



**Crafting a New Benefit Assessment**

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*Cautionary note: as with all advice related to developing specific funding for your agency, it is highly recommended that you check with an attorney for verification and/or an expert on local financing mechanism prior to any implementation.*

Besides program and facility rental fees, park and recreation service providers have a variety of funding options – general taxes, special taxes such as general obligation bonds, parcel taxes, sales taxes, property-related fees, development impact or mitigation fees, and benefit assessments. The focus of this article is understanding what is involved in crafting benefit assessments from the perspective of a park and recreation service provider. While complex and time-consuming, many park and recreation professionals believe it is well worth the time to research, develop and implement benefit assessments. But, what is involved and how does an agency policy leader begin? What are the necessary steps and how complicated is the process? Exactly what is an assessment district and how can they be used? Who has one and how are they working out? These questions and others will be answered in this article with the hope that the information provided will be in sufficient detail for you to take back to your commission or board for their consideration. You might also want to speak to other local park and recreation providers for suggestions on how they underwent the process and to learn what challenges they faced.

Benefit Assessments are used by local governments to pay the costs of providing services such as fire suppression, flood control and parks. Benefit assessments are based on a specific benefit and are not subject to Proposition 13 limitations.

“Special Benefit” – a particular and distinct benefit over and above general benefits conferred on real property located in the district or the public at large. General enhancement of property value does not constitute “special benefit.”

Many local park and recreation agencies are going the “Special Tax” or “Community Facilities District” route to generate revenue for park and recreation facilities. These types of charges do not need to provide benefit. They typically require 2/3 registered voter to pass – but if there are less than 12 registered voters, for example a new development, it requires 2/3 majority by acres owned.

A benefit assessment places an annual levy on property that receives a “special benefit” from the assessment. The assessment may be used to pay for services and improvements which confer a benefit; however, the benefit is conferred on real property and not on a person. Benefit assessments are flexible and versatile and are currently very popular for funding park maintenance efforts. Counties, cities and special districts are authorized to establish benefit assessments to pay for a variety of improvements, including parks and open space. To the relief of many park professionals, benefit assessments can be used to fund capital improvements, land acquisition and related long-term debt service, as well as the costs of on-going maintenance. Because assessments are not defined as taxes, they are not subject to Proposition 13 limitations including the 1% tax limitation. However, Article XIID of the California Constitution provides specific requirements and procedures (more on this later).

Some of the basics (you may want to look these up on the internet). California benefit assessment enabling laws (most assessments for parks in California have been formed under the Landscaping and Lighting Act of 1972):

- **Landscaping and Lighting Act of 1972** (land for parks, recreation and open space, construction of park and recreational improvements and maintenance and servicing of land and improvements).
- **Improvement Act of 1911** (street paving, grading, sewers and other “necessary” improvements).
- **Municipal Improvement Act of 1913** (assessments to construct improvements and acquire necessary property).
- **Improvement Bond Act of 1915** (issuance of assessment bonds).
- **Property and Business Improvement District Law, 1994** (tourism promotion, parking lots, fountains, and other facilities and services to improve commercial areas).
- **Tree Planting Act of 1931** (assessments for funding the planting, maintenance or removal of trees).
- **Open Space Maintenance Act of 1965** (assessments for improvements and maintenance).
- **1982 Act Benefit Assessments and Street Lighting Districts**
- **Proposition 218 of 1996** (established a strict definition of “special benefits,” instituted a common formation and ratification process for all benefit assessment districts).
  - Added Article XIIC and XIID to the California Constitution.

In a nutshell, the basic thought behind benefit assessments is to link the cost of public improvements to those properties (and in turn, the landowners) which receive a specific benefit from those improvements. Publicly owned parcels are not exempt from assessments unless clear and convincing evidence demonstrates that the parcels receive no special benefit.

An important new revenue opportunity for agencies experiencing new housing growth is that Assessment Districts can be approved by developers at the time a new subdivision

is built. Developers are usually the primary property owners, so the local agency can determine the rate of assessment needed to fund the annual maintenance and improvement of local parks and can require developer approval of the assessment as a condition of their project approval. Many agencies throughout California are now establishing annual park maintenance and future capital replacement assessments for new development in the range of \$100 to \$300 or more per year.

