



# CITY OF SACRAMENTO

## DEPARTMENT OF COMMUNITY SERVICES

3520 FIFTH AVENUE  
(916) 449-5200

SACRAMENTO, CA 95817

SOLOM WISHAM, JR.  
DIRECTOR

CITY MANAGER'S OFFICE  
**RECEIVED**  
JAN 14 1981

CROCKER ART MUSEUM DIVISION  
GOLF DIVISION  
METROPOLITAN ARTS DIVISION  
MUSEUM AND HISTORY DIVISION  
RECREATION DIVISION  
PARKS DIVISION  
ZOO DIVISION

January 14, 1981

City Council  
Sacramento, California

Honorable Members in Session:

SUBJECT: Park Land Dedication Ordinance

**APPROVED** PFP & Cont  
BY THE CITY COUNCIL to 2-3-81

JAN 20 1981

OFFICE OF THE  
CITY CLERK

### SUMMARY

This report recommends the adoption of an ordinance which requires subdividers to dedicate land or pay fees in lieu thereof for public park and recreational purposes. The ordinance recommended by this report was approved by the Budget and Finance Committee on January 13, 1981.

### BACKGROUND INFORMATION

During the 1979-85 Capital Improvement Plan hearings, members of the Budget and Finance Committee/Council expressed concern about the City's capability to secure park and open space in newly developing subdivisions. Primary considerations were: rapidly rising costs of land per acre, the City's diminishing ability to pay the costs due to inflation erosion of the static Park Development Fees, and the time lapse between subdivision development and actual acquisition of park land. The staff of the Departments of Community Services, Law, and Planning consulted with several agencies on the subject and decided to utilize the City of Walnut Creek and the County of Sacramento as models for the proposed City ordinance.

In 1965, the State of California, through the Quimby Act, provided authority for local government agencies to require dedication of land or a payment of fees in lieu thereof for public park and recreational purposes.

On April 13, 1972, the City Council approved an ordinance leveeing a fee on residential dwelling units as a revenue measure to benefit the City in acquisition and development of public park and recreational facilities. The ordinance provides no credit for private recreational development. On June 28, 1978, the City Council amended the ordinance to allow the funds to be used on a City-wide basis and included a provision for maintenance and operational expenditures. Additionally, all fees were increased at the same time. The Law Department advises that these fees, subject to judicial interpretation, cannot be increased without an election.

In 1978, the City Council approved a modification in the subdivision regulations requiring subdividers to deed public access to rivers, creeks, drainage canals, sloughs and other water channels. No credit is provided for fee dedications in this City requirement.

### DISCUSSION

The attached ordinance provides regulations for the dedication of land, a payment of in lieu fees or both for recreational and park land in subdivisions. Significant features of the ordinance are as follows:

1. Five (5) acres of property for each one thousand (1,000) persons residing within the City are to be devoted to recreational and park purposes. Presently, the City meets this requirement.
2. Land dedication by the subdivider for park purposes to serve City residents is calculated at the time the tentative map is submitted based on the highest density of the zoning designation applied for (as in the case of a rezoning application); or the highest density of the existing zoning designation or the existing specific plans density designation, whichever provides for the highest density. This provides the City with the maximum benefit.
3. Fees in lieu of land dedication are applicable when there is no park or recreational facility located in whole or in part within the proposed subdivision. Said fees will be used for recreational and park facilities which will serve the residents of the area being subdivided (i.e., a park is planned within a few blocks of the area of the proposed subdivision and the park will serve that subdivision. Fees collected will be expended on that park/recreational facility). In addition, if a proposed subdivision contains fifty (50) parcels or less, it is compulsory that the subdivider pay a fee equal to the land value of the portion of the local park required to serve the needs of the residents of the proposed subdivision.
4. The ordinance provides for the determination of land or fees in lieu thereof, or a combination of both. The methods of determination are found in Section 40.1309.
5. There is a time schedule for the use of land/fees which requires that fees collected must be committed within five (5) years after payment or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later.
6. There are provisions for credit for privately owned recreational facilities. Developers of PUD's have opportunities to receive credit for up to 100% for private recreational land or facilities provided by the developer. Justification of this credit is that private development lessens the impact on municipal facilities.

FINANCIAL IMPACT

It is difficult to provide an estimate of yield for the amount of land and/or in lieu fees that will be collected from future subdivisions. However, two examples of previously filed subdivision maps are provided as follows:

- I. Parkway Oaks Unit #4 located in the Pocket area, consisting of 89 R-1 units. (See Section 40.1309 for standards and formula).

