teams in 26 different states (American Farmland Trust, 2016). It shows the median per dollar ratios of rev-

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### Table 1

**Growth-Related Costs**

<table>
<thead>
<tr>
<th>Capital Costs for Public Facilities Infrastructure</th>
<th>Environmental Costs and Other Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>• School Facilities (K-12)</td>
<td>• Decreased Air Quality</td>
</tr>
<tr>
<td>• Sanitary Sewer System</td>
<td>• Decreased Water Quality</td>
</tr>
<tr>
<td>• Storm Drainage System</td>
<td>• Increased Rates of Resource</td>
</tr>
<tr>
<td>• Transportation System</td>
<td>Consumption (water, energy, etc.)</td>
</tr>
<tr>
<td>• Water Service Facilities</td>
<td>• Increased Noise</td>
</tr>
<tr>
<td>• Fire Protection Facilities</td>
<td>• Lost Open Space and Resource</td>
</tr>
<tr>
<td>• Parkland &amp; Recreation Facilities</td>
<td>Lands (farms and forests)</td>
</tr>
<tr>
<td>• Police Facilities</td>
<td>• Lost Visual and Other Natural Amenity Values</td>
</tr>
<tr>
<td>• Open Space</td>
<td>• Lost Wildlife Habitat</td>
</tr>
<tr>
<td>• Library Facilities</td>
<td>• Increased Regulation (loss of freedom)</td>
</tr>
<tr>
<td>• General Government Facilities</td>
<td>• Lost Mobility Due to Traffic Congestion (delays and increased commute time)</td>
</tr>
<tr>
<td>• Electric Power Generation and Distribution</td>
<td>• Higher Cost of Housing</td>
</tr>
<tr>
<td>• Natural Gas Distribution System</td>
<td>• Higher Cost of Living</td>
</tr>
<tr>
<td>• Solid Waste Disposal Facilities</td>
<td>• Increased Crime</td>
</tr>
<tr>
<td></td>
<td>• Lost Sense of Community</td>
</tr>
<tr>
<td></td>
<td>• Costs to Future Generations</td>
</tr>
</tbody>
</table>

enue/costs of providing public services for each of the three different land uses. Thus, for every $1 million in tax revenues these communities received from farm/forest/open space uses and from industrial/commercial uses, the median amounts they expended to provide them with public services were only $370,000 and $300,000, respectively. In contrast, for every $1 million received in revenues from residential developments, the median amount communities expended to service them was $1,160,000. Median values are reported because if the mean values were used a relatively small number of extreme cases could substantially change the results, so they would not be representative of a “typical” community.

In the residential sector, for each tax dollar received, the range in cost of services was from $1.01 in Groton, New Hampshire (Taylor, 2001), to $2.27 in Appling County, Georgia (Dorfman et al., 2002). Among the 151 studies, there was not a single community where taxes from residential developments were sufficient to cover the costs of servicing them, clearly demonstrating that residential growth is expensive and does not pay for itself.

**Rationales for Fast-Growth Cities to Maximize Exactions**

Most residents are surprised to learn that investing only in projects that improve quality of life for existing residents, and requiring all new growth to pay for itself through the use of tools such as park impact fees and parkland dedication is likely to lead to reductions in local taxes:

For years they have been assured by growth boosters that the solution to a community’s economic problems is to increase the tax base. The next big ex-
pansion project, say growth advocates, will produce enough tax revenue to fix local problems without raising taxes. Most of us accept these assertions. The claim that we can grow our way out of growth problems seems so reasonable that most of us don’t think much about it. After all, we’ve always been told that growth is the basis of prosperity. (Kinsley & Lovins, 1995, p. 2)

The “growth should pay for itself” message is alien to the long-established community belief system to which most individuals have been exposed. Hence, it is likely they have a confirmation bias by which they tend to seek data that are compatible with the beliefs they currently hold (Kahneman, 2012), it has been difficult for factual information which is contrary to those beliefs to gain traction or resonate with residents and local officials.

