

CONSERVATION FINANCE FEASIBILITY STUDY, JANUARY 2011

PREPARED FOR THE GRASSROOTS WORKING GROUP

Regional Parks and Open Space System Serving
Sacramento County



THE TRUST *for* PUBLIC LAND

CONSERVING LAND FOR PEOPLE

Grassroots Working Group

The Grassroots Working Group is a group of citizen volunteers. The membership consists of the following persons, in alphabetical order: Lea Brooks (Sacramento Area Bicycle Advocates), Rob Burness (Habitat 2020), Bill Davis (Save the American River Association), Pablo Garza (The Nature Conservancy), Gay Jones (Butterfield Riviera East Community Association), Charlea Moore (Dry Creek Parkway and Gibson Ranch Regional Park), Aimee Rutledge (Sacramento Valley Conservancy), Warren Truitt (Save the American River Association) Betsy Weiland (American River Natural History Association), Charlie Willard (Pathways to Recreation), and Leo Winternitz, with alternates Dennis Greenbaum and Keith Coolidge (American River Parkway Foundation). Members participate as individuals and not as delegates from any organization or area. Where organizations are identified, they are provided only to inform as to area of interest.

The guiding **Vision** for the Grassroots Working Group is an integrated system of regional parks and open space areas linked by a bicycle transportation network. A system that is safe, accessible, and well-maintained provides recreational and educational opportunities to Sacramento County's diverse communities. This system will also incorporate farmlands and wildlands, thereby allowing the people of the Sacramento area to enjoy the health and welfare benefits of clean air and water, locally grown food, and abundant opportunities to fish, boat, paddle, row, walk, hike, bike, ride horses, observe nature and enjoy all types of recreation. The **Mission** of the Grassroots Working Group is to identify an appropriate structure to manage our regional parks and open space system linked by a non-motorized transportation network, coupled with a reliable funding stream that adequately provides for the operations, maintenance, and expansion of the system.

The Grassroots Working Group can be contacted via email at info@sarariverwatch.org, by telephone at (916) 482-2551. or by postal mail at Grassroots Working Group, % Save the American River Association, 4441 Auburn Blvd. Suite H, Sacramento, CA 95841



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TABLE OF CONTENTS

Introduction	2
Executive Summary	3
Management Structure Options	5
Special Districts	5
Community Service District	7
Implementation	7
Choosing a Funding Strategy	8
Local Public Finance in California	9
Charter Amendment	10
Parcel Tax	11
Sales and Use Tax	12
Bonds	14
Benefit Assessments	14
Election Trends	15
Next Steps	16
Appendices	17
Appendix A: Management Options Summary	18
Appendix B: Revenue Options Summary	19
Appendix C: California Local Measure History	21
Appendix D: Sacramento County Election Schedule	22
Appendix D: Sacramento County Election Schedule	22

INTRODUCTION

The Trust for Public Land (TPL) is a national nonprofit land conservation organization working to protect land for human enjoyment and well-being. TPL helps conserve land for parks, greenways, recreation areas, watersheds and wilderness. To date, TPL has helped protect some 1,500 properties, totaling more than one million acres in 45 states.

To help public agencies or land trusts acquire land, TPL assists communities in identifying and securing public financing. TPL's conservation finance program offers technical assistance to elected officials, public agencies and community groups to design, pass and implement public funding measures that reflect popular priorities.

In California, TPL has helped protect roughly 330,000 acres. Since 1992, TPL has supported 23 statewide and local conservation finance ballot measures in the state. Of these measures 18 were approved by voters, generating almost \$11 billion dollars for parks and land conservation purposes. Eleven of the 14 local measures were successful—a 79 percent approval rate.

In September 2010, the Grassroots Working Group in Sacramento County asked TPL to provide technical advice and assistance to the groups' efforts to fund conservation and recreation in the county. Specifically, TPL engaged to examine potential public financing options for parks and conservation.

Given the substantial investment of time and resources required for a successful conservation finance initiative, preliminary research is essential to determine the feasibility of such an effort. The objective of this study is to research the most viable local public options for funding parks maintenance and operations and open space land conservation in Sacramento County. The study will provide analysis of which local options and funding levels are economically prudent and likely to be publicly acceptable. Four management structures are evaluated as they relate to the implementation of the various finance options. These structures are the existing county Department of Regional Parks, a new dependent district, a new independent district and a countywide community services district. Also included is a summary of election trends for conservation funding programs by communities in the state. This research provides a stand-alone, fact-based reference document that can be used to evaluate all available financing mechanisms from an objective vantage point.

This report does not include a number of other useful tools that may be employed on a smaller scale or for individual parks or projects such as development agreements, park user fees, zoning or regulatory conditions, public-private partnerships, or philanthropic donations.

Further TPL technical assistance will be provided to the Working Group in the form of a countywide public opinion survey to test public support for options evaluated in this report and recommendations for design of a conservation finance measure.

EXECUTIVE SUMMARY

In the past few years, the Sacramento County Regional Parks Department has taken dramatic cuts in funding. As such, county officials and staff and parks volunteers and advocates are searching for an adequate, stable, dedicated funding source for the regional parks system.

In October 2010, the Department prepared for the Grassroots Working Group an Initial Budget Estimate for an independent regional district that would assume responsibility for the management, operation, and maintenance of the Regional Parks and Open Space System. This Initial Budget Estimate puts the net cost to the county of maintaining the current level of service at roughly \$8 to \$12 million annually. TPL offers no comment on the budget estimate and understands that it will be reviewed by others.

Four management structures and three primary revenue options are evaluated in this report. The findings are summarized briefly below and in appendices A and B.

-County Board of Supervisors: Under the existing structure (County Board of Supervisors acting through its Department of Regional Parks), funding could be secured through the use of a charter amendment that would dedicate a certain portion of the existing general fund revenues for parks and open space. Such a dedication would provide stable, adequate funding for the regional parks system. Dedicating a portion of general revenues does however reduce flexibility in the budget and in tight fiscal circumstances cuts to other county programs could be needed. Most likely majority voter approval is required. Alternatively, the county could seek voter approval for a special tax (sales tax or parcel tax). Finally, a charter amendment could be used to cover a portion of the total cost of a regional parks and open space system in conjunction with other funding options and management structures described below.

