



Fee Study Task Force
City of San José
via email, sent Oct. 1, 2022

Subject: Park Trust Fund and Park Funding

Dear Taskforce Members,

The District 6 Neighborhood Leaders Group (D6NLG), a decades-old association of involved community representatives of the numerous neighborhoods and associations in San José's Council District 6, exists to advocate for San José to become an even more safe, sustainable, equitable, attractive, and inviting city.

At our September 12th meeting, we reviewed the [staff presentation](#)¹ to the Parks and Recreation Commission (PRC) about the Park Trust Fund, and we decided by consensus to write to you to offer some thoughts and suggestions about the Park Trust Fund and improving the funding for our city parks. We appreciate that the program has generally been successful, resulting in the construction of dozens of parks across the city over the years, without (as developers had feared) impeding the construction of new housing.

Background

In our [prior letter](#)² dated 14 February 2022, we identified the benefits of parks, summarized current practices, and pointed out problems with the current Park Trust Fund system. In summary, we recommended – and continue to recommend:

1. Parks fees should be collected for all development – commercial **and** residential; and
2. Staff should develop a priority setting protocol. We suggested this hierarchy:
 - a. Maintain safe parks (i.e., mitigate hazards – “safety first!”)
 - b. Fulfill urban village open space plans.
 - c. Address park access and amenity inequity.
 - d. Set aside a portion for regional parks and an opportunity fund.
 - e. Ignore council district boundaries as a deciding factor in funding allocation.
 - f. Do not use school grounds to calculate parkland deficiency.
 - g. “Neighborhood serving” and “community serving” amenities should be redefined.

Since we last wrote, you on the Task Force have reviewed more aspects of the program. The PRC, at their September meeting, received a summary of the key points, and their feedback was solicited. We reviewed their presentation and wish to offer our view on several key questions.

¹ <https://www.sanjoseca.gov/home/showdocument?id=88933&t=637971191733096118>

² <http://calsj.org/D6/D6NLG%20-%20Park%20Trust%20Fund.pdf>



Key Points

1. Park fees should be expanded to include commercial development.

We strongly believe that commercial properties benefit from the presence of parks: they make their businesses more appealing and provide a healthy nearby destination for their workers and customers. We observe many people using parks during their work day – for walking, conferencing, meditation, active play, and eating lunch. Commercial users should be supporting this healthful activity by contributing to the park system with a commercial impact fee.

2. Fees should be determined by planning area rather than city-wide.

Fees collected from any given project are restricted by law by the project's "nexus" (connectedness) and thus cannot be spent at any arbitrary place in the city. In some planning areas, land values are low and rents are also low: projects in these areas warrant a corresponding lower fee. Property is more expensive in other parts of town that currently are expecting high growth and also have little or no parkland: a uniform park fee would not provide the funds needed to acquire land in these areas of high land value. A uniform park fee would also in effect be subsidizing higher rent projects to the detriment of projects elsewhere that serve the lower rent market.

3. Park fees should be based a combination of land value and cost of park development rather than solely on land value.

All parks incur roughly the same development costs – the price of a play structure or picnic table doesn't vary with its location – and the development costs are a significant portion of the total cost of a city park. If fees are collected based solely on the cost of land, low-cost areas would not collect enough fees to develop their raw dirt into proper city parks.

4. Park credits should not be granted for private recreation amenities.

We believe that these credits amount to a grant of public funds to private developments. Then-Deputy Director Burnham presented us the details of the current public recreation credits at our June meeting, and we were appalled at the abuses, such as "amenities" that were kept locked and unavailable even to tenants. We feel that private recreation credits further perpetuate a community of 'haves' and 'have nots', with private parks for the rich and no parks for the poor. We in the D6NLG voted to oppose any further private recreation credits as currently designated by the program.