Local elected officials are confronted with unprecedented financial challenges created by the costs of growth; caps that state governments have placed on local jurisdictions’ taxes and spending; the reduced availability of external funds from federal and state governments; the establishment of fiscal conservatism as a political imperative; and most recently, the negative impact of the pandemic on government’s revenue streams. These have resulted in greater willingness to explore the potential of exactions as a palatable political option for funding new parks. The palatability reflects three political realities.

First, exactions are a fiscally conservative vehicle. It was noted earlier, that a bedrock principle of fiscal conservation is the Benefit Principle, which states that those who benefit from government services should pay for them.

Second, elected officials can respond to infrastructure and amenity needs created by new growth in one of three ways:

(i) Request existing residents pay the bills by approving the issuance of general obligation bonds or certificates of obligation, which will raise their taxes.

(ii) Decline to provide the new infrastructure and amenities or provide them at a lower level of service than prevails elsewhere in the community. This represents a reduction in a community’s quality of life.

(iii) Mandate that new development pay the cost of providing the infrastructure and amenities the need for which has been created by them through imposing full exactions.

Few of us who run for elected office are likely to promote a platform that features raising taxes (option 1) or lowering a community’s quality of life (option 2). Indeed, if a public referendum was held inviting the public to vote on which option they would prefer, it is likely the result would be overwhelming support for option 3.

Third, if full dedication fee/impact fees are not levied and the level of service for parks is not reduced, then the subsidy needed to pay for the new growth likely will come from property or sales taxes that pay the annual debt charges on bonds. These are the most regressive forms of taxation since they impact low income families most onerously (Davis et al., 2013). Hence, these taxes are likely to contribute to keeping them out of the housing market.

Who Pays the Exactions?

Which stakeholders absorb the costs of exactions will vary according to conditions of supply and demand in a local housing market. The fee could be absorbed by the
homeowner, the landowner, and/or the developer. Ostensibly, it seems most probable the cost will be passed on to the new home owner. The development community often vigorously promote this position and suggest it leads to potential first-time buyers being priced out of the market.

However, if an additional (say) $5,000 parkland dedication fee is added to a $300,000 home, increasing it to $305,000, it would represent a price increase of approximately 1.67%. If an ordinance is revised every 5 years, it means that over the 5-year period the increase will average 0.33 of 1% per year. It is unlikely that any other cost of development will increase by such a small amount over a 5-year period. Thus, it is unlikely that such a cost increase would price potential “low-end” homeowners out of the market.

Further, the contention that it will be passed forward to the homeowner, fails to recognize the reality of market forces. Housing prices are determined by the market. Under most market conditions developers and builders are not price-setters. They do not determine the price and cannot simply pass exaction costs through to their target market. If the market would bear a price of $305,000 rather than a price of $300,000, developers would charge that amount because their goal is to maximize profits. Hence, the market price does not allow them pass the new fees forward.

A second alternative is that the additional $5,000 per dwelling unit fee could be absorbed by the developer. This is not a viable option because a developer’s willingness to accept the financial risk associated with a project is predicated on a given projected profit margin. Without that profit margin, the project would not proceed. Third, the inadequacy of the first two options means that often the only viable option for absorbing the additional $5,000 dedication fee is to reduce the developer’s costs. This can be done in one of three ways:

(a) Reduce the unit size. Instead of residential dwellings being 2,000 square feet, they become 1,967 square feet (assuming a cost of $150 a square foot). The new housing owner would receive a smaller dwelling.

(b) Costs could be reduced by $5,000 by engaging in “value engineering”, so the new house would receive a lower quality of finishes, fittings, furnishings, and/or landscaping.