- A. Estimated Yield

- 1. Land to be Dedicated

- DF = A

- A = (89)(.0149) = 1.326 acres

- 2. In Lieu Fees Only

- AV = M

- M = (1.326)(\$34,787 per acre) = \$46,128

- B. Actual Land Acquired by the City

- The City acquired one park site in this subdivision totaling 9.436 acres. The City paid \$34,787 per acre at fair market value for a total of \$328,250 in late 1979. The total contribution required of this subdivision would have been 1.326 acres of the 9+ acre site which is located totally within the subdivision. The adjacent benefiting subdivisions will contribute in lieu fees to satisfy the proposed City standard of 5 acres per thousand.

- II. Natomas Oaks located in the Natomas area, consisting of a mixture of 2,300 housing units. (See Section 40.1309 for standards and formula).

- A. Estimated Yield

- 1. Land to be Dedicated

- DF = A

- A = (428)(.0149) + (993)(.0088) + (836)(.0112) +  
6.38 + 8.74 + 9.36 +

- (25)(.0112) + (18)(.0112)  
.28 + .20 = 24.96 acres

- 2. In Lieu Fees Only

- AV = M

- M = (24.96)(\$65,000 per acre) = \$1,622,400

B. Actual Land to be Purchased by the City

The City has designated a 10.5 acre park site within the total subdivision. The fair market value for this land is \$65,000 per acre or \$682,500. The purchase price does not include outstanding improvement bonds, street improvements, title fees, and closing cost. Using the maximum density figures, the 10.5-acre park site is less than the 24.96 acres required by the subdivision. It is presumed that additional park acreage will be provided in adjacent subdivisions to benefit the Natomas Oaks subdivision. Total dedication of the 10.5-acre site would have been required and additional in lieu fees estimated at \$939,900 would have been utilized to develop the 10.5 acres and to acquire and develop land in adjacent subdivisions.

ADDITIONAL ACTIONS REQUIRED

The ordinance attached herein contains the latest provisions of ordinances approved by other agencies in compliance with Government Code Section 66477. The Council should be aware of additional considerations concerning this policy, which are listed as follows:

1. The Recreation and Park Element of the City General Plan must be amended to include the specific standards of five acres of park and open space land per 1,000 population, since the attached ordinance specifies that standard.
2. It will be necessary for the City staff to review and evaluate all of the proposed park land areas designated by the City General Plan to assure compliance with the provisions of the Subdivision Map Act.
3. The Law Department advises that the collection of in lieu fees may be prohibited by Proposition 13, if these fees are declared a special tax. Until the issue is resolved, the Law Department recommends that the Council consider either that in lieu fees not be collected and if they are collected, that they be impounded until the current case is decided by the courts.

City Council  
January 14, 1981  
Page Five

RECOMMENDATION

It is recommended that the City Council approve the attached ordinance adding Article XIII to Chapter 40 of the Sacramento City Code relating to the dedication of land, a payment of fees, or both, for park and recreational purposes.

COMMITTEE ACTION

The Budget and Finance Committee approved the attached ordinance on January 13, 1981 by a vote of 3-0-1.

Respectfully submitted,



SOLON WISHAM, JR.  
Director of Community Services

Recommendation Approved:



WALTER J. SLIPE  
City Manager

SW:js

Attachments: Ordinance  
Committee Follow-up Reports 1 & 2

PFP: January 20, 1981  
Action: February 3, 1981  
All Districts



# CITY OF SACRAMENTO

FR-1

## DEPARTMENT OF COMMUNITY SERVICES

3520 FIFTH AVENUE

SACRAMENTO, CA 95817

(916) 449-5200

SOLON WISHAM, JR.  
DIRECTOR

CROCKER ART MUSEUM DIVISION  
GOLF DIVISION  
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MUSEUM AND HISTORY DIVISION  
RECREATION DIVISION  
PARKS DIVISION  
ZOO DIVISION

November 24, 1980

Lloyd Connelly, City Councilman  
District Six  
City Hall  
915 I Street  
Sacramento, CA 95814

Dear Lloyd:

Re: Parkland Dedication Ordinance--A Follow-up Report on Actions Taken by the County of Sacramento

The City Council Budget and Finance Committee directed the City staff to monitor actions taken by the County of Sacramento in reviewing the County's Park Land Dedication Ordinance implementation. This action was taken by the Budget and Finance Committee on Tuesday, November 18, 1980 after Paul Stewart of the BIA testified that the County was considering amendments to their ordinance.