Just the facts: benefit assessments:

- are used to pay the costs of providing specific park capital improvements, fire, flood, water, sewer and other community services.
- are based on assessing those properties that directly benefit from the services.
- can include an annual cost of living increase in the assessment rate.
- the agency is required to give written notice to all affected property owners, conduct a public hearing and conduct an assessment ballot vote.
- most benefit assessments will continue as long as services are provided.
- a majority vote (50% +1) of the assessment amount of the affected property owners is required for passage.
- a local agency can issue tax exempt bonds financed by the annual assessment proceeds. The principal and interest obligations on these bonds are repaid each year through the collection of special assessments on the property tax bill. Most of these bonds have a 20 to 30 year maturity. The bonds are sold competitively or through negotiated sale and may have a fixed or variable rate.

Getting Started

Now that the foundation has been laid, the following steps suggest how to form an assessment:

1. Determining the project's vision: The local park and recreation agency needs to assess the needs of its constituents. In this stage, the local agency identifies the recreational, natural and historic places that define the community and are in need of development, protection or improvement. The vision should be established through a community process with participation and support of elected officials, the agency's board members, community activists and volunteers.
2. Conducting the Feasibility Analysis/Engineering Report: This is the phase when the proposed boundaries and parcels within the proposed assessment are determined. Within the feasibility research effort the agency secures a comprehensive engineer's report which is the legal basis for an assessment. The report must outline the proposed area; identify key projects that will be accomplished; estimate project costs; specify the annual cost to each property; and identify the benefit formula that will be used to determine each property's share of the cost. In addition, the engineer's report should adequately address the threshold of support at various rates and determine support from various property types; determine project and feature priorities and make a recommendation on which is the best funding alternative. It is wise to have legal counsel thoroughly review the report.

The boundaries of a benefit assessment may coincide exactly with those of a city, county or special district or they may cover only part of those jurisdictions. Often, the boundaries coincide with a new proposed development. In addition, particular benefit zones may be designated within any individual assessment based on variations in the nature, location, and extent of the improvements.

The survey process should clearly identify the public's support for the suggested park and recreation service and determine the project's priorities and areas that are sensitive. Another goal of the survey is to measure the chances for success and to provide a viable measure with minimal expenses and negative political exposure.

3. Ballot Proceeding: The legislative body must conduct a public hearing and consider all protests. The assessment ballot enables the property owner to express support for, or opposition to, the assessment. If the majority of property owners protest (based on assessment amount), the agency may not impose an assessment. All property owners must be mailed a detailed notice of a public hearing and a ballot seeking the property owner's opinion no less than 45 days prior to the hearing. The ballots are weighted according to the proportional financial obligation of the affected property. If approved, the agency authorizes the creation of the district and proceeds with the assessment. Written notices must contain the total amount chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the assessment was calculated. The notice should also clearly indicate the date, time and place of the public hearing and the summary of the assessment ballot procedures.
4. Enactment Procedure: Once the benefit assessment has been approved by the voters, it clears the legal way for its enactment. This is the time to develop your agency's resolutions. It's also the time to enact a strong public relations effort to inform your community about the recent vote and what it will mean to them in concrete terms. In other words, explain what improvements will be made to "their" neighborhood park, recreation facility or program. Be sure to carefully research the legal pathways for enactment, notice and ballot wording. Special care should be taken at the outset of the assessment process to establish precisely how the ballot proceedings will be conducted.
5. Steps for a Successful Election: This is your opportunity to be a visionary and to think far down the road. Gerard van Steyn, President of SCI, Consulting has successfully worked with many park and recreation agencies to set up assessments and recommends the following actions:

- A. Be a visionary – be courageous! Think long term. Identify the natural, cultural, recreational, and historic places that define the community and are in need of development, protection or improvement.
- B. Before deciding on whether to embark on the road to balloting, determine what the public will support – conduct a professional survey designed specifically for a property owner decided benefit assessment.
- C. If the survey results are positive, refine your vision and message internally prior to rolling it out to the public. Your agency’s vision should be communicated through a community process with participation and support of elected officials.
- D. Keep your message simple and to the point.
- E. Be willing to make tough decisions. Build a leadership team and forge alliances with public and private sector stakeholders. A broad base of support and citizen participation is vital to the success of an assessment measure.
- F. Develop a series of priorities and be realistic with what you believe you will be able to accomplish.
- G. Develop easy to understand public relations flyers and information pieces.
- H. Understand who votes and why they vote the way they do.
- I. Determine when you want to have your assessment on the ballot.
- J. Conduct the mailed ballot proceeding and hold a public hearing 45 days after mailing the assessment ballots.
- K. If a weighted majority of ballots returned (50% plus 1) are in support, the assessment wins.