-Independent Regional Special District: An independent Regional Parks and Open Space District could be created to assume care, custody and control of the regional parks and open space system serving Sacramento County. The district is initiated by a citizen petition and governed by an independent, elected board of directors. Approval by the Sacramento County Local Agency Formation Committee (LAFCO) is not required. The district is authorized to levy special taxes (i.e. parcel tax), requiring 2/3rds voter approval. Revenues would flow directly to the district. Alternatively, the county may be able to levy an additional transaction and use tax and transfer revenues to the district. This arrangement would require 2/3rds voter approval of the tax *and* may require a charter amendment to transfer the funds.

-Dependent Regional Special District: A dependent Regional Parks and Open Space District could be created in Sacramento County that would be governed by the County Board of Supervisors. This district may be created by petition or by county ordinance. Approval by the Sacramento County Local Agency Formation Committee (LAFCO) is not required. The statutes authorizing this option require that revenues must be allocated among all affected public agencies in the district. The district is authorized to levy special taxes (i.e. parcel tax), requiring 2/3rds voter approval. Revenues would flow directly to the district. Alternatively, the county may be able to levy an additional transaction and use tax and transfer revenues to the district. This arrangement

would require 2/3rds voter approval of the tax *and* may require a charter amendment to transfer the funds.

-Community Services District: Formation of a countywide community services district (CSD) may be initiated either by a petition or by adoption of a resolution by the County Board of Supervisors, following a public hearing by the county. LAFCO approval is required and will be conditioned specifically on voter or property owner approval of any special taxes needed to generate revenues sufficient for the CSD to operate. A CSD would be governed by an independent Board of Directors. Revenues from a special tax would flow directly to the district.

CURRENT MANAGEMENT & FUNDING

The Sacramento County Department of Regional Parks celebrated its 50th anniversary in 2009. The department, under the direction of the County Board of Supervisors, manages over 15,000 acres of parks and open space and currently employs approximately 51 full-time staff. Like many other county departments, the Sacramento County parks budget appropriation amount changes with each boom and bust of the economy. In the past few years, the parks department has taken dramatic cuts in funding. As such, county officials and staff and parks volunteers and advocates are searching for a adequate, stable, dedicated funding source for the regional parks system.

In October 2010, the County Department of Regional Parks at the request of the Grassroots Working Group prepared an Initial Budget Estimate for an independent regional district that would assume responsibility for the management, operation, and maintenance of the Regional Parks and Open Space System. This Initial Budget Estimate identifies costs and revenues based upon the assumption that the independent regional district provides services equivalent to those services provided that were provided under the County's Fiscal Year 2008/09 budget for the Regional Parks Department. Based on the Initial Budget Estimate, the net cost to an independent regional parks district of maintaining this level of service is \$10,045,028 annually.¹

The Grassroots Working Group is beginning the process of considering additions to the Initial Budget Estimate for (a) services that are needed to achieve industry standards to properly operate and maintain regional parks and open space systems and (b) lands, services, and system features needed for the expansion and connectivity of the existing regional parks and open space system. This is referred in Working Group documents as the "Layering Process". For the purposes of this feasibility study, the \$10 million budget figure will be used to evaluate and compare the various revenue options.

MANAGEMENT STRUCTURE OPTIONS

The viability of the finance options explored in this report is, to some degree, dependent upon the jurisdiction or body that will handle parks management in the county. In addition to the existing Department of Regional Parks, three alternative options are explored here. Two of these options are special regional parks and open space districts. The third is a community facilities district.

Special Districts

Special districts are a form of local government created by a community to meet a specific need. Limited tax bases and competing demands for existing taxes make it hard for cities and counties to provide all the services their citizens desire. When residents or landowners want new services or higher levels of services, they can form a district to pay for and administer them. California has roughly 3,400 special districts providing focused public services such as fire protection, sewers, water supply, electricity, parks, recreation, sanitation, cemeteries, and libraries. There are about 50

¹ This estimate is believed to be accurate to within +/- 20 percent.

major types of special districts (and many subcategories) ranging from airport to cemetery to water conservation districts.

Governance

A special district is classified as either independent or dependent, according to the type of governing body under which it operates. About 2/3 of special districts are independent districts with independently elected boards or appointed boards whose directors serve for fixed terms. Most have five-member boards but they vary with the size and nature of the district. Cemetery, Fire Protection, and Community Services Districts are mostly independent districts. The other 1/3 of special districts are dependent districts governed by either a city council or county board of supervisors. County Service Areas are dependent districts.

Finance

Special districts are further classified as either enterprise or non-enterprise depending on the primary source of their funding. Enterprise activities are financed predominately by user fees set at a level to cover costs. Airports, harbors, hospitals and water and sewer districts are typically funded by enterprise activities.

Non-enterprise activities are supported primarily by general revenue sources such as taxes. Fire, police, parks and recreation are examples of non-enterprise activities.

Authority

All types of districts operate under either a principal act or a special act. A principal act is a generic state law that applies statewide to all special districts of that type. A special act is a law that the Legislature tailored to the unique needs of a specific area.

California statutes permit the formation of an ***independent regional park and open space district*** as described under the California Public Resources Code commencing with Section 5500. A district created by this authority shall be governed by an independent board of directors. Under this provision, a district may be created by submitting to the county board of supervisor, a petition signed by at least 5,000 registered voters who live in the territory proposed to be included in the regional district (***the petition option***). The County Board of Supervisors will then hold a public hearing on the petition. If it is approved, the Supervisors will call an election to create the district and elect the first board of directors. The district may be created with majority voter approval, but any special taxes to fund the district require a 2/3rds vote as described in the next section of this report.