(c) Pay less for the land. The imposition of a $5,000 parkland dedication fee effectively changes market forces and over the long term reduces the value of the land bought for development. This is explained in the following scenario: Before an increase in the exaction fee of $5,000, a developer intended to build 100 units on the land and sell them for $300,000 each. Based on the cost of construction and anticipated profit/risk, he/she was willing to pay $3 million for the land. The developer cannot sell them at $305,000. If he/she was able to get that price, then why did he/she not charge that price before the imposition of the fee? In fact, the market limits her to selling the houses for $300,000 each. As a result, she is willing to pay only $2.5 million for the land, so she is able to reduce costs and maintain her profit margin (100 units*$5,000). Thus, the new costs are shifted back to the original owner of the underdeveloped land (Ynger, 1998(a), (b); Delaney & Smith, 1989).

The most likely outcome is that the fee costs are partially absorbed by all three groups of stakeholders, with their respective shares of the added costs varying according to the prevailing competitiveness and profitability of a community’s housing market, and the ratio of existing supply and demand for housing in the area.
Management Implications

The conceptual pyramid in Figure 1 shows a predominance of parkland dedication ordinances located toward its base. Based on a review of the 99 ordinances we collected and my experience, the figure indicates a majority of agencies that impose exactions limit their application to land dedication or fees-in-lieu for neighborhood and community parks. The narrow apex is indicative of the relatively few (but increasing) communities that are realizing the vehicle's full potential by applying it to all parks and supplementing the land dedication with a fee to develop the land into a park.

Figure 1 refers only to cities that have exaction ordinances. Our surveys of the 90 largest U.S. cities outside Texas and all Texas cities over 20,000 population revealed that only 32% and 56% of them, respectively, had an exaction ordinance. They burden their taxpayers with the full costs of any new park facilities or improvements constructed in response to the demand created by new growth.

The failure of most communities to optimize the financing potential of parkland dedication and park impact fees is surprising given their legal validation; the expansion of their scope that has been accepted by the courts; their contribution to fiscal conservatism by shifting the tax burden of maintaining existing service levels away from existing residents to those new residents who create the need for additional amenities; and the lack of political opposition from potential future homeowners who are not yet residents in the community.

In some cases, the unrealized potential is a function of inertia since some existing ordinances have been in force for several decades and have never been revised, while in others the potential of these vehicles simply has never been considered. In most communities, parkland dedication ordinances are under the purview of planning departments because they are a component of a city's subdivision regulations, even though they are clearly in the operational sphere of park and recreation departments. Their unrealized potential suggests that because they do not have direct responsibility for implementing exactions, many park and recreation directors do not take a proactive role. This is unfortunate. Senior managers have an obligation to taxpayers to make city managers and elected officials aware of the full potential both of park and recreation exactions.

Perhaps the major reason explaining their underutilization is that their introduction or enhancement invariably is opposed vigorously by the development community, which is a powerful constituency in many cities. In some cases, elected officials may be concerned that these ordinances could give their community, or themselves personally, an antibusiness reputation. They may perceive opposition from the development community as endangering their personal political aspirations, because developers and real estate interests often are influential and major contributors to local election campaigns. Indeed, some elected officials are involved in real estate or associated professions, and they oppose substantive dedications as antithetical to their professional value systems.

In contrast to vociferous opposition typically expressed by developers, few among the general public are likely to engage in the debate about parkland dedication. Residents usually know and understand little about parkland dedication and park impact ordinances and do not recognize that they will be adversely impacted if the ordinances are merely nominal. Consequently, there generally is a lack of a pro-ordinance constituency to counter the opposition from the development community.
A strategy for arousing public support and reducing this imbalance among constituencies is for park and recreation managers to point out to elected officials and the general public the opportunity cost of *not* implementing dedication and/or park impact fees. It has been widely demonstrated that negative framing of consequences has a powerful persuasive impact on audiences (Levin, Schneider, & Gaeth, 1998; Tversky & Kahneman, 1981). An example of how this was done in one city with which I was involved is shown in Table 2.