The County meeting occurred on Wednesday, November 19, 2:00 p.m., in the Board of Supervisors' conference room. Paul Stewart and Jim Merrey were present representing the BIA. County Executive Brian Richter, Parks and Recreation Director Don Nance, Supervisor Illa Collin and representatives of several suburban park districts were present to represent the County collectively. The following issues and actions were taken on a preliminary basis:

1. The issue of a possible reduction of five acres per 1,000 requirement was discussed. The County Executive indicated that the County would not consider reducing this formula amount since the standard was adopted in 1977 prior to Proposition 13 and the current change in the County ordinance. Note: The City recommended requirement is five acres per 1,000, identical to the County's.
2. The issue of equity. The County Executive agreed to investigate the potential of "grandfathering" all those developments with filed tentative maps. Since the County approved a significant formula change involving the value of land effective October 17, 1980, the County Executive agreed that it would be more equitable to charge the previous County rate of dedication or in lieu fee for all tentative maps filed prior to the

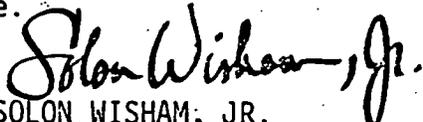


Lloyd Connelly  
November 24, 1980  
Page Two

effective date of the County ordinance. Note: The City does not have the same problem since we currently have no ordinance. Those City developers with filed tentative maps are exempt from the proposed City ordinance.

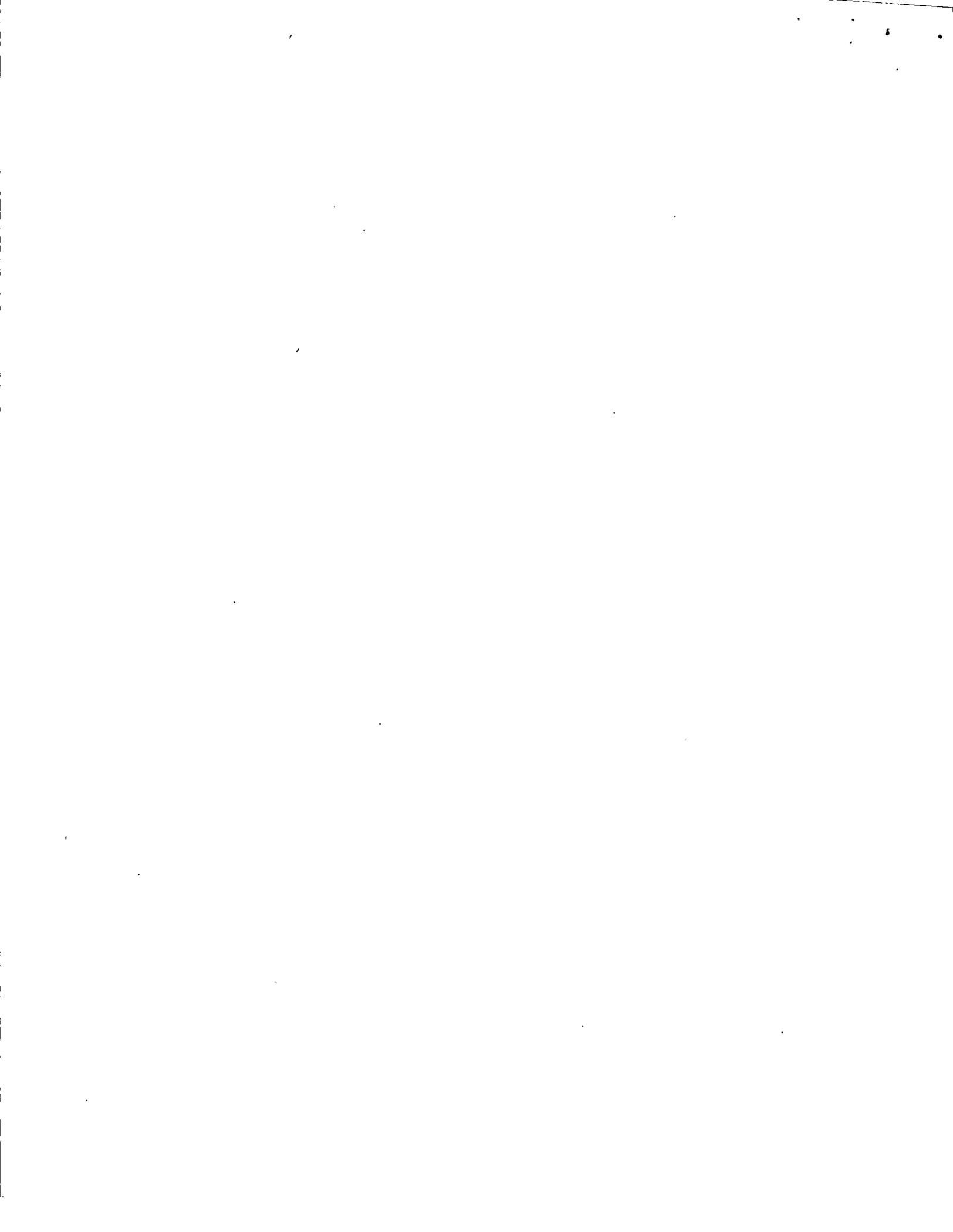
3. The issue of who calculates credit for private recreation facilities. The suburban park districts questioned the ordinance provision which allows up to 100% credit for private recreation facilities. The County Executive indicated that a representative group of County and park district representatives decided to recommend the change as part of the October 17, 1980 ordinance in exchange for a more favorable land value formula. Park districts also objected to the credit calculation by the County Public Works Department. They felt the calculations should be done by the County Department of Parks and Recreation. The County Executive replied that the lack of staff in Parks and Recreation required that the calculation be done by the Landscape Architect assigned to the Department of Public Works. The County Executive agreed to the development and disclosure of the guidelines used for credit issuance but did not agree to a change in the County procedures for the calculations. Note: The City ordinance requires that the Planning Department calculate the credits for private recreation facilities. City departments are unanimous in their feeling that this is the appropriate place for the calculation to occur. Standards for credit will be jointly developed by the Departments of Community Services and Planning.