5. Park fee credits should (conditionally) be granted for Privately Owned Public Space (POPS).

We are cautiously and tentatively supportive of this concept, but we can point to projects both within and outside San Jose where the intent of public access, recreation and open space for all has been subverted through design and roadway access limitations. We are opposed to counting walkways between buildings and access routes between commercial retail spaces for



parkland credit. Park fee credits should not be used to subsidize shopping patrons' store access. We worry about the language of easements, and we note that Google's easements allow them to move their easements at will, to close public access to them on a large number of days per year – at their convenience and without regard to what other needs the city may have now or in the future. We are concerned that previously existing easements and public accesses have disappeared throughout San Jose with redevelopment of the properties and/or the complaints of nearby property owners. Looking at CEQA and NEPA law, the loss of POPS is not considered a “significant impact” that would need to be mitigated: we have seen this recently with VTA's taking by eminent domain of Paseo Mercurio in downtown San Jose. We believe the concept shown to PRC requiring a POPS to have frontage along the public realm and at least two recreational amenities is worthy of further discussion and development, including more discussion on the ratio of natural elements to hardscape. We also believe the city is more often better served by fee simple ownership of parks.

6. Parkland credits probably should not be granted for storm water management facilities.

We are doubtful about the appropriateness of granting credit in most cases. At a minimum, the facility should specifically enhance the public realm through wildlife habitat and/or recreational facilities. We are aware of facilities within San Jose that failed in these goals as well as those that have succeeded. We wish to see more fully developed guidelines.

7. Park credits should not be granted for turnkey parks.

We have come to believe that turnkey parks are not in the city's interest for three reasons:

1. The park designers are under the control of the developer and not city staff. They may include features that are difficult to maintain or require more hours than city budget allows. Their designs may require rebuilding by park staff after delivery.
2. In recent projects, the cost to develop per acre has been significantly higher than city costs.
3. Recently, developers have failed to complete and deliver projects because a) they failed to build them³, b) they failed to deliver them easement free⁴, or c) they apparently failed to conform to the city's wage law⁵.

8. The Park Trust Fund and the Construction & Conveyance (C & C) program are not adequate to meet city needs.

We believe the constraints of the Park Trust Fund and the C & C program make them insufficient for addressing the city's current severe park deficiencies and historic inequities in park access for all members of the San Jose community. There are neighborhoods that are far outside the nexus of proposed or planned redevelopment and thus will not be served by those fees – possibly for one or two lifetimes. The C & C fund does not generate enough resources to

³ Flea Market North Parks (Mercado and Bruzzone)

⁴ Delano Manongs Park

⁵ Golden Oak Park



address the severe park deficiencies that fall primarily on neighborhoods of color or poverty. We worry about the inequitable distribution of park amenities that the current fee programs perpetuate.

We recognize that the City of San José has gone through a long period of financial challenges, but the situation has now improved – the issues of bonds and of pensions have been resolved – and now is the time to address these historic park inequities that are beyond the scope of current funding mechanisms. We hear of school properties that may become available for purchase, and suggest that it would be good to have money set aside to be able to buy suitable land if and when they become available. We encourage you on the Task Force to advocate for City funds to ‘right past wrongs’ and to make San José a truly great city.

Additional points:

We encourage the task force to recommend

1. PRNS staff complete their GIS inventory of park facilities through the lens of park quality – access and amenities – to identify neighborhoods for priority funding.
2. Extension of the task force or a successor group to review design requirements for receiving park credits for POPS or storm-water elements.
3. Extension of the task force or a successor group to explore alternative additional funding.

As we have said before, San José is a vibrant and diverse city, and our residents deserve a vibrant and diverse park system. We hope you will recommend updates to the Park Trust Fund that will enable us to develop and maintain a park system worthy of San José.

Thank you,

~Larry Ames

Dr. Lawrence Ames, Chair, D6NLG

cc: Dev Davis, Councilmember SJ District 6
PRNS Jon Cicirelli, Dir; Sara Sellers; Avi Yotam; Rebekah Ross