**Table 2**  
*Illustration of the Cost to Residents of Retaining the Existing Level of Service with and without a Parkland Dedication Ordinance*

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Cost Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New neighborhood parks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current level of service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 acre per 285 people</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional land needed</td>
<td>40,000/285 = 140 acres</td>
<td>$4,480,000</td>
</tr>
<tr>
<td>Cost of additional land</td>
<td>140 acres @ $32,000 per acre</td>
<td>$11,360,000</td>
</tr>
<tr>
<td>Average park size</td>
<td>8 acres means 18 new parks</td>
<td></td>
</tr>
<tr>
<td>with park development costs</td>
<td>@ $631,000</td>
<td></td>
</tr>
<tr>
<td>Cost of land plus development</td>
<td>$4,480,000 + $11,360,000</td>
<td>$15,840,000</td>
</tr>
<tr>
<td><strong>New community parks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current level of service</td>
<td>1 community park per 10,970 people</td>
<td></td>
</tr>
<tr>
<td>Additional land needed</td>
<td>40,000/10,970 = 4 parks @ 37 acres/park (Average size of existing parks).</td>
<td></td>
</tr>
<tr>
<td>Cost of additional land</td>
<td>148 acres @ $32,000 per acre</td>
<td>$10,000,000</td>
</tr>
<tr>
<td>Development cost of 4 new</td>
<td>“basic infrastructure”:</td>
<td></td>
</tr>
<tr>
<td>parks</td>
<td>$2.5 million per park</td>
<td></td>
</tr>
<tr>
<td>Cost of land plus development</td>
<td>$4,740,000 + $10,000,000</td>
<td>$14,736,000</td>
</tr>
<tr>
<td><strong>Total estimated capital cost for 10-year period:</strong></td>
<td></td>
<td>$30,576,000</td>
</tr>
</tbody>
</table>

Revenue projections from a parkland dedication ordinance based on 40,000 additional population with an equal number of single-family and multifamily units, raising the exaction fee from $940 to $2,021 for single family homes and from $731 to $1,686 for multi-family homes.

**Existing ordinance requirements:**

- Single-family: 20,000 ÷ 2.80 = 7,142 dwelling units
  7,142 DU x $940
  $6,713,480
- Multifamily: 20,000 ÷ 2.25 = 8,890 dwelling units
  8,890 DU x $731
  $6,498,590

**Total revenue:** $13,212,070

**Proposed new ordinance requirements**

- Single-family: 7,142 DUs x $2,161 (1,078 + 1,083)
  $15,433,862
- Multifamily: 8,890 DUs x $1,686 (878 + 768)
  $14,988,540

**Total revenue:** $30,422,402

**Conclusion:** If the proposed new ordinance requirements are not implemented and the existing ordinance requirements are retained, residents may be taxed an additional $17.4 million ($30.6 million - $13.2 million) in the next 20 years in order to maintain the current level of park service.
The first half of the figure shows that based on the city’s best estimate of the population growth for the next 20 years, an investment for neighborhood and community parks of $30.6 million would be needed to maintain the city’s existing level of service. The second part of Table 2 shows that if the existing fees-in-lieu of $940 for single and $731 for multiple dwelling units are maintained, about $13.2 million of this cost will be raised from those creating the demand for the new facilities. However, if fees-in-lieu are raised to $2,161 and $1,686, respectively, the new parks will be paid for by the new growth. Failure to impose the new fees would result in existing residents being taxed an additional $17.4 million in the 20-year period to maintain existing levels of neighborhood and community park provision.

The field is currently confronted with the probability of major budget cuts beyond anything we have experienced since the dawn of the tax revolt in the late 1970s and 1980s. The primary sources of revenues for most municipalities’ general funds are property and sales taxes. They have been drastically reduced by the “virus economy.” The response of cities has been to cut services and delay consideration of capital projects. There is little doubt that both the operating and capital budgets of park and recreation departments will be subjected to major cuts. Parkland dedication is a dedicated source of capital funding, meaning that it is not dependent on general taxation. It has never been more opportune than in the current environment to address the underutilization of the potential of parkland dedication.

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References


*Hollywood v Broward County, 90 So. 2nd 47 1956*