Alternatively, a ***dependent regional open space district*** could be formed in Sacramento County under the special act provisions of Public Resources Code 5506.10. In this case, the district may be created by a resolution of the Board of Supervisors (***the Board resolution option***). A district created by this authority shall be governed by the County Board of Supervisors. The legislation clearly contemplates that the district would be funded by a countywide benefit assessment. However, other finance mechanisms, such as special taxes and bonds, may be used as authorized to regional park and open space districts under general law.

In addition, the statutes authorizing the Board resolution option require that revenues must be allocated among all affected public agencies in the district. Benefit assessment funds must be expended such that a minimum of 75 percent of all revenues be used for capital outlay projects. Like an independent district, the dependent district may be created with majority voter approval, but any special taxes to fund the district require a 2/3rds vote. Benefit assessments and special taxes are described in greater detail in the next section of this report.

Community Service District

Community service districts are a form of independent local government, usually created to provide services in unincorporated areas of a county. Formation of a countywide community services district (CSD) may be initiated either by (a) petition signed by not less than 25 percent of registered voters in the county or (b) adoption of a resolution by the County Board of Supervisors, following a public hearing by the adopting body. Action by Sacramento Local Agency Formation Commission approving the formation of the CSD is required and will be conditioned specifically on voter or property owner approval of any special taxes or special benefit assessments needed to generate revenues sufficient for the CSD to operate. A 5-member CSD Board of Directors is required to be elected.

Implementation²

The Sacramento County Local Agency Formation Committee (LAFCO) generally must review any formal proposal for a new or reorganized unit of government or a boundary change. However, this requirement does not apply to the dependent regional open space district (i.e. Board resolution option.)³ For an independent special district LAFCO would prepare and approve an impartial ballot analysis.

In the case of a Community Service District described above, the LAFCO staff considers the impact the proposal might have on the environment, on the residents of nearby areas, on other local agencies, and on the distribution of property tax. After evaluating costs, benefits, and public comments, the commission can take one of three actions: it can reject the proposal, approve it outright, or approve it subject to certain conditions or modifications. Unlike the special districts described above, a CSD may be created without voter approval, but only if the LAFCO determines that the proposed district will have sufficient revenue to carry out its purposes. Otherwise, special taxes to fund the district require a 2/3rds vote as described in the next section of this report.

² Excerpted from: <http://www.smartvoter.org/gtg/ca/state/overview/districts.html>.

³ Personal communication with William Burke, Deputy County Counsel, to Bill Davis, 10/27/10.

CHOOSING A FUNDING STRATEGY

Generally, there are three broad-based types of revenue sources available to local governments to pay for parks and land conservation: discretionary annual spending (i.e. budget appropriation), creation of dedicated funding streams such as voter-approved special taxes, and the issuance of bonds. The financing options utilized by a community will depend on a variety of factors such as taxing capacity, budgetary resources, voter preferences, and political will. While most local governments can create funding for park and recreation through their budgetary process, this either happens infrequently or does not yield adequate funding.

In TPL's experience, local governments that create funding via the budget process provide substantially less funding than those that create funding through ballot measures. As elected officials go through the process of making critical budgetary decisions, funding for land conservation lags behind other public purposes, and based on TPL's experience, well behind what voters would support. It is often quite difficult to raise taxes without an indisputable public mandate for the intended purpose.

The power of conservation finance ballot measures is they provide a tangible means to implement a local government's vision. With their own funding, local governments are better positioned to secure scarce funding from state or federal governments or private philanthropic partners. Having a predictable funding source empowers the city, county, or special district to establish long-term conservation priorities that protect the most valuable resources, are geographically distributed, and otherwise meet important community goals and values.

Nationwide, a range of public financing options has been utilized by local jurisdictions to fund parks and open space, including general obligation bonds, the local sales tax, and the property tax. Less frequently used mechanisms have included special assessment districts, real estate transfer taxes, impact fees, and income taxes. The ability of local governments and special districts to establish dedicated funding sources depends upon state enabling authority.

Conservation finance measures are not right for every local government or they might not be the right approach at the moment. Budget appropriations and other revenue mechanisms that can be implemented by the local government⁴ may well serve as short-term funding options while parks and conservation proponents develop a strategy and cultivate broad support for longer-term financing options.

⁴ Development agreements, for example.

LOCAL PUBLIC FINANCE IN CALIFORNIA

All taxes imposed by local governments in California are either general taxes or special taxes.⁵

General taxes may be imposed only by local governments for general government purposes and not by special purpose districts, such as school districts. An imposition, extension or increase of any general tax requires the approval of a majority of voters at a regularly scheduled general election for members of the governing body. Revenues from general taxes are deposited into the General Fund. **Special taxes** are imposed for specific purposes by counties, cities and special districts, and any imposition, extension or increase of a special tax must be approved by a two-thirds vote of the electorate.⁶ Special districts may not impose general taxes. Taxes imposed by special districts are special taxes. Revenues from special taxes are deposited into segregated accounts restricted to the use for which they were imposed and collected.

The State of California authorizes communities to use various revenue sources for parks and recreation purposes including property-related taxes, sales and use taxes, general obligation bonds, the creation of financing districts that serve as financing mechanisms, and the creation of special districts. Each of these funding mechanisms requires approval by the electorate (or landowners in the case of special districts) and, in various communities in California, they have enjoyed widespread support.

Roughly 58 percent of local conservation finance measures (45 of 77) on the ballot in California between 1990 and 2010 were approved. Success at the ballot is hampered somewhat in the state by the high approval threshold (2/3rds vote) required for local bond and special tax measures. For a list of successful measures, see Appendix C to this report.

Conservation Finance Mechanisms in California				
Summary of local ballot measures from 1990 - 2010				
Mechanism	# Passed	# Failed	Total	% Passed
Bond	13	11	24	54%
Charter Amendment	3	0	3	100%
Sales Tax	5	5	10	50%
Parcel Tax	7	10	17	41%
Benefit Assessment	12	3	15	80%
Other*	5	3	8	63%
Total	45	32	77	58%

*primarily utility taxes & occupancy taxes
Source: TPL LandVote Database

These different voter thresholds create challenges for local agencies. On one hand, it is numerically easier to obtain a simple majority vote. On the other hand, it may be easier to generate sufficient public support for a special tax as voters can identify with a clearly identifiable purpose for the levy (i.e., public safety, a library or a sports arena). To avoid this problem, local governments sometimes utilize the “Measure A and B” approach. In this case, the local agency places two measures before the voters: Measure A – a general tax and Measure B – an advisory measure requesting the local legislative body use funds raised by Measure A for a specific purpose. In 2006, Sacramento County used this approach in its attempt to secure funding for a new Sacramento Kings arena. The measure was not approved. It is important to remember that while this approach may help garner voter support, the advisory measure is not legally binding.