Another meeting will be held as soon as the appropriate County departments report to the County Executive on the remaining issues raised at this meeting. It is possible that the County schedule will not be completed prior to the December 16th date for the rehearing of the City ordinance by the Budget and Finance Committee. That should not delay the City's consideration due to the fact that the formula issues raised by BIA have largely been resolved by the County with a no-change status. The Budget and Finance Committee should be aware that the implementation of a City ordinance will occur 30 days from the effective date of the ordinance. Under normal circumstances, that will provide the building industry with 60 days of grace but the period can be shortened to 30 days by declaring the ordinance to be an emergency measure.

  
SOLON WISHAM, JR.  
Director of Community Services

SW:js

cc: Budget and Finance Committee  
City Council  
Walter J. Slipe  
Bill Edgar  
Jack Crist  
Marty Van Duyn  
Ron Parker  
Ted Kobey





# CITY OF SACRAMENTO

FR-2

## DEPARTMENT OF COMMUNITY SERVICES

3520 FIFTH AVENUE

SACRAMENTO, CA 95817

(916) 449-5200

SOLON WISHAM, JR.  
DIRECTOR

CROCKER ART MUSEUM DIVISION  
GOLF DIVISION  
METROPOLITAN ARTS DIVISION  
MUSEUM AND HISTORY DIVISION  
RECREATION DIVISION  
PARKS DIVISION  
ZOO DIVISION

January 6, 1981

Budget and Finance Committee  
Sacramento, California

Honorable Members in Session:

SUBJECT: Park Land Dedication Ordinance--Follow-up Report #2

On December 23, 1980, the Budget and Finance Committee requested additional follow-up information and staff projection concerning the Park Land Dedication Ordinance. The requests and staff responses are as follows:

- I. The Committee requested that the Law Department draft legislation that "emphasizes dedication of land as the highest priority." Assistant City Attorney Ted Kobey has drafted language to accomplish that purpose as a modification to Section 40.1300, which is attached as Exhibit A.
- II. The Committee requested that the staff develop a method which would "provide a maximum cap on in lieu fees that can be obtained by the ordinance." The staff made several attempts to develop a method to fix a cap or maximum fee that can be obtained by the ordinance. The matter of equity among the subdivisions and the lack of responsiveness to changes in land value provided the staff with an insurmountable task. Additionally, the Law Department has determined that a maximum limit or cap presents a significant legal problem concerning a denial of equal protection to subdividers that are required to dedicate land. Exhibit B is a memorandum of law provided by the Law Department.
- III. The Committee requested a staff response "concerning the nature of the problem facing the City if the Park Land Dedication Ordinance is not approved by the Council." The staff has been able to determine that full implementation of the Ordinance as written will result in a short-fall, or deficiency, of 33.8% per acre in projected revenues as compared with acquisition and development costs. If the existing ordinance is not approved by the Council, the deficiency in capital funds for acquisition and development of parks will approach \$77,365 in 1980 dollars, which is a deficiency of

85.9%. This deficiency is developed by comparing the current per acre revenue of \$12,635 with capital expenditures of \$90,000 per acre for park land acquisition and development.