Gerard van Steyn also suggested that when a campaign fails, it is often because of the following missteps:

- A. There is a publicly perceived sense of a lack of strong agency leadership. There is a sense that the agency leadership is saying, “Give us the money first, then we’ll develop the plan,” in other words, there is not a clear sense of how the benefit assessment would benefit the community and why it is needed now – the plan hasn’t sufficiently been worked out.
- B. The agency leadership is unable to eliminate projects or programs that are not absolutely necessary and are unable to stay on the “message”.
- C. The agency is unable to raise sufficient resources or is unable to secure sufficient community member “voices” to speak favorably about the assessment.
- D. The agency is only focusing on the money the assessment would generate, not on the needs of the community.

What is the difference between an assessment district and a special district? According to the Trust for Public Land, *“a special district is a unit of government with a governing board and the authority to raise revenue and provide a limited number of services. A benefit assessment is not a unit of government. Rather, it is a financing tool used by governmental agencies such as cities, counties and special districts. In some cases, a special district may be created before, or in conjunction with, an assessment district if the benefited area is not coterminous with an existing jurisdiction.”*

So often in the field of park and recreation, we benefit greatly from learning from each other's experiences. In recent years, many new benefit assessments have formed and you may want to consider contacting the following agencies for more information:

1. City of Brentwood and CA State Parks, Craig Bronzan ([cbronzan@ci.brentwood.ca.us](mailto:cbronzan@ci.brentwood.ca.us)) and Don Monahan ([dmona@parks.ca.gov](mailto:dmona@parks.ca.gov)). Together these agencies worked out an agreement to share tax revenues and park development impact fees from a nearby housing development that will be used for capital and operational expenses at the John Marsh/Cowell Ranch.
2. Voters living within the Cordova Recreation and Park District ([greg@crpd.com](mailto:greg@crpd.com)) recently approved a nearly \$700,000 annual assessment for park maintenance.
3. Voters living within the Monterey Peninsula Regional Park District, approved a 15-year assessment that will generate between \$800,000 and \$1 million annually for improvements to existing park facilities and acquisition of land adjacent to current parks.
4. The Mountains Recreation and Conservation Authority (MRCA), primarily the City of Los Angeles was created by voters to acquire and preserve remaining open space and wildlife areas, remove fire hazards, create additional parklands and trails and protect important habitat and wildlife corridors. The MRCA is a joint powers authority founded in 1985 between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District and the Rancho Simi Recreation and Park District.
5. Others: East Bay Regional Park District, Santa Clara Open Space Authority, Santa Monica Mountains Conservancy, City of San Diego, City of Long Beach, City of Sacramento, City of Ontario, Sunrise RPD, City of Elk Grove, City of Vacaville, Rancho Simi RPD, Fulton-El Camino RPD, City of Lompoc, City of Menlo Park, Ventura County, Fair Oaks RPD, City of Palmdale, Placer County – Granite Bay, County of Contra Costa, City of Palmdale and the City of Moorpark.

#### Suggested Resources:

1. California Laws, Government Code Section 54710-54711, <http://www.leginfo.ca.gov/calaw.html>
2. California Tax Data, [www.californiataxdata.com](http://www.californiataxdata.com) (a series of good summary articles can be found on this web site)
4. Governor's Office of Planning and Research, "A Planner's Guide to Financing Public Improvements," 1995, <http://www.opr.ca.gov/>
5. Institute for Local Government, [www.ilsg.org/index](http://www.ilsg.org/index)
6. League of California Cities, [www.cacities.org](http://www.cacities.org)
7. Trust for Public Land, [www.tpl.org](http://www.tpl.org)
8. SCI, Inc., [www.sci-cg.com](http://www.sci-cg.com)