⁵ Cal. Const. Art. XIII, Sect. 2 (Proposition 218, “the Right to Vote on Taxes Act,” 1996); Cal. Government Code §§53720-53730.

⁶ See Cal. Government Code §§50075-50077.5 (containing additional requirements for voter-approved special taxes).

The financing options described on the following pages present opportunities for local support of parks and recreation in Sacramento County.

Charter Amendment

As a result of Proposition 13, California has a constitutional cap on property tax levies that limits the property tax to one percent (1%) of the assessed value of property, plus an amount for the debt service on any bonds approved by voters. Assessed value is calculated at 100 percent of market value as of the base year of 1975-1976 and may be adjusted by no more than two percent (2%) per year unless the property is sold or transferred or to account for new construction (i.e. additions to an existing property). In other words, no increase in the assessed value can exceed two percent annually, regardless of inflation.

The property tax rate in may not be increased for the purpose of parks or land acquisition (except for payment of debt service on voter-approved bonds). However, the local charter governments, such as Sacramento County, can dedicate funds from existing taxes to parks and open space purposes. Two communities in California have asked voters to approve a charter amendment dedicating a portion of the existing tax revenue to parks. They are Santa Clara County and the City of San Francisco.

In Santa Clara County, the Park Charter Fund provides stable funding for the Santa Clara County Parks System to support recreational opportunities, park improvements, and open space protection through the county. Since 1972, Santa Clara County has dedicated a portion of the existing tax revenues to the Park Charter Fund. County voters have renewed the charter amendment six times, most recently in 2006. This measure extended the Park Charter Amendment through 2021 and preserves the level of funding at 1.425 cents per \$100 of assessed valuation and dedicates at least 15 percent of the Fund to parkland acquisition and 5 percent to capital improvements with the remainder for park operations.

Creating a Charter Parks Fund in Sacramento County

A regional parks and open space system could be funded, entirely or in part, through a charter amendment instructing the Board of Supervisors to allocate a portion of existing taxes to the regional parks system. An allocation of approximately \$8 to \$12 million would be needed to fully fund the regional parks budget as described on page 4. Such a dedication would provide stable funding for parks, but also could necessitate cuts to other areas of the county budget in tight fiscal circumstances. Alternatively, a charter amendment could be used to cover a portion of the total cost of a regional parks and open space system in conjunction with other funding options. An estimate of \$2 to \$4.5 million has been suggested as a portion of general fund revenues comparable to allocations made to parks in recent years (i.e. replacement of existing tax revenues is avoided).

Potential Charter Fund Amendment Allocations		
\$/100 Assessed Value	2010 Equalized Assessed Value	Annual Revenue
0.017	\$ 120,138,776,755	\$2,042,359
0.038	\$ 120,138,776,755	\$4,565,274
0.067	\$ 120,138,776,755	\$8,049,298
0.085	\$ 120,138,776,755	\$10,211,796
0.10	\$ 120,138,776,755	\$12,013,878

Source: County equalized assessed value, Sacramento County Dept. of Finance.

Implementation process

Charter amendments must be approved by a majority of county voters. A county charter may be amended by proposals submitted by the governing body or by a petition signed by 10 percent of the qualified electors of the county, computed upon the total number of votes cast in the county for all candidates for Governor at the last general election at which a Governor was elected. The Sacramento County Elections Department requires that ballot measures be submitted 112 days prior to an election (i.e. July 17th for the November 2012 election).

Parcel Tax

A parcel tax is a type of excise tax that is based on either a flat per-parcel rate or a rate that is based upon the use, size, and/or number of units on each parcel. A parcel tax must be adopted as a special tax, requiring two-thirds voter approval. Parcel taxes are used to provide various local government and school services. In 2000, voters in two California cities (Davis \$24 and Monrovia \$39) approved parcel taxes to support the protection of open space, and in 2005 voters in the Marinwood Community Services District in Marin County, approved a proposal to increase their parcel fee by \$75 to \$150 to support parks and open space. According to a recent survey of 338 cities conducted by the League of California Cities, 18 percent (62 cities) report collection of parcel taxes ranging in amount from about \$15 per parcel to more than \$100 per parcel. Aggregate data on parcel tax collections are not available for other jurisdictions.

There was an attempt to fund a regional parks district in Sacramento County in 1994. Measure B would have assessed homeowners \$10 per year for park acquisition, maintenance and capital improvements. The measure did not pass, receiving 47 percent of the vote.

Using the Parcel Tax in Sacramento County

Given the large number of taxable parcels in Sacramento County (approximately 471,100)⁷, a relatively small parcel tax levied countywide would produce considerable annual revenue. For example, a flat \$21 per parcel tax would generate roughly \$10 million in annual revenue.⁸

A city, county or special district contemplating a special tax levy must hold a noticed public hearing and adopt an ordinance

or resolution prior to placing the tax on the ballot. The ordinance or resolution must specify the purpose of the tax, the rate at which it will be imposed, the method of collection, and the date of the election to approve the tax levy. Approval by a 2/3 vote of the city, county or district electorate is necessary for adoption. Since 1990, seven communities have passed a parcel tax for parks and open space purposes, they are: Davis, Marin County, Marinwood CSD, Monrovia, San Carlos, and Santa Monica.

Estimated Revenue & Costs of Parcel Tax		
Revenue Generated*	Total # of Parcels	Annual Cost per Parcel
\$8,000,000	471,000	\$17
\$10,000,000	471,000	\$21
\$12,000,000	471,000	\$25
County estimates a \$0.48 per parcel fee to collect the tax. As such, approx. \$226,000 would be deducted from the revenue estimate above.		