The nature and extent of the problem in financing park land acquisition and development was developed through a series of computations which are detailed as follows:

A. Components for Computations

1. \$60,000 = Average cost of land per acre.
2. \$30,000 = Average cost of park land development per acre for neighborhood and community parks.
3. \$350\* = Average yield per dwelling unit in Park Development Funds by actual experience.  
\*50% used for (M & O) maintenance and operation.
4. \$650 = Average estimated in lieu fee per dwelling unit using \$60,000 as average land cost.
5. 72.2 = Average number of dwelling units that would require one (1) acre of park land dedication or fees in lieu thereof.  
 $200 \div 2.77 = 72.2$ .

B. Estimated Cost per Acre for Park Acquisition and Development

1. C = Average cost of land acquisition and development per acre based on 1980 dollars.
2. A = Average cost of park land acquisition is \$60,000 per acre based on 1980 purchase experience.
3. B = Average cost of park land development is \$30,000 per acre based on 1980 bid experience.

Computation:

$$C = A + B$$

$$C = \$60,000 + \$30,000$$

$$C = \$90,000$$

C. Estimated Revenue per Dwelling Unit Utilizing Existing AND Proposed Sources

1.  $F =$  Estimated combined revenue yield on a per acre basis.
2.  $D = (72.2 \times \$350 - \$175)$   
 $72.2 =$  Average number of dwelling units that require one (1) acre of park land.  
 $\$350 =$  Average Park Development Fee yield for each dwelling unit. This amount is reduced by 50% or \$175 due to City policy.
3.  $E = (72.2 \times \$650)$   
 $\$650 =$  Estimated average in lieu fee yield for each dwelling unit.

Computation:

$$F = D + E$$

$$F = (72.2 \times \$350 - \$175) + (72.2 \times \$650)$$

$$F = \$12,635 + \$46,930$$

$$F = \$59,565$$

D. Estimated Deficiency in Revenue and/or Expenditures

Computation:

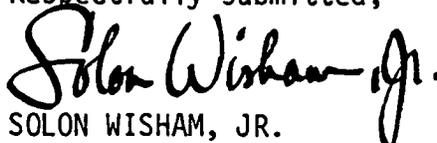
$$G = F - C$$

$$G = \$59,565 - \$90,000$$

$$G = (\$30,435)$$

A deficiency of 33.8% per acre is experienced when projected revenues are compared with acquisition and development costs.

Respectfully submitted,



SOLON WISHAM, JR.  
Director of Community Services

SW:js

Attachments: Exhibits A and B

cc: Walter J. Slipe  
Jack Crist  
Ted Kobey  
Marty Van Duyn



# CITY OF SACRAMENTO

EXHIBIT A

## DEPARTMENT OF LAW

812 TENTH ST.  
SUITE 201

SACRAMENTO, CALIF. 95814  
TELEPHONE (916) 449-5346

January 5, 1981

JAMES P. JACKSON  
CITY ATTORNEY  
THEODORE H. KOBEY, JR.  
ASSISTANT CITY ATTORNEY  
LELIAND J. SAVAGE  
DAVID BENJAMIN  
SAM JACKSON  
WILLIAM P. CARNAZZO  
SABINA ANN GILBERT  
STEPHEN B. NOCITA  
DEPUTY CITY ATTORNEYS

### MEMORANDUM

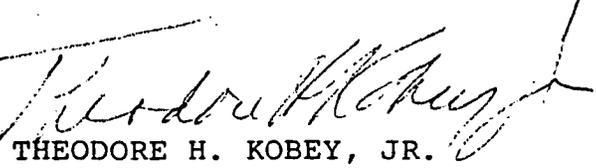
TO: BUDGET & FINANCE COMMITTEE  
FROM: THEODORE H. KOBEY, JR., Assistant City Attorney  
RE: PARK LAND DEDICATION ORDINANCE

The Committee asked about the possibility of draft ordinance language which would emphasize the priority nature of land dedication. If the Committee feels such language is necessary as a policy statement, the following language is submitted to be added at the end of Section 40.1300:

#### Sec. 40.1300 Purpose and Intent

\* \* \*

It is the intent of this article primarily to provide for the acquisition of land for parks consistent with the provisions of this article granting discretion to require fees in lieu of dedication of land.

  
THEODORE H. KOBEY, JR.  
Assistant City Attorney

THK:kn



# CITY OF SACRAMENTO

EXHIBIT B

JAMES P. JACKSON  
CITY ATTORNEY

THEODORE H. KOBEY, JR.  
ASSISTANT CITY ATTORNEY

LELIAND J. SAVAGE  
DAVID BENJAMIN  
SAM JACKSON

WILLIAM P. CARNAZZO  
SABINA ANN GILBERT  
STEPHEN B. NOCITA  
DEPUTY CITY ATTORNEYS

## DEPARTMENT OF LAW

812 TENTH ST.

SACRAMENTO, CALIF. 95814

SUITE 201

TELEPHONE (916) 449-5346

January 5, 1981

### MEMORANDUM OF LAW

TO: BUDGET & FINANCE COMMITTEE

FROM: THEODORE H. KOBEY, JR., Assistant City Attorney

RE: PARK LAND DEDICATION ORDINANCE - IN LIEU FEE LIMITATION

MEMBERS IN SESSION:

#### QUESTION PRESENTED

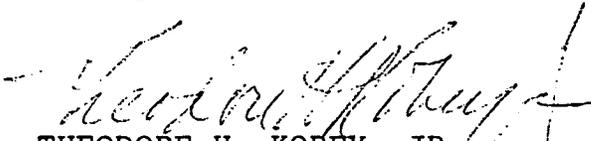
The Committee asked about the legality of an upper limit or "cap" on the amount of in lieu fees a subdivider could be required to pay. Such a maximum limit or "cap" presents a legal problem of a denial of equal protection to the subdivider who is required to dedicate land. Such a subdivider would be required to dedicate land according to a formula which is designed to yield five acres per thousand population. On the other hand, the subdivider from whom fees are required under the "cap" concept might not be providing fees sufficient to provide five acres per thousand. The California Supreme Court observed in Associated Home Builders etc., Inc. v. City of Walnut Creek (1971) 4 Cal.3d 633, 637:

If a subdivision does not contain land designated on the master plan as a recreation area, the subdivider pays a fee which is to be used for providing park or recreational facilities to serve the subdivision. One purpose of requiring payment of a fee in lieu of dedication is to avoid penalizing the subdivider who owns land containing an area designated as park land on the master plan. It would, of course, be patently unfair and perhaps discriminatory to require such a property owner to dedicate land, while exacting no contribution from a subdivider in precisely the same position except for the fortuitous circumstance that his land does not contain an area which has been designated as park land on the plan. (emphasis supplied)

We believe that the court's reasoning also casts serious doubt on the validity of the "cap" concept in the instance where the subdivider paying the fee is treated more favorably than the subdivider who is required to dedicate land.

RECOMMENDATION

Accordingly, we recommend that the "cap" concept not be incorporated in the ordinance unless it can be shown that limiting the in lieu fees would somehow further the basic purpose of the ordinance to provide for the parks and improvements thereto.

  
THEODORE H. KOBAY, JR.  
Assistant City Attorney

THK:kn



ORDINANCE NO.

FOURTH SERIES

AN ORDINANCE ADDING ARTICLE XIII TO  
CHAPTER 40 OF THE SACRAMENTO CITY  
CODE RELATING TO THE DEDICATION OF  
LAND, PAYMENT OF FEES, OR BOTH, FOR  
PARK AND RECREATIONAL PURPOSES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

SECTION 1.

Article XIII is hereby added to Chapter 40 of the Sacramento City Code to read as follows:

ARTICLE XIII - REGULATION FOR DEDICATION OF  
LAND, PAYMENT OF FEES, OR  
BOTH, FOR PARK AND  
RECREATIONAL PURPOSES

Sec. 40.1300 Purpose and Intent.

This Article is enacted pursuant to the authority granted by Section 66477 of the Government Code of the State of California. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this article are in accordance with the recreational element of the General Plan of the City of Sacramento. It is the intent of this article primarily to provide for the acquisition of land for parks consistent with the provisions of this article granting discretion to require fees in lieu of dedication of land.

Sec. 40.1301 Definitions.

- (a) "Residential dwelling unit" means a group of rooms or a single room with kitchen facilities occupied or intended for occupancy as separate living quarters by a family or other group of persons living together, or by a person living alone.
- (b) "Single family dwelling unit" means a detached building designed exclusively for occupancy by one family.
- (c) "Two family dwelling unit" means a detached building designed exclusively for occupancy by two families living independently of each other, under one roof.
- (d) "Multiple family dwelling unit" means a building or portion thereof designed for occupancy by three or more families living independently of each other, but under one roof.

(e) "Mobile home lot" means any area designated, designed or usable for the occupancy of one mobile home on a temporary, semi-permanent or permanent basis.