⁷Sacramento County 2009 Annual Report, Parcel Analysis, p. 26.

⁸Note, these figures are rough estimates. Parcel taxes are often structured with varying rates depending upon the classification of each parcel of real property subject to the special tax or based on square footage. .

Sales and Use Tax

In California, the state sales tax is currently 7.25 percent (effective April 1, 2009 through June 30, 2011 when it will revert to 6.25 percent unless the 1 percent increase is extended), which provides revenues for the general fund, the local revenue fund, and the local public safety fund.⁹ In addition, counties and cities impose a uniform local 1.0 percent sales and use tax for a combined statewide rate of 8.25 percent.¹⁰ Many of California's cities, counties, towns, and communities have special taxing jurisdictions (districts), which may impose a transactions (sales) and use tax. These districts increase the tax rate in a particular area by adding the district tax to the statewide rate. The rates for these districts range from 0.10 percent to 1.00 percent per district. More than one district tax may be in effect in a given location.¹¹

In particular, local districts including counties may levy, increase or extend a transactions and use tax in increments of 0.25 percent if the ordinance authorizing the tax is approved by two-thirds of the governing body and either a majority or two-thirds of voters depending upon whether revenues from the tax will be used for general or special purposes.¹² To obtain a variance from the required 0.25 percent incremental increase to the sales and use tax, counties may seek legislative sponsorship of a sales tax bill for a different increment or tax rate.¹³ In 2005 San Mateo County secured passage of legislation allowing a tax increment of 1/8 cent (SB 203). The county put a proposal on the ballot in 2008 for a 1/8 cent sales tax to support county and local city parks, but voters rejected the measure.

The total aggregate transactions and use taxes for all taxing districts in a county may not exceed two percent (for a total of 10.25 percent).¹⁴ The proceeds of the transactions and use tax for specific purposes may be used to finance capital outlay expenditures through the issuance of bonds called limited tax bonds, which are explained in more detail later in this report.

Roughly 118 local jurisdictions in 40 counties impose an additional transaction and use tax for uses from libraries, transportation, hospitals, road, and capital improvements. For example, Sonoma County imposes a 0.25 percent transaction and use tax to fund its agricultural preservation and open space authority.

The sales tax in Sacramento County

Sacramento County and its incorporated cities levy the uniform one-percent sales and use tax. In addition, there is one transaction and use tax of one-half cent levied countywide for transit and transportation. Accordingly, the total combined sales and use tax in Sacramento County is 8.75 percent.

⁹ Cal. Revenue and Taxation Code §6051, §6201; Cal. Const. Art. XIII, Sec. 35.

¹⁰ Cal. Revenue and Taxation Code §7202(a), §7203 ("the Bradley-Burns Uniform Local Sales and Use Tax Law").

¹¹ Cal. Revenue and Taxation Code §7202(a), §7203 Food for home consumption and utilities are exempted from sales and use taxes..

¹² Cal. Revenue and Taxation Code §7285.

¹³ Ventura County sought sponsorship of a 0.125 percent sales tax enabling legislation for its open space district formation, but no legislator agreed to sponsor the bill. See also Cal. Revenue and Taxation Code §7262.5 (permitting Mendocino County to impose a tax at rate of 0.5 percent); §7262.6 (permitting the Fresno Metropolitan Projects Authority to impose a tax at a rate of 0.10 percent).

¹⁴ *Id.* at §7251.1. And http://info.sen.ca.gov/pub/bill/sen/sb_0551-0600/sb_566_cfa_20030910_013808_asm_floor.html. Prior to the passage of SB566 in 2003, cities had to first receive legislative approval to impose an additional sales tax.

Sacramento County's sales tax rate compares favorably to peers and neighboring counties. In the table to the right, several of the comparison counties levies the tax at higher rates. Sacramento County asked voters in November 1998 to authorize a ¼ cent sales tax for six years to fund general county services. The measure was rejected. In 2004 county voters approved the Sacramento Transit Authority's renewal of the Measure A sales tax dedicating a ½ cent sales tax to roadway and transit improvements. In 2006, Sacramento County placed a sales tax measure and an advisory question on the ballot to fund the Sacramento Kings arena. The measure was not approved. Finally, the City of Galt passed a ½ cent sales tax in 2008 to fund public safety.

Comparison of Tax Levies	
County	Sales Tax Rate
Alameda	9.75
Contra Costa	9.25
Santa Clara	9.25
Sacramento	8.75
San Joaquin	8.75
Solano	8.375
Placer	8.25
Yolo	8.25

Using the sales tax for parks and open space

There is a total sales tax capacity of 1.0 percent remaining in Sacramento County under the 2.0 percent limit. Therefore, the County could levy an additional transactions and use tax and spend the funds for parks and open space. In order to dedicate the entire tax for this purpose the county would have to impose a special tax requiring 2/3rds vote. If a special district were created to manage regional parks and open space in the county then a charter amendment would be required for the county to transfer revenue from the tax to the district.¹⁵

Based on 2008 estimates of total taxable transactions (\$19.3 billion),¹⁶ a 1/16th cent (0.0625 percent) transactions and use tax increase levied for parks and open space would generate an estimated \$12 million annually at a cost to the average household of \$8.89 each year. Residents' spending on taxable goods generates 39 percent of total sales tax revenue collections in the county; the remaining 61 percent is attributable to visitors and commercial spending. A 1/4th cent (0.25 percent) tax would generate \$48 million at a cost to the average household of \$36 per year.

Estimated Revenue and Cost of Infrastructure Sales Tax			
Sales Tax	Annual Revenue*	Household Spending on Taxable Goods**	Annual Cost/Household
0.0625%	\$12,082,404	\$14,221	\$8.89
0.125%	\$24,164,809	\$14,221	\$17.78
0.250%	\$48,329,618	\$14,221	\$35.55
Sales Tax	Annual Revenue*	Total Revenue Attributed to Resident Spending***	% of Revenue Generated by Residents
0.0625%	\$12,082,404	\$4,658,867	39%
0.125%	\$24,164,809	\$9,317,734	39%
0.250%	\$48,329,618	\$18,635,468	39%

**Estimate based on 2008 CA DOR total taxable sales of \$19.3 billion. The CA BOE reports that it charges between 3% and 5% to collect the tax which would be deducted from the revenue estimates in this chart (Approx. \$600K to \$1.5M).*

***Assumes 25% of household income is spent on taxable items.*

Based on 2008 median household income of \$56,882. (American Community Survey)

****Average household spending multiplied by est. # of households in the county (524,186).*

¹⁵ Personal communication with William Burke, Deputy County Counsel, to Bill Davis, 10/29/10. Alternatively, a change in state law would be needed in order for either the "Independent District" or "Dependent District" option to have the authority to put a sales tax on the ballot as a special tax.

¹⁶ California Board of Equalization, <http://www.boe.ca.gov>.

As mentioned earlier, to obtain a variance from the required 0.25 percent incremental increase to the sales and use tax, counties may seek legislative sponsorship of a sales tax bill for a different increment or tax rate for the regional district.

Implementation process

As with other California taxes, a transactions and use tax must obtain a majority vote if for general purposes and two-thirds vote if for specific purposes.¹⁷ However, a 1998 court decision found a Santa Clara County measure that specified that revenues could be spent for general county purposes required only a majority vote despite the passage of a related advisory measure state the voters' intent that the revenues be spent on specific projects.¹⁸ The California Board of Equalization recommends that any county or district contemplating a transactions and use tax should begin by contacting its Local Revenue Allocation Section. Staff will assist with the preparatory functions for placing a proposal on the ballot to ensure the tax ordinance complies with law.

Bonds

To raise funds for capital improvements, such as land acquisition or building construction, counties and cities may issue bonds.¹⁹ In California, there are three types of bonds: (1) general obligation ("GO") bonds, which are guaranteed by the local taxing authority; (2) revenue bonds that are paid by project-generated revenue or a dedicated revenue stream such as a particular tax or fee, and (3) limited tax bonds, which are paid by voter-approved transactions and use tax revenue. Generally, bond proceeds are limited to capital projects and may not be used for operations and maintenance purposes.²⁰ As such, this report will not examine bonding in further detail.

Benefit Assessments

A benefit assessment is a special charge levied on property to pay for public improvements that benefit property in a predetermined district. The philosophy behind benefit assessments (also known as special assessments, or assessment ballot proceedings) is to link the cost of public improvements to those landowners who specifically benefit from those improvements. The amount of an assessment on a particular property is related to the amount of benefit that property receives. While parks and open space often do provide general amenities that may be enjoyed by the public at large, they also provide significant special benefit to local properties. The boundaries of a benefit assessment district may coincide exactly with those of another jurisdiction (e.g. city or county) or they may cover only part of those jurisdictions.

Prior to imposing a benefit assessment, the local government(s) must determine if the project or service provides a special benefit.²¹ California Proposition 218, approved by voters in 1996,

¹⁷ In addition, all transaction and use tax proposals require 2/3rds approval by the governing body. CaliforniaCityFinance.com

¹⁸ *Coleman vs. County of Santa Clara* (64 Cal. App 4th 662).

¹⁹ Cal. Public Resources Code §5305.

²⁰ Federal government rules governing the issuance of tax-exempt bonds limit the use of proceeds to capital purposes such that only a small fraction of bond funds may be used for maintenance or operations of facilities. State and local laws may further limit the use of bond proceeds.

²¹ General enhancement of property value does not constitute 'special benefit.'" Cal. Const. Art. XIII C, Sec. 2(i).

established a strict definition of “special benefit” to mean “a particular and distinct benefit over and above general benefits conferred on real property located in the district or public at large. If it does, the amount of the special benefit and the general benefit must be estimated through a professional engineer’s report to allow local governments to recoup from the assessments only the proportionate share of costs to provide the special benefit. The local government must then set individual assessment charges so that no property owner pays more than his/her proportionate share of the total cost, which may require assessment rates to be set on a parcel-by-parcel basis.²² The assessment may be imposed only if 50 percent or more of the weighted ballots support it. Ballots are weighted according to the amount of the assessment.

In 2008, the California Supreme Court struck down an open-space assessment in Santa Clara County on the ground it did not demonstrate special benefit to the assessed property either as required by Proposition 218 or Proposition 13 and because the amounts assessed were not proportional to the special benefits conferred. The unanimous decision sets out a new, more demanding standard of judicial review of local government assessment decisions and has significant implications for assessment financing in California.²³ In particular, large-scale assessment programs are vulnerable to a legal challenge.

Other recent decisions have emphasized the significance of these requirements and have invalidated assessments where the agency's evidence fails to meet these burdens. (E.g., *Beutz v. County of Riverside* (2010) Cal.4th Dist; *Bonander v. Town of Tiburon* (2009) 180 Cal.App.4th 1057.)

As such TPL, recommends against further consideration of this financing mechanism in Sacramento County at this time.

ELECTION TRENDS

As mentioned earlier in this report, roughly 58 percent of local conservation finance measures (45 of 77) on the ballot in California between 1990 and 2010 were approved. Success at the ballot is hampered somewhat in the state by the high approval threshold (2/3rds vote) required for local bond and special tax measures. The success rate of various measures is described in the chart to the right. Property taxes (i.e. charter amendments) and benefit assessments have a higher rate of approval largely because they require simple majority approval.

Conservation Finance Mechanisms in California				
Summary of local ballot measures from 1990 - 2010				
	#	#		%
Mechanism	Passed	Failed	Total	Passed
Bond	13	11	24	54%
Charter Amendment	3	0	3	100%
Sales Tax	5	5	10	50%
Parcel Tax	7	10	17	41%
Benefit Assessment	12	3	15	80%
Other*	5	3	8	63%
Total	45	32	77	58%

*primarily utility taxes & occupancy taxes
Source: TPL LandVote Database

²² *Understanding Proposition 218*, Legislative Analyst’s Office (Dec. 1996).

²³ Excerpted from http://www.calafco.org/Court_Decisions.html

In addition, an analysis by the League of California Cities of local revenue measures from 2001 – 2009 found that 41 percent of county special tax and bond measures are approved. The approval rate for special district measures is slightly higher at 44 percent.

Local governments sometimes utilize the “Measure A and B” approach. In this case, the local agency places two measures before the voters: Measure A – a general tax and Measure B – an advisory measure requesting the local legislative body use funds raised by Measure A for a specific purpose. It is important to remember that while this approach may help garner voter support, the advisory measure is not legally binding. This approach may not be used by special districts.

NEXT STEPS

This feasibility report is meant to inform the Grass Roots Working Group in Sacramento County in their consideration of new funding for parks and recreation opportunities by identifying potential funding mechanisms and determining the fiscal capacity and legal requirements of various approaches. Next steps should include narrowing the range of management and funding options to those that match the needs identified by the group. Considerations likely will include political viability, timing, and precedent, among others. TPL recommends conducting a public opinion survey testing voter attitudes toward a specific set of funding proposals. The poll should test ballot language, tax tolerance, and program priorities of voters and/or property owners throughout the county specific to parks and open space.

APPENDICES

Appendix A: Management Options Summary

Option	Description	Implementation Process	Comments & Considerations
County Board of Supervisors – no change in mgt.	The Sacramento County Board of Supervisors acting through its Department of Regional Parks continues to provide for parks and recreation opportunities.	No change.	This is the current management arrangement.
New Regional Independent Special District	A new Independent Regional Parks and Open Space District would be governed by an independent, elected board of directors would assume care, custody and control of regional parks and open space system serving Sacramento County. Such a district may levy special taxes and issue bonds to finance capital improvements and operations for parks and open space throughout the county.	Formation requires a citizen petition; approval of the petition by the Board of Supervisors; and majority voter approval. Imposition of special taxes and issuance of bonds require 2/3 voter approval.	Provides an independent governing body that may alleviate opposition to new funding by municipalities. Implementation process could be lengthy.
New Regional Dependent Special District	A Sacramento County Open Space District would be governed by the county Board of Supervisors. Expenditures must be allocated among all affected public agencies. (At least 75% of assessments must be spent on capital improvements.) May levy special taxes and issue bonds	Petition by registered voters or resolution of the Board of Supervisors. Special tax requires approval by 2/3 rd of voters.	Streamlined implementation process (no petition, no LAFCO). Provision to allocate funds among affected agencies could alleviate opposition. Expenditure restrictions could result in insufficient funds for maintenance and operations.
Community Service District	A countywide Community Service District would be governed by an elected board of directors. May levy special taxes and issue bonds	Petition by registered voters or resolution of the Board of Supervisors. Special tax requires approval by 2/3 rd of voters. LAFCO.	Countywide CSD is uncommon. Implementation process could be lengthy.

Appendix B: Revenue Options Summary

Option	Description and Generating Potential	Process	Comments & Considerations
Charter Amendment	<p>The county could allocate funds from existing taxes to parks and open space purposes through a charter amendment. Approximately \$8-12 million would be needed to fund an independent regional parks system (at approx. current levels). An estimate of \$2 to \$4.5 million has been suggested as a portion of general fund revenues comparable to allocation made to parks in recent years. In this case, additional funds would be needed to fully fund regional parks based on the Initial Budget Estimate.</p> <p>Revenues could be transferred to and/or expended by any of the management structures considered in this report.</p>	<p>Proposals may be submitted by the governing body or by a petition signed by 10 percent of the qualified electors of the county. Majority voter approval is required (based on past measures in other jurisdictions).</p>	<p>Such a dedication would provide stable revenue for the regional parks system. However, it could necessitate cuts to other areas of the county budget or the need to generate additional funds in tight fiscal circumstances.</p>
Special Tax (per parcel)	<p>A parcel tax is a type of excise tax that is based on either a flat per-parcel rate or a rate that is based upon the use, size, and/or number of units on each parcel. A parcel tax must be adopted as a special tax, and may be utilized by counties and special districts with the capacity to levy special taxes.</p> <p>A \$21 flat per parcel tax levied on all parcels in the county would generate approximately \$10 million per year.</p> <p>Revenues could be transferred to and/or expended by any of the management structures considered in this report.</p>	<p>Requires 2/3rd approval by the Board of Supervisors and 2/3rd approval by county voters.</p> <p>Measure A/B approach may be possible. Requires two measures and majority approval.</p>	<p>Would create a dedicated funding source for parks and open space that could be used for acquisition as well as development and maintenance purposes.</p>
Sales and Use Tax	<p>Sacramento County has capacity to impose up to 1.0 percent (in 0.25 percent increments) in additional transactions and use taxes (subject to an aggregate rate limit with other taxing jurisdictions).</p> <p>A 1/16th cent (0.0625 percent) transactions and use tax increase levied for parks and open space would generate an estimated \$12 million annually at a cost to the average household of \$8.89 each year.</p> <p>The revenue estimates above are based upon 2008 taxable sales in the county. These figures are only intended for illustration, county officials, financial advisors, and counsel should provide actual collections projections.</p>	<p>Requires 2/3rd approval by the Board of Supervisors and 2/3rd approval by county voters for a special/dedicated tax.</p> <p>Measure A/B approach may be possible. Requires two measures and majority approval.</p> <p>Charter amendment is needed to transfer funds to a special district. Alternatively, a change in state law would be needed in order for a district to have the authority to put a sales tax on the ballot as a special tax.</p>	<p>Would create a significant funding source for parks and open space that could be used for acquisition as well as development and maintenance purposes.</p> <p>Sales tax revenues can fluctuate significantly with changing economic conditions.</p> <p>Not a widely used tool for parks and open space funding.</p> <p>Special bill in the Legislature to authorize a 1/16th increment.</p>