Sec. 40.1302 Requirements.

As a condition of approval of a final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for park or recreational purposes at the time and according to the standards and formula contained in this Article.

Sec. 40.1303 General Standards.

It is hereby found and determined that the public interest, convenience, health, welfare, and safety require that five (5) acres of property for each one thousand (1,000) persons residing within the City be devoted to local recreational and park purposes.

Sec. 40.1304 Standards and Formula for Dedication of Land.

Where a recreational or park facility has been designated in the Recreation and Parks Plan, an element of the General Plan of the City, and is to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall dedicate land for a local park sufficient in size and topography to serve the residents of the subdivision. The amount of land to be provided shall be determined pursuant to the following standards and formula: Where the City requires the dedication of land, the subdivider or owner shall dedicate land for local parks according to the formula  $D \times F = A$  in which:

D = the number of dwelling units

F = a "factor" herein described

A = the amount of land, in acres, to be dedicated

The factors of .0149, .0112, and .0088 are constants which when multiplied by the number of dwelling units permitted in the subject area will produce five (5) acres per thousand population. In multiple family areas, unless the subdivider enters into an agreement with the City for a lower density, the number of dwelling units shall be calculated as follows:

(a) when a rezoning application accompanies the tentative map, density shall be calculated according to the highest density of the zoning designation applied for; or,

(b) when the tentative map is not accompanied by a rezoning application, density shall be calculated according to the highest

density of the existing zoning designation or existing specific plan density designation, whichever allows the highest density. The factors referred to above are as follows:

(Fs= .0149 relating to single family dwelling units)

(Ft= .0112 relating to two family dwelling units)

(Fm= .0088 relating to multiple family dwelling units)

(Fmh= .0088 relating to mobilehome dwelling units)

Sec. 40.1305 Formula for Fees in Lieu of Land Dedication.

(a) If there is no park or recreational facility designated in the City's Recreation and Park Plan to be located in whole or in part within the proposed subdivision to serve the needs of the residents of the subdivision, and/or where the City Council requires the payment of in lieu fees, the subdivider shall, in lieu of dedication of land, pay a fee equal to the value of the land prescribed for dedication in Section 40.1304 (Standards and Formula for Dedication of Land) hereof and in an amount determined in accordance with the provisions of Section 40.1306 (Calculation of In Lieu Fees) hereof, such fee to be used for recreational and park facilities which will serve the residents of the area being subdivided.

(b) If the proposed subdivision contains fifty (50) parcels or less, the subdivider shall pay a fee equal to the land value of the portion of the local park required to serve the needs of the residents of the proposed subdivision as prescribed in Section 40.1304 hereof, and in an amount determined in accordance with the provisions of Section 40.1306.

Sec. 40.1306 Calculation of In Lieu Fees.

The amount to be paid shall be a sum calculated pursuant to the following formula:

$$A \times V = M$$

where

A = the amount of land required for dedication as determined in Section 40.1304;

V = fair market value (per acre) of the property to be subdivided as established by a current appraisal approved by the City; and,

M = the number of dollars to be paid in lieu of dedication of land.

Sec. 40.1307 Use of Fees.

Fees collected pursuant to this Article shall be used and expended solely for the acquisition, improvement, and expansion of the public parks, playgrounds and recreational facilities reasonably related to serve the needs of the residents of the proposed subdivision. Said fees may also be used for the development of recreational areas and facilities on public school grounds which provide a desirable recreational site and immediate access to a public street.

Sec. 40.1308 Subdivisions Not Within the General Plan.

Where the proposed subdivision lies within an area not then but to be included within the City's General Plan, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, in accordance with the adopted park and recreational principles and standards of the City's General Plan and in accordance with the provisions of this Article.

Sec. 40.1309 Determination of Land or Fee.

Whether the City accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

- (a) Recreation and Parks Plan, an element of the City's General Plan;
- (b) Topography, geology, access and location of land in the subdivision available for dedication;
- (c) Size and shape of the subdivision and land available for dedication;
- (d) Feasibility of dedication;
- (e) Compatibility of dedication with the City of Sacramento's Recreation and Park Plan; and,
- (f) Availability of previously acquired park property. The determination of the City Council as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

Sec. 40.1310 Time Schedule for Use of Land/Fees.

Any fee collected under the ordinance shall be committed within five (5) years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

Sec. 40.1311 Credit for Privately Owned Recreational Facilities.