Districts as Financing Mechanisms	The county or a special district could impose benefit assessments to pay for parks and recreation opportunities.	The local government must set individual benefit assessment charges for affected property owners based on special benefits to be received. Thereafter, a public hearing must be held and the assessments must be approved by 50 percent or more of weighted landowner mail ballots.	An assessment district would create a dedicated funding source for parks that could be used for acquisition as well as development and maintenance purposes. Provides flexibility in drawing boundaries and election timing. Recent court decisions have struck down benefit assessments, making a large-scale assessment district vulnerable to legal challenge.
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Appendix C: California Local Measure History

Successful Local California Conservation Finance Ballot Measures (2000 - 2010)

Jurisdiction Name	Date	Description	Finance Mechanism	Total Funds at Stake	% Yes
Claremont	11/7/2006	Bond for the purchase of Johnson's Pasture	Bond	\$12,500,000	71%
Davis	11/7/2000	Special Open Space Protection Tax for acquisition, improvements, and maintenance of open space	Parcel tax	\$17,500,000	70%
East Bay Regional Park District	11/4/2008	Bond for the purchase of parkland, trails, and other recreational land	Bond	\$500,000,000	72%
Los Angeles	11/2/2004	Proposition O, Clean water bond to reduce total maximum daily load, including storm water retention facilities, parks, and greenbelts.	Bond	\$500,000,000	76%
Marinwood Community Services District	3/8/2005	Measure D, \$75 dollar increase to \$150 on each land parcel for parks, open space, and street landscape maintenance	Parcel tax	\$5,200,000	71%
Monrovia	7/11/2000	Special parcel tax for purchase and preservation of urban open space	Parcel tax	\$10,000,000	77%
Monterey Peninsula Regional Park District	8/2/2004	Parks, Open Space And Coastal Preservation Measure, Assessment for maintaining, improving and preserving parks and open space	Benefit Assessment	\$15,000,000	60%
Oakland	11/5/2002	Measure DD; bond measure for water quality projects and open space	Bond	\$198,250,000	80%
Orange County	11/7/2006	Measure M, 30-year extension of .5 cent sales tax for transportation purposes which includes funding for the preservation of areas of high ecological value including habitat	Sales Tax	\$11,800,000,000	70%
Pasadena	10/27/2008	Creation of Annandale Canyon Open Space Benefit Assessment District	Benefit Assessment	\$1,364,090	60%
Placer County Park and Recreation District	11/20/2001	\$58 per parcel annual assessment for maintenance, acquisition, and development of park land, recreation areas, and walking and bike trails	Benefit assessment	\$8,388,000	63%
Portola Valley	11/6/2001	4-year, extension of 2 percent utility tax for open space acquisitions	Utility tax	\$760,000	74%
Portola Valley	11/8/2005	4-year, extension of 2% utility tax to acquire and preserve open space	Utility Tax	\$800,000	58%
Portola Valley	11/3/2008	4-year, extension of 2% utility tax to acquire and preserve open space	Utility Tax	\$894,000	66%
Sacramento County	11/2/2004	Measure A, 30-year renewal, 1/2 cent sales tax for transportation purposes with a portion to acquire open space	Sales Tax	\$4,740,000,000	75%
San Diego County	11/2/2004	Measure A, 40-year extension of a 1/2 cent sales tax for transit improvements, including mitigation projects	Sales Tax	\$14,000,000,000	67%
San Francisco	3/7/2000	Proposition C, Charter Amendment, 30-year property tax set aside for parks, recreation and open space	Charter Amendment	\$510,000,000	74%
San Francisco	2/5/2008	Bond for city park improvements	Bond	\$185,000,000	71%
San Juan Capistrano	11/4/2008	Bond for the purchase of open space	Bond	\$30,000,000	70%
San Luis Obispo	11/7/2006	10-year, .5 cent local sales tax increase for essential services including the protection of open space	Sales Tax	\$45,000,000	65%
Santa Clara County	6/6/2006	12-year continuation of .01425 per \$100 property tax for land acquisition, development, and maintenance of parkland	Charter Amendment	\$368,400,000	71%
Santa Clarita	7/10/2007	30-year, \$25 assessment on property owners for the creation of the City of Santa Clarita Open Space and Parkland Preservation District	Benefit Assessment	\$46,683,000	63%
Santa Monica	11/7/2006	\$84 per single residential family unit parcel tax to implement the Watershed Management Plan	Parcel tax	\$47,000,000	67%
Santa Monica Mountains Open Space District	8/1/2002	Special assessment and bond to acquire and protect open space in the Santa Monica Mountains	Benefit assessment	\$25,600,000	
Sonoma County Ag. Preservation & OSD	11/7/2006	20-year, continuation of a quarter-cent sales tax for open space, clean water, and farmland protection	Sales Tax	\$340,000,000	76%
				\$33,408,339,090	

Note: there have been no successful ballot measures since 2008.

Appendix D: Sacramento County Election Schedule

Jurisdiction	Election Type	Election Year
President	Primary & General	2012, 2016, 2020...
Governor, State Offices	Primary & General	2010, 2014, 2018...
1 st 2 nd and 5 th District Supervisors Sherriff, DA and Assessor	Primary & General run-off if needed	2010, 2014, 2018...
3 rd & 4th Dist. Supervisors	Primary & General run-off if needed	2012, 2016, 2020...
City of Sacramento	Primary & General run-off if needed	even-numbered years
All other Cities	General only	even-numbered years
Sacramento Municipal Utility & American River Flood Control	General only	even-numbered years
Schools	General only	even-numbered years
Special Districts(i.e. Fire, Water, Rec & Park etc.)	General only	even-numbered years
Landowner Districts	November	odd-numbered years
Governing Board Member, County Board of Education 4, 5, 6 & 7	Primary	2012, 2016, 2020...
Governing Board Member, County Board of Education 1, 2 & 3	Primary	2010, 2014, 2016...

For any questions or more information please contact:

Rachel Dinno Taylor
The Trust for Public Land,
Western Division
101 Montgomery St., Suite 1100
San Francisco, CA 94104
Tel: (415) 495-4014

Wendy Muzzy
The Trust for Public Land
Conservation Finance
1011 Western Ave., #605
Seattle, WA 98104
Tel: (206) 274-2914