The City may grant credit for privately owned and maintained open space or local recreation facilities, or both, in planned unit developments, townhouse developments, or trailer parks adopted or permitted pursuant to the Zoning Ordinance. Such credit, if granted in acres, or comparable in lieu fees, shall be subtracted from the dedication or fees, or both, otherwise required under this Article, provided:

(1) Yards, court areas, setbacks, and other open space areas required to be maintained by this title and other regulations shall not be included in private open space and local recreation credit;

(2) Provision is made by written agreement, recorded covenants running with the land, or other contractual instrument that the areas shall be adequately maintained;

(3) The use of private open space or recreation facilities is limited to park and local recreation purposes and shall not be changed to another use without the express written consent of the City Council.

Land or facilities or both which may qualify for credit towards the land dedication or in lieu fee, or both, will generally include the following types of open space or local recreational facilities:

(a) Open spaces, which are generally defined as parks and parkway areas, ornamental parks, extensive areas with tree coverage, low lands along streams or areas of rough terrain when such areas are extensive and have natural features worthy of scenic preservation, golf courses, or open areas on the site in excess of twenty thousand (20,000) square feet.

(b) Court areas, which are generally defined as tennis courts, badminton courts, shuffleboard courts or similar hard-surfaced areas especially designed and exclusively used for court games.

(c) Recreational swimming areas, which are defined generally as fenced areas devoted primarily to swimming, diving or both, including decks, lawned area, bathhouse, or other facilities developed and used exclusively for swimming and diving and consisting of not less than fifteen (15) square feet of water surface area per person for the planned population of the subdivision, provided, however, that in no event shall credit be computed on or allowed for more than three percent (3%) of the planned population of the subdivision.

(d) Recreation buildings, designed and primarily used for the recreational needs of the residents of the development.

(e) Special areas, which are generally defined as areas of scenic or natural beauty, historic sites, hiking, riding or motorless bicycle trails, including pedestrian walkways separated from public roads, planting strips, lake site or river beaches, improved access or right-of-way in excess of requirements, and similar type open space or recreational facilities which in the sole judgment of the City of Sacramento qualifies for a credit.

Sec. 40.1312 Computation of Credit.

The categories for credit for private open space and facilities described in Section 40.1311 shall be given equal weight, each category not to exceed twenty percent (20%) of the total which may be granted by the City. The City Council may, however, upon petition of the subdivider grant additional credit for each of the above categories if there is substantial evidence that:

(1) The open space or recreational facilities is above average in aesthetic quality, arrangement or design; or,

(2) The open space or recreational facility is clearly proportionately greater in amount or size than required by this title or usually provided in other similar types of development; or,

(3) The open space or recreational facility is situated so as to compliment open space or local recreational facilities in other private or public developments.

Sec. 40.1313 Procedure.

At the time of the approval of the tentative subdivision map, the Planning Commission shall recommend to the City Council, after a report and recommendation from the Director of the Planning Department or his designee, the land to be dedicated and/or fees to be paid by the subdivider. The recommendation by the Director of Planning or his designee shall include the following:

(a) the amount of land required; or,

(b) that a fee be charged in lieu of land; or,

(c) that land and a fee be required; and/or,

(d) that a stated amount of credit be given for private recreation facilities or unique natural and special features, etc.;

(e) the location of the park land to be dedicated or use of in lieu fees;

(f) the approximate time when development of the park or recreation facility shall commence.

This action shall be reviewed by the Planning Commission for recommendation to the City Council. In making its determination, the City Council shall be guided by the standards contained in this Article where applicable. At the time of the filing of the final subdivision map or parcel map, the subdivider shall dedicate the land and/or pay the fees as previously determined by the City Council. Open space covenants for private park or recreational facilities shall be submitted to the City Council prior to approval of the final subdivision map or parcel map and shall be recorded contemporaneously with the final subdivision map.

Sec. 40.1314 Industrial Subdivisions.

The provisions of this Article shall not apply to industrial subdivisions.

Sec. 40.1315 Access Requirements.

All land offered for dedication to local park or recreational purposes shall have access to at least one existing or proposed public street. This requirement may be waived by the City Council if the City Council determines that public street access is unnecessary for the maintenance of the park area or use thereof by the residents.

Sec. 40.1316 Sale of Dedicated Land.

If during the ensuing times between dedication of land for park purposes and the commencement of first stage development, circumstances arise which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision and the neighborhood (such as gift or park land or change in school location), by mutual agreement of the subdivider or owner and the City Council, the land may be sold upon the approval of the City Council with the resultant funds being used for the purchase of a more suitable site.

PASSED FOR PUBLICATION:

ENACTED:

EFFECTIVE:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK