Beyond grants: other roles of foundations in facilitating delivery of park and recreation services in the US

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Six potential roles that foundations have adopted in the US in assisting park and recreation agencies, beyond their traditional function of grant-aiding projects, are discussed. First, they may be formed to directly deliver services. Second, they may facilitate donations and grants from sources which will not contribute directly to park and recreation agencies. Third, they are able to accept controversy and risk which agencies seek to avoid. Fourth, they provide agility, exemplified by rapid responses to property acquisition opportunities in the marketplace and pre-acquisition of specified properties for agencies. Specialist expertise in negotiation techniques, real estate finance strategies, tax planning, and property law is a fifth potential support role. Finally, foundations are better able to operate across jurisdictional boundaries.

INTRODUCTION

In the United States, foundations have become increasingly prominent in the parks and recreation field over the past two decades. Their traditional role was confined to grant giving, but relatively few park and recreation agencies benefited from that support. Their current roles have expanded extensively beyond grant giving, and this shift has resulted in foundations moving from being relatively peripheral to being integral and central to service delivery.

The shift is a response to the adverse financial environment that was dramatically launched in the US by the tax revolt of the late 1970s and early 1980s; exacerbated by the declining tax base of central cities; and inhibited by the enormity of the federal debt (the interest payments on which currently account for 22% of the federal government’s annual budget), which has squeezed expenditures on all social services. Whereas two decades ago it was difficult to find examples of park and recreation departments working with foundations, today it is the exceptional agency that does not have experience of working with them. The variety of tasks they are requested to undertake has resulted in the emergence of foundations with widely different missions and to them developing a host of innovative techniques and strategies for securing park and recreation resources. Their primary role is now more accurately conceptualized as providing support functions for park and recreation agencies, rather than as grant givers.

The purpose of this paper is to describe six ways in which foundations are used to support agencies, beyond grant giving. These are summarized in Fig. 1, which shows that foundations may support public agencies by: (1) directly delivering services through operating foundations; (2) facilitating the acquisition of donations and grants which would not otherwise be forthcoming to the agency; (3) being prepared to accept responsibility for and address issues that involve risk or controversy which it would be impolitic for a public agency to handle; (4) providing more agility in the market place than an agency’s
regulatory authority permits, which enables the foundation to act as an intermediary on the agency’s behalf in negotiations with property sellers, to engage in real estate trading, and to use a more extensive array of creative acquisition and financial mechanisms than are available to the agency; (5) offering specialist expertise that an agency does not possess, is unable to release from other duties to focus on a particular project, or may be used to mediate conflicts; and (6) engaging in projects that extend beyond an agency’s jurisdictional boundaries. The discussion of these roles is prefaced by a description of the legal status of foundations in the United States.

LEGAL STATUS

Foundations in the US are defined as non-governmental, nonprofit corporations organized and operated for the general public. A foundation is created through articles of incorporation, structured in accordance with state regulations, and is recognized as an independent legal entity by the state. Its articles of incorporation state the purposes, define its powers, and establish bylaws which are the procedures that govern its operations. The purposes may be narrowly or broadly defined, depending on its particular objectives.

After incorporation, a foundation has to apply to the Internal Revenue Service (IRS) for federal tax-exempt status under Section 501(c) (iii) of the Internal Revenue Code. This explains why US foundations are sometimes referred to as 501(c) (iii) organizations. To achieve tax-exempt status, the corporation must assure the IRS that it has been organized to serve public purposes. The IRS will rely heavily upon the purposes and powers defined by the corporation in its articles of incorporation in its evaluation. Tax-exempt status is needed both to avoid having to pay income tax on the foundation’s income, and to permit tax-deductible donations to be made to it. Donations made to a 501 (c) (iii) organization are fully deductible by the donor for income tax purposes as charitable contributions.

A corporation is a legal entity composed of individual members, but legally recognized as being an independent entity. The distinguishing feature of a nonprofit corporation is that it is organized for charitable or educational purposes rather than for private benefit. The corporate status protects individuals from personal liability for corporate debts and liabilities. Corporations are typically perpetual, although they can be dissolved,
and for this reason both public agencies and the business community views them as more stable and businesslike than unincorporated groups.

Foundations are governed by boards of directors whose mandate is to further the aims and purposes set forth in the articles of incorporation and in the bylaws. The board appoints the foundation’s senior professional staff and supervises their actions. As tax-exempt organizations, they are prohibited by federal law from contributing to political campaigns and are restricted to an ‘insubstantial amount’ of legislative lobbying activities.

OPERATING FOUNDATIONS

Operating foundations are perhaps the most endemic type of foundation in the parks and recreation field. An operating foundation uses its resources to directly deliver a service. The IRS defines it as a foundation that spends substantially all of its net income directly for the active conduct of the activities constituting the purpose for which it was organized and operated. Thus, in contrast to other types of foundations, an operating foundation’s funds are expended on direct service delivery, rather than on making grants or otherwise facilitating the work of other organizations, which then deliver the service. Most operating foundations are supported by membership dues, surplus operating revenues, or by subsidy from a grant aiding foundation.

With the exception of those operating foundations that are expressions of corporate philanthropy, almost all of them involve a joint arrangement with a public agency. Usually, the agency retains ownership of the land, structures and improvements, but is relieved of some managerial or programmatic responsibilities. Many agencies believe they are able to exercise greater control by working with an operating foundation than if they contracted with or leased to a commercial entity. In many cases, an operating foundation may have better ties with the local community than a commercial entity. This may translate into more donation and volunteer support, and engender a greater sense of identity, pride and common purpose.

Operating foundations offer public agencies another tool with which they can respond to resource allocation problems or difficulties created by required bureaucratic procedures. As jurisdictions continue to evolve from their direct provider role to being catalysts for service provision, it seems likely that operating foundations will become increasingly prominent. Peter Drucker (1991) has argued that ‘a well-managed nonprofit gets at least twice the bang out of each buck that a government agency does’ (p. 19), and suggests that a move into ‘nonprofitization’ through the use of operating foundations will emerge as a natural extension of privatization. Drucker’s views have credibility since he was the earliest popularizer of privatization in his 1969 book The Age of Discontinuity at a time when most ridiculed the concept.

Operating foundations appear to have emerged in response to five different sets of stimuli (Fig. 1). First, are community club groups. Second, are those operating foundations that were expressions of corporate philanthropy. Third, are ‘umbrella’ operating foundations whose purpose is to serve as a vehicle for cooperative governance that enables a number of different partners to pool their resources to offer services. Fourth, are those established primarily in national and state parks for the purpose of delivering auxiliary services, which complement those offered by the public agency that is managing the facility. Fifth, there is growing interest in the use of operating foundations as alternatives to public agency management. In this context, they take responsibility for managing a whole entity, rather than for designated
auxiliary services within it. Operating foundations that are organized to accomplish each of these five missions are discussed in the following sub-sections.

Community Club Groups
There is an important distinction between recreation and sports clubs in the US and those in the UK. In the UK many clubs own grounds or facilities, but in the US such ownership is rare. Rather, there is a widespread expectation and acceptance that it is the role of public agencies to provide these facilities. This has led to conceptualizing the role of clubs as being coproducers of services along with public agencies. In the context of parks and recreation, coproduction may be defined as a process in which community groups participate jointly with a public agency in the production of park and recreation services of which they or their families are primary beneficiaries.

Frequently, coproduction is organized through a nonprofit community group and it is likely to involve a formal agreement between the agency and the organization. The group performs two primary functions. First, it brings together those desiring a particular service, and is a vehicle through which they can articulate their needs to an agency. Second, it pools its resources with those of an agency to deliver the desired service. The extent of the group’s contribution is likely to vary according to the resources it has available (time, money, knowledge) and its demographic characteristics (age, income level, education).

Most commonly in this field, coproduction takes the form of an agency providing a facility, equipment and/or a financial subsidy, while the group’s resources are used to produce a programmatic element. Typical coproducers include athletic clubs (little league, swimming, soccer, softball), arts societies, senior citizen clubs, and neighbourhood associations. The effectiveness of coproduction resides in the complementarity of the resources brought by citizens and the agency to production of a service. Their combined efforts determine the quality and quantity of it that is ultimately delivered.

The more formal the structure of a community organization, the more stable it is likely to be, and the more confident an agency will be that coproduction with it will be successful. Thus, many organizations involved in coproduction have officially incorporated as 501 (c) (iii) nonprofit corporations and conduct their business as operating foundations. Indeed, some agencies will only engage in coproduction with nonprofit organizations which are able to produce a copy of the Internal Revenue Service’s letter of determination confirming their 501 (c) (iii) status, since this implies a relatively high level of stability and continuity. In addition to stability, forming a foundation creates a legal entity which offers individuals in these clubs, particularly the club officers, some protection from law suits – an important consideration in the litigious US environment.

Expression of Corporate Philanthropy
The most extensive operating foundation with this mission is the Leroy Springs Foundation, based in Lancaster, South Carolina. An overview of the scope of its operations is provided in Case Study 1.

Another well-known example is The James Foundation:

The James Foundation is an operating foundation with 50–55 employees, including seasonals. It is located in Maramec Village, Missouri, which has a population of approximately 3000. The foundation was formed as a result of a substantial bequest of 1800 acres of land, buildings and cash. The original endowment was $2.5 million and this has now grown to over $40 million. However, there are other beneficiaries from the endowment, so the James Foundation receives approximately $250 000 per year. The
CASE STUDY 1

Leroy Springs and Company Operating Foundation

Leroy Springs & Company, Inc. (LS&C) is an operating foundation that was established by the president of Springs Cotton Mills in 1938, with funding provided through the Springs Foundation (the Springs Mills’ corporate foundation). The president strongly believed in supporting the unifying of community life; he particularly believed in providing his workers with opportunities for scholarship and recreation which they otherwise might not obtain. Initially LS&C’s activity focused exclusively on creating scholarship opportunities, but in 1953 the operating foundation was given substantial funds from the Springs Foundation to purchase several recreational facilities.

LS&C’s philosophy is to provide recreational activities not otherwise available in the communities it serves, and to make its services as inexpensive as possible so all members of the community can participate, especially the low wage earner. Their facilities are open to all who reside or work in Fort Mill Township, Chester Township, and Lancaster County (all in South Carolina). The foundation avoids duplication of services which local governments provide, unless communities demonstrate the need for expansion of programmes. There is extensive cooperation with public agencies. For example, LS&C shares its baseball fields with city-supported teams, and local high schools offer their gymnasiums for company-sponsored basketball programmes.

By the mid-1990s the operating foundation had recreation assets valued at $50 million and an annual budget for its programmes of $12.5 million. Almost $11 million of the annual budget was comprised of income from its operations, while the balance was a subsidy provided by the Springs Foundation. Staffing consisted of 250 full-time and 100 seasonal employees, who serviced approximately one million visitations to their facilities.

Over 86% of total income was derived from the foundation’s Springmaid Beach resort operation which was located at Myrtle Beach on the ocean front. This included a hotel with 432 rooms, a large campground, outdoor pool and a fishing pier. Springmaid Beach was originally conceived to provide Springs Mills’ employees with affordable and easily available facilities for vacationing, particularly for families. That philosophy has been retained and in the mid-1990s it was still possible for the foundation’s target population to stay there for under $10 per room per night even though the rooms were high quality and located on a prime beach-front site!

LS&C’s other major complexes are located at Lancaster, Fort Mill, Chester and Kershaw. These embrace three golf courses, extensive athletic fields, an amusement park, three swimming pools, three community centres, bowling lanes and other amenities. In addition, the foundation purchased 280 acres of mountain property near the Blue Ridge Parkway and equipped it with cabins, bunkhouse, campsites, shelters and stables.

The foundation monitored the recreational needs of its target population on an on-going basis and made recommendations to the Springs Foundation as to how to best meet those needs. The Springs Foundation provided the funds for all LS&C’s capital improvements.

land was developed into Maramec Spring Park, which is a well-used and highly diversified public use area offering trout fishing, playgrounds, shelters, historical structures and trails in a natural setting. In the 1960s, there was a substantial increase in the endowment’s value. This enabled the foundation to satisfy additional local needs by developing the 56 acre St James Park in the centre of the community, containing a swimming pool complex, playgrounds, tennis courts, and fishing lake. The foundation developed and operates the James Memorial Library, which is a regional library serving an eight-county region. Finally, it contracted with the city to operate a nine-hole municipal golf course and a cemetery (which
includes the gravesite of the original bene-factor).

‘Umbrella’ Foundations

When a coalition of public and nonprofit organizations decide to invest funds to jointly develop a facility and/or deliver a service, the most efficient vehicle to accomplish their goal may be an independent operating foundation, with all the partner organizations represented on its governing board. An example of this approach was the Long Center in Clearwater, Florida:

The Long Center was developed and subsequently operated by a foundation. The facility was established to provide a centrally-located accessible facility that met all the community’s youth sports needs. The outdoor facilities included athletic fields, track, outdoor swimming pool, basketball and tennis courts. Indoors there was space for indoor soccer and tennis, a three-court hardwood gymnasium, an adult fitness room, 75,000 square feet of classrooms, and indoor aquatic facilities. The capital cost of $15 million was far beyond the reach of any one entity, but was achieved by an array of organizations serving multiple clienteles pooling their resources. They included: City of Clearwater Parks and Recreation Department, YWCA of Clearwater, Upper Pinellas Association of Retarded Citizens, City of Safety Harbor Leisure Services, and Clearwater For Youth, a youth sports organization. The operation was funded from user fees, concessions, sponsorships, and donations, but any annual deficit was met by an assessment on the partners (Havitz, 1996).

Sometimes organizations within an area have recognized advantages in cooperating to promote their services and have formed an operating foundation for this purpose. The extended promotional effort emerging from several agencies and organizations cooperating may generate benefits to each that are greater than those which each entity could obtain from its own more limited promotional budget:

Florida’s First Coast of Golf (FFCG) was established by a group of Professional Golf Association Tour executives, golf professionals and marketing professionals in tourism to promote the First Coast as a golf destination. The area had built some of the best golf courses in the country, both public and private, but the courses had substantial excess capacity which the operators wanted to fill by attracting more out-of-town golfers. The organization was modelled after Myrtle Beach Golf Holidays, which was a foundation that had been doing this work in Myrtle Beach, South Carolina, for many years. FFCG developed literature and disseminated it through media buys in golf publications. They purchased booths at consumer golf shows, and sponsored familiarization tours for golf or travel writers so they could become better acquainted with the area’s opportunities by playing some of the courses (Callaghan, 1994).

Deliver Auxiliary Services for Public Agencies

Many federal and natural resource agencies have established cooperative associations or friends groups to develop, provide, and sell auxiliary services. A host of government regulations pertaining to such things as the printing, publishing and quality of publications, prohibition of on-site sales to visitors, and purchasing and personnel hiring procedures, mean that agencies often are unable to efficiently deliver many auxiliary services which their visitors seek.

The role of cooperating associations is particularly prominent in the National Park Service. They were first recognized by Congress in 1946 and these associations now assist in over 300 units of the system. In general, these nonprofit associations produce interpretative materials, such as guide leaflets, pictures, crafts, maps, and books; acquire historic objects and develop displays; install museums and other facilities; distribute educational and scientific materials produced by the Park Service; operate book stores and sales counters; furnish newsletters about park activities to visitors;
conduct tours, interpretive lectures and films; and operate living history sites at which craftsmen exhibit and demonstrate their handiwork with old crafts and answer visitors’ questions (The Conservation Foundation, 1985). They also identify gaps in the spectrum of educational materials and opportunities, and seek to service those unmet needs by commissioning new resources, materials or programmes.

Cooperating associations sometimes assist the Park Service in less conventional ways. For example, one year in Crater Lake National Park the association printed and set up road signs around the park because park funds were low and because, according to a Park Service official, ‘it would have probably taken months to get formal approval, requisition, and printing when those signs were needed yesterday.’ Some cooperating associations, for example at Golden Gate National Recreation Area and at Jefferson National Expansion Memorial, have hired directors of development to lead in fundraising and ‘friend-raising’ efforts (The Conservation Foundation, 1985).

The Park Service strongly influences the organization and activities of the associations. A Park Service employee (typically the chief park interpreter or historian) works with the cooperating association. Most of the associations make extensive use of volunteer associations, but many also employ paid business managers and clerical staff. Their merchandise and pricing decisions are subject to the Park Service’s approval. The Park Service has compiled a list of appropriate items that associations may sell and exercises complete editorial and design control over all publications.

At the state level, similar nonprofit corporations function in a variety of roles ranging from control of concessions, through provision of an array of supplementary services within a park, to responsibility for operating a whole park. Advantages and benefits accruing to an agency from using nonprofit corporations rather than commercial businesses to deliver these services include:

- The revenue and/or profits available to the agency are greater. All profits are dedicated to public use, while the agency would receive only a percentage of gross receipts from traditional agreements with private entrepreneurs.
- Some concessions and services are ‘fringe operations’, that is, the potential for profit by private enterprise is small, so entrepreneurs are reluctant to participate. Nonprofit corporations are able to use volunteer labour which reduces their operating costs and enables them to operate on a break-even basis, and this option is not often available to commercial enterprises.

Alternative to Public Agency Management

There are an increasing number of situations in which the mandate of operating foundations has been extended beyond that of an auxiliary role, to that of taking over responsibility for management of selected public facilities. In most cases, this has been stimulated by the withdrawal of public funds from a facility, and the subsequent emergence of a group interested in maintaining and/or upgrading it who form an operating foundation to accomplish this goal. This is illustrated in the following three examples:

The National Park Service was responsible for the 128 acre Turkey Run Farm in northern Virginia, but major budget cuts forced the Service to schedule its closure. Rather than see the park close, an operating foundation established by citizens and businessmen was founded called Friends of Turkey Run Park. Supporters included some of the Washington, DC area’s largest businesses including Marriot, Mobil Oil, First American Bank of Virginia, and The Morris Foundation. Employees of the popular 18th century working farm became employees of the operating foundation. The Friends were able to operate the facility at lower cost by
using fewer employees and by providing compensation time rather than paying overtime.

The McDonald Park Youth Tennis Center of the New York Junior Tennis League (NYJTL) which is a 501(c)(iii) organization, operates a free tennis programme for boys and girls – from ages 6 to 18 – at an outdoor park in Brooklyn. The seven-court tennis facility in the park had been neglected by the city because of budget cuts and the courts were unplayable. So NYJTL requested that the facility be turned over to them to operate. The parks department enthusiastically agreed, recognizing that an established programme would discourage vandalism, would revive a deteriorating facility and, if things went as planned, would draw youngsters back into the park.

NYJTL as the operating foundation renovated the complex using funding from donations. Daily maintenance is the responsibility of the centre’s staff and the players. The NYJTL provides all equipment including rackets and balls. Since no fees were charged, all children could participate. With support and encouragement from the local school district and neighbourhood association, the Tennis Center became the most popular and successful tennis site in Brooklyn. In a typical year it has 1200 registered players (Hartman, 1995).

Asphalt Green is a 5 acre recreation complex on the East Side of Manhattan in New York City, containing a park, playing fields and youth sports and arts centre. The city leased the site for $1 per year to a neighbourhood foundation which took care of all buildings, operations and programming with funds from government grants, foundations and corporations. The foundation transformed the original concrete, vacant unused city block into a heavily used park and recreation complex. It is used by over 100 organized park groups, including 55 schools.

In other cases where operating foundations have taken over management of public facilities, it occurred because government perceived this to be a superior option to a public agency delivering the services:

The city of Garden Grove, California, built the Village Green Cultural Arts Complex containing an art gallery, a performing arts theatre, and an outdoor amphitheatre with federal funds. It formed a nonprofit organization to manage and operate the complex. The city’s reasons for this were two-fold: to stay away from the political problems of programming, and to avoid operating a programme believed to be far from a traditional city service and one which cities inherently lack the flexibility to manage efficiently. (For example, if the costume person cannot finish the costumes before the opening of a performance, then management may need to purchase clothing at the last minute, a task that is likely to be difficult under city purchasing procedures.) The city retained ownership of the facility and was responsible for building alterations, renovations and exterior maintenance of both the grounds and building, as well as for utilities. The city contributed approximately $50 000 a year to operating expenses, and appointed a 17-member citizen board as trustees for the operating foundation. The foundation paid for direct operating costs of the programmes, including janitorial services (International City Management Association, 1989).

The following example illustrates the frustration which can be caused by bureaucratic procedures in large cumbersome organizations. In these circumstances, an operating foundation is an appealing alternative!

Madison Square Park located in a commercial district of New York City, had been neglected for decades, with the result that a former focal point of neighbourhood activity had become a menace to the neighbourhood’s vitality. The park was quite picturesque on a relatively large site with winding paths, towering trees, and handsome monuments. Major corporations located around it donated funds to the City Parks Department to renovate Madison Square Park. The agency failed to do the work effectively or in a timely manner. The donors concluded it was pointless to proceed with improvements through the hard-pressed city government, and that a more effective mechanism for carrying out the corporations’ objectives was an operating foundation funded by the companies, which could coordinate all aspects of the park’s
operations – cutting the grass, staffing facilities, organizing and programming activities, providing security guards, and planning for the park’s physical renewal. The companies projected that annual costs would be $80 000 with an additional initial cost of $230 000 for renovating the park. They regarded this expenditure as an investment to increase the value of their existing real estate and working conditions, and not as a philanthropic venture (Simon, 1979).

The Baltimore Golf Courses case study described in Case Study 2, illustrates the variety of efficiency benefits that may accrue from using an operating foundation. Many of these efficiencies are similar to those which could be identified in the context of contracting-out to a commercial company. The trade-offs between these two options revolve around the extent to which any efficiencies and superior technical expertise offered by a commercial contractor are offset by the profits the contractor would take out of the programme. All else equal, the revenue surplus accruing to an operating foundation is likely to be higher than that received by an agency from a commercial contractor who would seek to retain a substantial portion of it as profit margin. There

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### CASE STUDY 2

**An Operating Foundation Established to Run Public Golf Courses in Baltimore**

The City of Baltimore was losing more than $500 000 annually on the operation of its five municipal golf courses. The lack of profitability caused the city council to reduce the funds allocated to the golf courses, which led to deterioration in course and clubhouse conditions, declining patronage, and poor employee morale. The PGA and LPGA relocated two tour events previously held on Baltimore courses to other cities. Baltimore’s Pine Ridge Golf Course, which was one of the region’s finest, was removed from Golf Digest’s listing of top 100 courses.

Reasons for the poor economic performance of the courses included:

- The City’s golf professionals received 100% of the revenue from the pro shop, food service, lessons, and driving range. They also received 80% of the revenue from golf cart rentals, while paying none of the expenses.
- The City employed too many full-time workers (120) and never utilized part-time workers, even though course use was seasonal.
- The benefits package for employees was 50% of wages, and leave and overtime policies were excessively generous compared to industry standards.
- Equipment repairs, conducted by the off-site, central maintenance department, were slow, unreliable and expensive.
- Fee schedules were artificially low and politicians, celebrities and friends of employees routinely played for free.
- Crucial operating decisions required immediate action, but were often held up by multiple park board and city council meetings. When decisions were made they were politically motivated.

Recognizing the problem, the mayor formed a committee of prominent business leaders to assess the golf operation and make recommendations. They presented the mayor with four options:

A. Maintain the current management under the Department of Parks and Recreation.
B. Create a city-run golf course authority, using an enterprise fund.
C. Lease the five municipal courses as a package to a private contractor through competitive bidding.
D. Create a nonprofit operating foundation.
Their recommendation was to create the operating foundation, even though it had never been tried before in the context of golf courses. They saw the following potential benefits from this option:

- By law, all of the profits were returned to support the golf courses. It created a system whereby golfers supported other golfers because revenue was not diverted to the general fund. In addition, the corporation was tax-exempt.
- This option effectively removed politics from business decisions. Day-to-day management decisions were streamlined because they were separate from the normal municipal bureaucratic processes.
- Payroll problems were reduced since the not-for-profit corporation operated separately from the existing City labour unions.
- Unlike Option C, this option would keep almost all revenues within the municipality because the corporation would be run by and for Baltimoreans.

In the first 10 years after the operating foundation took control, the number of rounds played at the five courses increased from 195,000 to over 360,000. The City had been losing $500,000 annually and there were no subsequent City losses, so the City saved $5 million in the 10 year period. In addition, more than $4.2 million was invested in capital improvements without using tax dollars or bond issues. Funding for operational and capital purchases came from playing fees. Green fees remained the lowest in the mid-Atlantic states and increased at a level which was lower than the inflation rate.

Golf Digest magazine placed Pine Ridge Golf Course back onto its list of Top 100 Courses. Although Pine Ridge no longer holds this distinction in deference to the new courses that are being developed across the United States, it along with its sister course, Mt. Pleasant, is rated as one of the Top Ten public courses in the three-state area surrounding Baltimore (Maryland, Delaware and Virginia).

Sources:

may also be concern that a commercial contractor would put profitability ahead of the public's interest. For example, there may be no desire to keep fees low for selected clienteles or to engage in unprofitable outreach activities to disadvantaged groups.

**FACILITATES DONATIONS AND GRANTS**

Many individuals and corporations will not donate to a public agency because it is an arm of government, but they will donate to a foundation since it is independent and free of political pressures. They are more comfortable donating to a foundation, even if the donation eventually supports a governmental project. This sentiment tends to be especially strong if the donation involves land. Those who have owned their land for a long time, frequently have an emotional attachment to it and are passionately concerned about its future use. Because governments are subject to political pressure and are expected to deliver a wide array of services, there is a suspicion by many that at some point in the future agency officials may misuse the donated resources in some way. For example, if a donation of park land is made, there may be concern that in the future the park may be breached by a
highway, or be converted for a school site or waste disposal plant. Lands which were thought to be protected because they were designated as parks have often been threatened and sometimes lost to development. Dams have filled wild canyons, and highways have been constructed through parks. A classic early example was the struggle over Hetch Hetchy Valley in Yosemite National Park. Thirty years after the park’s establishment, in the face of substantial, national public criticism, the valley was dammed to form a reservoir for the city of San Francisco.

Abuse of a donor’s intent by public agencies could be avoided by inserting a reversionary clause indicating that if the donor’s intent is abused, then the resources will revert to another specified organization which can be trusted to fulfil the original agreement:

There is a commercial airport inside the boundaries of Grand Teton National Park. It serves the Park, the City of Jackson Hole, and the surrounding area. Some year ago, the airlines, ski-resorts, tourism officials, and chamber of commerce, wanted to extend the runway so larger jets could land there. Conservationists were outraged. They wanted to see the airport closed. The Department of Interior indicated support for this strategy and threatened not to renew the airport’s lease when it expired.

Regional politicians were supportive of expansion and responded to Interior’s threat by seeking to have Congress change the park boundaries so that the airport would be outside Interior’s jurisdiction. They aborted this action, however, when they realized that the land was part of a major donation from John D. Rockefeller, which constituted a substantial proportion of the national park. The donation agreement contained a reverter clause stating that if any of the donated acreage ceased to be part of the national park, then the entire parcel of land would revert to the Jackson Hole Preserve which is a preservation foundation also supported by the Rockefeller.

Although the reverter clause safety mechanism is available, there are both pragmatic and philosophical reasons why donors generally prefer giving their resources to a foundation rather than a government agency. There are two pragmatic concerns. First, the reverter process is cumbersome and is likely to be controversial. Second, significant tax advantages may accrue from donating resources. It is likely to be financially disadvantageous for donations to be returned via a reverter clause to the individual or corporation that donated them. Thus, if a donation is to be given to an agency, it is common for it initially to be made to a foundation, and then for the foundation to donate it to the agency with a reverter clause included. If the conditions of the donation are not honoured then the donation would revert to the foundation, as in the above Teton National Park example. This strategy has the added advantage of the foundation serving as a watchdog with legal teeth. It has the desire and the power to demand enforcement of the donation agreement, beyond the life of the donor ad infinitum into the future. At the same time, if it is impossible to carry out the original charitable intent of the donor, the foundation often has the power to modify the terms of the donation, providing it is in accordance with the general charitable purposes for which the donation was made.

Despite the safety mechanism of the reverter clause and the low incidence of actual bad faith by agencies, direct donations to an agency are unlikely because of the negative image of government held by some and philosophical differences about its role held by others. William Penn Mott, one of the park and recreation field’s legendary leaders who, during his career, was director of the National Park Service, the California State Parks system and the California State Park Foundation stated:

At the state level in the past 12 years, the state park foundation has raised $51 million, and
contributed 20,000 acres of additional lands to the state park system. So I strongly support and recommend to you the establishment of a foundation. It should be made up of people of integrity, people who are not in government, because today, we have to remember that people are suspicious of government. I have had many people come to me, cuss out the governor of California, and cuss out state government backwards and forwards, then turn around and say to the foundation, we'll give $100,000 to a state park project. But they wouldn't give it to the state. That happens all the time (Mott, 1981, n.p.)

The lack of trust in government may relate not only to suspicion of bad faith and philosophical differences, but also to a concern that although its intentions may be noble a park and recreation agency is too cumbersome and subject to too many regulatory constraints to use donated resources efficiently on designated projects. In Philadelphia, both of these concerns led the Recreation Commissioner to direct private resources intended for the department’s programmes through a foundation:

A local nonprofit organization, Urban Affairs Coalition, was invited to administer the donations. Thus it was clear that the money, earmarked for specific programs, would not become part of the general city budget. The nonprofit organization would guarantee that donations would only be used for the program designated by the donating party (Perlmutter and Cnann, 1995, p. 31)

Sometimes landowners or companies are resentful of a jurisdiction not authorizing actions they want to undertake. As one commentator noted, 'It is often hard to differentiate between the people you pay your taxes to or the agency official who has just served you with a wetlands violation order, and a new government representative who wants to help you protect your land' (Endicott, 1993b, p. 22). Company officials or landowners find it difficult in these conflict situations to contemplate making donations to the jurisdiction. Similarly, the jurisdiction may feel uncomfortable accepting a donation from a company which is likely to be seeking its approval of a permit or zoning change. Again, a donation to a foundation removes any public perception of there being a quid pro quo involved.

In addition to facilitating donations from individuals and corporations, agency support foundations that are seeking financing to launch agency-sponsored projects are sometimes eligible for grants from large grant-aiding foundations that have policies not to award grants directly to governmental agencies.

ACCEPT CONTROVERSY AND RISK

It has been observed that public agency officials, ‘often feel that they are on the front line, encumbered by bureaucracy, politics, the press, and insufficient resources. It is difficult to take risks in such an environment’ (Bendick, 1993, p. 164). Foundations are able to invest in projects which may be too controversial for elected officials to support with public funds. This is especially germane in the Arts. What constitutes ‘good art’ or where the parameters of art are fixed, are matters of subjective judgement rather than the result of evaluation against objective criteria. Thus, although a city council may be prepared to subsidize arts in the community, its members may be reluctant to select specific projects to support because of the potential for controversy. Is a modern sculpture to be erected outside the city’s new recreation centre an inspired piece of art or a heap of ugly metal? Are some of the pieces in a touring art exhibition that is brought to the community pornographic? These types of issues arise periodically. They typically arouse passionate heated debate, making it inevitable that whatever decision elected officials make they are going to be chastised by one side or the other:
An artist who was dying of AIDS photographed himself in the nude with a noose around his neck; the Nassau County Museum of Art in New York State where his work was displayed censored the image. A board member noted that this incident demonstrated why ‘serious artists don’t trust a museum run by politicians, any more than politicians trust a museum run by artists. Divorce with alimony is the only way to go if you want to avoid these snafus.’

Soon after, further artistic and financial acrimony persuaded the county to cede control of the museum to a private board of trustees. The county, which owned the Georgian-style Gold Coast mansion and its 145 acres of grounds, provided ‘alimony’ comprised of maintenance and $200 000 a year in financial support to the operating foundation – compared to $700 000 when it was county operated. The board of trustees hired and paid for the staff. In a five year period attendance increased from 10 000 to over 225 000 a year. The change in operating organizations was positive not only from a financial perspective, but also culturally and educationally (Parks, 1995, p. 4)

These are the kind of ‘no-win’ issues which elected officials usually seek to avoid. A strategy which facilitates avoidance, is for them to appropriate an amount annually from the city budget to support the Arts, and then to assign the funds to a local arts foundation. The board of this foundation should have wide representation from all community arts groups, and take responsibility for distribution of the public funds. By adopting this strategy, when a controversy arises elected officials are able to distance themselves from the issue if they choose to do so and need not be directly involved. At the federal level of government, this role is undertaken by the National Endowment for the Arts (NEA). NEA is funded primarily by an annual appropriation from the United States Congress. NEA was established in order to reduce the political risk of controversial decisions and to ensure that public funding for the arts would be on a nonpartisan basis. It removed the risk of controversial decisions from government and placed it in the hands of a body widely recognized as having expertise in this area.

A support foundation can invest resources and effort to mobilize projects for which it would be impolitic for an agency to use public funds or its employees’ time:

The Texas Parks and Wildlife Department’s Foundation was able to acquire and move on to the headquarters site in Austin, Texas, a changing room and shower facility that was surplus from Bergstrom Air Force Base which was located five miles away. It was used by the agency’s employees who liked to exercise in the noon hour. Substantial logistical effort was involved in negotiating, site planning and physically moving the facility, and it would have been controversial to use state funds or employees for the project.

Often a city council or state legislature is reluctant to financially support a new programme because its members are skeptical that it will be as effective as its advocates anticipate. Hence, it does not rate high enough on their priority list to qualify for funding. However, a foundation may be prepared to provide funds to initiate such a project with the intent of demonstrating to the legislative body that it is worthy of public support. It is frequently said that foundation funds represent the venture capital of philanthropy, for they often support new or unproven programmes. Indeed, a primary reason that the formation of foundations has been encouraged by government through the tax incentives they are able to offer, is that they can engage in imaginative, high-risk programmes that others are unwilling to support:

In the communities of Longview and Kelso in Washington, a coalition of interest groups wanted to launch a youth after-hours programme in high-crime, high-risk neighbourhoods. The programme operated in those neighbourhoods’ schools from the time classes finished until 5:30 pm each day and in vacation periods. An initial commitment from Weyerhaeuser Company
Foundation to provide major funding for three years was key to the programme’s success, because it provided funding for a time period sufficient for the programme to demonstrate its viability (Morehouse and Renezema, 1996).

**PROVIDE AGILITY**

The term ‘agility’ embraces the attributes of speed and flexibility. It enables foundations to support public agencies by responding quickly to property acquisition opportunities that arise in the market place, which public agencies are ill-equipped to do. It has been noted that it is rare for a property to come on the market at exactly the right price and exactly the right time for a public agency (Poole, 1993). Foundations can serve as intermediaries and adjust the variables of time, price and land configuration, so they are better able to meet the needs of both the landowner and the acquiring agency.

Property transactions often involve delicate timing, the dividing or aggregating of land parcels, and complex tax or legal circumstances. Governments at all levels do not have the flexibility to successfully engage in such transactions. At the local level in the United States, capital purchases usually require voter approval. If a city council wants to purchase park land or construct a recreation facility, then a public referendum must be held. A majority vote of support for the project at the polls is required before a jurisdiction is authorized to expend public funds on it. This process is likely to take 6–8 months since it involves prioritizing projects after extensive public input and hearings, preparing and distributing informational material to all residents, and organizing the logistics associated with a referendum. Even after referendum approval is secured, agencies may have to put appraisals and sometimes survey work out to bid, so months may pass before they can make an offer to a landowner. This is likely to result in opportunities being lost. At the federal level, it often takes five years to move a project through the planning, authorization and appropriation stages to actual acquisition. The laws, regulations and processes that lead to these delays have been put in place to protect the public interest. However, such a long timeframe makes it difficult to react to trends or to respond to a willing seller.

To surmount these problems an agency may invite a foundation to act as an intermediary by engaging in a pre-acquisition. In this role, the foundation acquires a specified property or an option on it, with the understanding that the agency will purchase it from the foundation in the relatively near future when the agency anticipates that funds will become available for this purpose. For example, bonds may have been authorized but not yet sold. The following example is a typical, straightforward illustration of pre-acquisition:

Patience Island in Narragansett Bay, Rhode Island, was a 200 acre undeveloped island that had been earmarked to become part of the Bay Islands Park System. The island was owned by a Narragansett real estate partnership that had a number of other holdings, got into financial difficulties, and was forced to sell. Backed by a letter from the state expressing its interest in purchasing the land, The Nature Conservancy stepped in and bought it for cash. The island was resold to the state a year later (Bendick, 1993).

The pre-acquisition role of foundations is extensive. For example, the US Forest Service’s land acquisition programme relies heavily on foundations. In a recent five year period, over 240 Forest Service acquisitions involving over 288 000 acres at a cost of almost $150 million, were purchased from foundations acting as intermediaries (U.S. General Accounting Office, 1994).

It should be noted that if a donation for a capital project is made directly to a government agency, then construction of the project will have to go through the agency’s formal bureaucratic bidding procedures. If it is made to a foundation and the project
subsequently transferred to the agency after completion, then the foundation can negotiate with preferred contractors to do the work without being restrained by the agency’s requirement to accept the lowest bid.

Foundations are often able to buy land at a better price than public agencies. Reasons for this may include: foundations having more time to devote to landowner negotiations; landowners having different expectations when negotiating with foundations than with public agencies; foundations having more experience in negotiating tax-advantaged sales; foundations being unconstrained by government procedures; and foundations not being required to offer fair market value as are many public agencies, so they can negotiate a bargain sale or buy at auction (Myers, 1992).

Using a foundation to pre-acquire a property also may avoid escalations in cost. These may arise not only from natural market forces in rapidly appreciating markets and from inflation associated with a delay in the purchase, but also because when a government agency is known to be interested in acquiring a specified property the cost inevitably increases. The rise may be attributable to landowners believing that a government entity has ‘deep pockets’ so it can afford to pay high prices; and that once a commitment has been made to citizens elected officials are unlikely to retract it. Alternatively, the rise may be caused by speculators stepping in, purchasing part or all of the land in question and realizing a profit at taxpayers’ expense. Consider the following example:

When Point Reyes National Seashore, just north of San Francisco, was authorized by Congress, the estimated cost of land acquisition was $14 million. However, appropriation of the land acquisition money took many years. Speculators meanwhile subdivided properties, recognizing that this substantially increased property values. By the time the $14 million had been expended, the cost had risen astronomically. Although 12 years later nearly $58 million had been spent for acquisition, all the land still had not been acquired.

In situations like Point Reyes where parcels of land owned by many different entities and individuals are to be acquired, a foundation’s ability to proceed with discretion and maintain silence about the intended purchases until all have been effected is crucial to avoiding cost escalation. It contrasts with the public disclosure regulations to which park and recreation agencies have to adhere.

In many bond campaigns, the precise parcels of land to be acquired are not identified because of the potential for cost escalation. The uncertainty of how the bond money is to be used may negatively impact some voters. This problem can be surmounted by foundations acquiring options on desired property in advance of the bond issue, so parcels can be specifically identified without fear of cost escalation:

In Portland, Oregon, a major open space bond referendum failed, but three years later a $135 million bond for open space was passed. Supporters believe a key difference was that in the second referendum some key target properties were specifically designated. They had been optioned for purchase by the Trust for Public Land (TPL). ‘The last bond effort was criticized because we weren’t specific about which properties might be acquired’ said the Director of the Regional Parks and Greenspaces Department. ‘This time TPL’s options told the public exactly what land might be protected’ (Poole, 1995, p. 4).

Sometimes using a foundation for pre-acquisition is needed in order to meet the terms of a grant programme. Some state and federal grant programmes specify that matching funds for a donation an agency receives are available only during the remaining portion of the fiscal year in which the donation is made, and for one additional financial year. If the grant funds for this period have already been allocated, then the opportunity for a matching grant is lost.
However, an alternative is for the land to be donated to a foundation which in its role as an intermediary could hold it until the agency was assured of matching funds, and at that time would pass it along to the agency.

Similarly, land frequently has to be acquired shortly after it becomes available because either the donor or seller needs the tax advantages at that time, or if it is not removed from the market others will purchase it. However, the rules of many matching grant programmes prohibit applicants from negotiating a sale or accepting a donation being used as match until the grant is approved. Again, a foundation can act as an intermediary and acquire the land before selling or donating it to the agency after the matching grant has been obtained:

The Trust for Public Lands (TPL) acted as an intermediary for the City of Garland, Texas, in the purchase of 35 acres for Windsurfer Bay Park on Lake Ray Hubbard. Working in advance of the park department’s application to the state for a matching grant, TPL negotiated an option contract with Sunbelt Savings Bank which owned the property. This assured the city that the property would be available if and when it received a $600 000 acquisition matching grant from the State. The application, review and approval process for the grant often took 12–18 months and if the property had ‘remained in play’ during this time period, it was likely that Signal Bay would have been sold to a developer and the opportunity for a new park would have been lost (Harrison, 1995).

### Sources of Pre-acquisition Finance

A key factor in determining the level of agility that foundations can offer is the extent of funds available to them. In order to be effective in a pre-acquisition role, they need access to a source of interim financing to bridge the period between purchasing a property or an option on it and reselling it to a public agency. A variety of interim financing strategies are used, but the most common is establishment of a revolving fund. A revolving pre-acquisition fund is defined as:

A fund that provides loans to buy land with the understanding that the loan will be repaid from a government resale payment, a private fund-raising effort, or a combination of the two. The loaned money can then ‘revolve’ into a new project (Endicott, 1993a, p. 336).

This requires securing an initial pool of money from grant-aiding foundations, bequests, supporters, or from profits on previous transactions.

In their pre-acquisition role, foundations may make a profit on transactions by acquiring property at less than fair market value through donations or partial donations, and selling it to the public agency for an amount at, or closer to, fair market value. The profit may be used to create a revolving fund; to fund future acquisitions; to provide the resources these organizations need to operate; or to cover costs incurred in attempting to negotiate transactions that are never finalized, or those arising from helping public agencies acquire property without actually being a party to the transactions:

The 3200 acre Evans Ranch was the largest, most biologically significant undeveloped property remaining along the Front Range in Colorado. The landowners were in financial need and were forced to sell the property, but they had a desire to protect it from development. The market price was $4.5 million. A foundation, Colorado Open Lands (COL) secured a one-year option and then brought in noted landscape architect Ian McHarg, who created a ‘Stewards of the Valleys’ concept for the land. The ranch was split into five smaller units of 640 acres each, with each containing a 35 acre building area. The remaining land was covered by a conservation easement. The five units were quickly sold for $1.5 million each, which raised $7.5 million. COL paid off the $4.5 million cost of the property, and generated $3 million to fund its future operations while saving the ranch (Miller and Wright, 1991).
The Nature Conservancy sold a property to the US Forest Service for over $1 million that had been donated to it. The donor made this gift to The Nature Conservancy with the intention and understanding that The Nature Conservancy would sell this property and use the proceeds to acquire other high-priority conservation lands. After deducting its costs in this transaction, The Nature Conservancy realized a gain of over $877,000 (U.S. General Accounting Office, 1994).

Some foundations and public agencies have institutionalized the level of profit accruing to the foundation from resale of the property by agreeing a predetermined fee for this service:

The Alachua Conservation Trust (ACT) bases its fee for this service on the notion of ‘shared savings’. The less the total deal costs the government, the higher will be the fee to ACT to support its overall work. This arrangement, pioneered by ACT and adopted by other foundations in Florida, provides an incentive to the foundations to negotiate the best prices possible and to minimize transaction costs, all to the taxpayers’ benefit (Endicott et al., 1993).

It should be noted that foundations may also experience financial loss from these transactions because either they willingly sell land to an agency for a price below its acquisition cost, or its acquisition cost is greater than the appraised fair market value that a public agency is legally authorized to pay. The losses are willingly incurred because the transactions help to further the foundations’ goals:

All federal, and many other types of agencies, do not have the authority to purchase land for more than its appraised value, without having specific approval from Congress which may take a long time. This is frustrating when the difference between the appraised value and the owner’s asking price is relatively small. When this situation occurred in the National Park Service’s attempt to buy a small additional tract at Petersburg Battlefield in Virginia, The Conservancy Fund purchased the land, absorbed the small amount of money that had blocked the agreement, and sold it to the Park Service for the appraised value (Brown, 1993).

Alternative interim financing sources include securing a bridging loan from a bank, from a national support foundation, or from a grant-aiding foundation. Some states now have programmes that authorize direct grants and access to loan funds for nonprofit organizations for planning, acquisition or management of land protection projects. The first of these was established in 1982 by the California State Coastal Conservancy. Others have subsequently been enacted in Rhode Island, Vermont, New Jersey, Iowa, Maryland, Wisconsin, Florida and Connecticut (Myers, 1992):

Wisconsin’s National Areas Match Program stipulates that donations of privately raised funds or qualified natural land to the state for conservation purposes (including donations of restrictions on private lands) generate a dollar-for-dollar match of state funds for buying natural areas (Endicott, 1993a).

Foundations often limit their financial risk in this pre-acquisition role by (1) obtaining purchase options on the land and exercising these options just before selling the land to a public agency; or (2) negotiating a letter of intent with a public agency that guarantees the foundation’s reimbursement if and when the agency purchases the property. Option arrangements grant the prospective buyer the exclusive right (but not the obligation) to purchase a property during the period specified by the agreement. Before the option expires, the buyer must either exercise the right to purchase on the terms specified in the agreement, or forego this right in which case the seller is free to sell the property to another. The option binds only the seller and not the buyer. By negotiating an option, whereby the landowner accepts a small fraction of the property’s value as a sort of down-payment, a foundation is able to reduce substantially the amount of time and
money it must invest in holding the property. Indeed, a foundation is able to leverage millions of dollars in potential acquisitions through relatively small option commitments. Although the option amount is usually applied toward a property’s purchase price, it is generally not refundable in the event of the transaction not being consummated:

Melrose was one of more than 30 outstanding antebellum homes that attracted visitors to Natchez, Mississippi. Economic conditions forced the owner to offer it for sale and there was concern its grounds would be sub-divided. The owner wanted to protect it, but could not wait for the lengthy period of time which the National Park Service needed to receive authority to purchase it. The Trust for Public Land (TPL) purchased an option for a year and used the time to lobby Congress and assist the National Park Service in acquiring funds for it. In this time period, TPL also paid for appraisals, surveys, inventories and other tasks which had to be completed before a transaction could be consummated. When authorization was obtained, TPL assigned its option to the National Park Service (Brown, 1993).

In addition to pre-acquisition, there are two other support roles that are facilitated by a foundation’s agility. They are the ability to acquire real estate and structure financial transactions with mechanisms not available to public agencies; and authorization to engage in a limited amount of real estate trading.

Creative Acquisition and Financial Mechanisms

Agencies are constrained by the limiting nature of the legislation and regulations that authorize them to acquire property and finance transactions, so they lack flexibility in the method of payment and type of programme terms they are able to offer. For example, agencies are likely to lack the authority to bind land with options until donor or purchase funds can be arranged; to bid for land at auctions; to issue promissory notes or mortgages; or to pay for property in instalments. In contrast, foundations specializing in acquiring property for park or recreation purposes are empowered to act in these ways:

The Enchanted Forest was a 235-acre remnant of old-growth oak woodland near Cape Canaveral, Florida, that harbored many rare birds and mammals. Local environmentalists had tried for years to protect the property which was to be developed as an industrial park, but could not pay the $10 million price. The developer/owners got in financial trouble and defaulted on their mortgage. The property was auctioned on the courthouse steps and The Nature Conservancy purchased it for $3.9 million. Brevard County received a matching grant from the state, so when the County purchased the property from The Nature Conservancy for this price, it cost County taxpayers less than $2 million. This acquisition was only possible because The Nature Conservancy was able to act as intermediary and buy the property at auction (Endicott, 1993a).

Sometimes payments for land have to be made in instalments over time, either because this is dictated by a landowner’s tax situation, or because an agency cannot accumulate all the money at once. In these situations, a foundation may act as an intermediary. It can purchase the land in total or in annual instalments in accordance with the landowner’s wishes, and it can convey the land in total or fractional interests of it to the agency as funds become available:

The Pennsylvania Game Commission was eager to purchase a 3835 acre pristine glacial bog, but needed to spread the project over two years to capture enough federal matching funds. The Nature Conservancy purchased the property and then conveyed it to the government agency in two separate installments as matching funds became available (Endicott, 1993a).

Engage in Real Estate Trading

Foundations are able to accept donations and make property purchases which may
require engaging in real estate trading practices such as exchanging or selling property, or commercially exploiting it. Public agencies are generally prohibited from engaging in such actions by statutory hurdles. These statutory constraints are appropriate, since it is not desirable that property acquired for park and recreation purposes should be sold to the private sector without an extensive public debate of the issue and a subsequent vote of public or legislative approval. Thus, in contrast to a public agency, a foundation may accept a property donation which has relatively low utility for park and recreation purposes, but may then sell it on the open market and use the proceeds to acquire property that is more desirable for these uses.

This means that, in essence, a foundation can utilize real estate activity as a source of fund raising, although there are legal restrictions. If it engages in substantial development activities or otherwise acts as a "real estate dealer", it will lose its tax-exempt status. Nevertheless, within these limitations foundations may accept property that has no value for park or recreational purposes, and then either resell it in the market or trade it with a developer for land which is useful for these purposes:

When a government agency considers acquiring a large parcel of land from an owner, it may find the area contains parcels that are of minimal use for its purposes. However, the owner typically will not be willing to divide the parcel; it is all or nothing. A foundation can be used to resolve the conundrum. The foundation can purchase the entire tract and then resell the unneeded parcels, conveying to the public agency only the land it wants. Often, the land resold is important for agriculture, housing, economic development, or the like, and elements in the local community may oppose its removal from such use and from the local tax roles. Hence, the foundation’s actions as an intermediary may resolve a political as well as a management problem (Endicott, 1993a):

Property was donated to a foundation in San Diego, California, with the proviso that it was to be used to support the parks department. An analysis indicated that rather than develop the relatively small piece of land into a park in an area that was quite well endowed with larger parks, or sell it, its best use was to lease it to commercial concerns for development. The returns on these leases in which escalator clauses were included, were likely to yield a significant income stream which the foundation could use to support future park projects.

The Brandywine Conservancy formed a limited partnership to protect the 5300 acre King Ranch in Southeastern Pennsylvania. The partnership bought the property, and donated an 800 acre natural area to the Brandywine Conservancy. It then placed the ranch under a conservation easement and resold large lots, subject to the terms of the easement.

OFFER SPECIAL EXPERTISE

Foundations that specialize in park acquisition often have acquired substantial expertise in that area. Negotiation techniques, real estate finance strategies, tax planning and property law are some of the tools these organizations can offer to public agencies.
Sometimes a public agency needs a foundation simply to provide the staff to negotiate an acquisition; to advance the money for an option, appraisal or survey; or to arrange a closing. Even if an agency has the expertise to do some of these things, its own staff may be too committed with other projects to handle a particular transaction.

As private organizations with essentially public purposes, foundations can be effective mediators in reducing or eliminating the polarization and antipathy which sometimes characterize relationships between public agencies and developers. They can create an ‘atmosphere of possibility’ around a stalled or seemingly impossible project and make it work (Endicott, 1993a). Developers are often answerable to investors, which makes it difficult for them to willingly accept project modifications that adversely affect profitability. Park and recreation agencies are constrained by regulations. Their actions are subject to legislative, executive and judicial approval, and are subjected to both informed and uninformed public scrutiny. A foundation’s independence, acceptance of risk and agility gives it a degree of flexibility that may not be available to developers and agencies. Further, its expertise in structuring complex land transactions and innovative financing packages can be crucial to successful mediation:

A foundation’s expertise may also be used to lobby on behalf of an agency and rally public support. Agency personnel cannot lobby legislators, but foundations can do this provided it is restricted to an ‘insubstantial amount’ beyond which their 501 (c) (iii) status may be challenged. They may assist agencies by planning and implementing a campaign to win a referendum for a bond issue that will fund capital projects. If a foundation invests substantial resources in such an effort, an agency may indirectly reimburse it by asking it to act as the pre-acquisition agency’s intermediary on some of the property transactions which are funded from the bond issue. The foundation could make a profit on its resale of land to the agency to recover its campaign costs.

EXTEND BEYOND JURISDICTIONAL BOUNDARIES

Foundations are not confined by political boundaries as are public agencies. Therefore, they are free to operate across jurisdictions. When a resource extends beyond a local, county or state boundary, as is often the case with wildlife habitat or watersheds, this a useful attribute:

A canal in Louisiana across from Vicksburg National Military Park was part of Grant’s strategy to control the Mississippi and split the Confederacy. The owner offered to donate it to the National Park Service (NPS) but
NPS was unable to accept the offer because the property was outside the park's authorized boundary. The land to be acquired also fell within the territory of the NPS's Southwest Regional Office in Santa Fe, whereas the park, in Mississippi, reported to the regional office in Atlanta. The Conservation Fund was able to accept the donation and coordinate negotiations involving the two NPS regional offices. When the legislation authorizing a boundary adjustment had been adopted by Congress, the foundation donated the land to the park (Endicott et al., 1993).

CONCLUDING COMMENTS

The purpose of this paper has been to alert park and recreation managers to the myriad of ways in which foundations can assist their agencies beyond grant-funding, especially in the area of land acquisition. Some of the roles described may be uniquely applicable to the US context, but others may be usefully adapted to the political and legal environment of other countries.

Six major roles were discussed. Foundations facilitate donations and grants from individuals and corporations which would not consider contributing to government agencies, but will donate to foundations because they are independent and free of political pressure. A second support role is that they are able to accept controversy and risk which public agencies seek to avoid. This is especially useful in the Arts where subjective judgments as to what constitutes ‘good art' frequently are controversial. They are a potential source of support for innovative, high-risk, unproven programmes that public officials are reluctant to fund because they are skeptical of their effectiveness.

Perhaps the major attribute of foundations is that they provide agility. This enables them to support public agencies by responding quickly to property acquisition opportunities that arise in the marketplace, which public agencies are ill-equipped to do. They engage in pre-acquisition. This involves purchasing a specified property, or option on it, with the understanding that the agency will subsequently purchase it from the foundation when funds become available. Foundations are often able to acquire the land cheaper than public agencies, and pre-acquisition avoids the probability of later escalations in cost.

Consistent support in pre-acquisition requires a foundation to have the bridging financing capacity necessary to do this. Most achieve it by establishing a revolving fund, which initially may be built up with grants from grant-aiding foundations, bequests or supporters; by profits from transactions that accrue when property is acquired at less than fair market value and resold to agencies at a price closer to market value; by bridging loans secured from a bank, a national support foundation, or from a grant-aiding foundation; or from state grant or loan funds. Extensive use of options enables foundations to leverage their scarce funds to support public agencies by acquiring real estate and structuring financial transactions with mechanisms not available to agencies; and by engaging in a limited amount of real estate trading.

Specialist expertise is a support function available from foundations that focus on park acquisition. Negotiation techniques, real estate finance strategies, tax planning and property law are some of the tools these organizations can offer to public agencies. As private organizations with public purposes, foundations can be effective mediators in alleviating any polarization between public agencies and developers. They may also be used to rally public support and to engage in some limited amount of legislative lobbying. Finally, foundations are able to operate across jurisdictions which is particularly useful when acquisition of amenities that cross local, county or state boundaries is being considered.
Originally, the tax-exempt status of foundations was justified because they were seen as a medium through which private wealth was channelled to public purposes. However, their traditional grant-aiding function has been supplemented, and in the case of many park and recreation agencies has been supplanted, by their facilitative and technical contributions. Thus, justification for their status has broadened so it now recognizes their public purpose role of complementing the work of government agencies. The shift in function is exemplified by the growth in the number of land trusts that have been formed. In 1950, there were 51; in 1965, there were 132; but the stimuli presented by the tax revolt by the extensive land trust formation initiative undertaken by Trust for Public Land in the late 1970s and 1980s resulted in exponential growth, so there are now over 1200 land trusts.

The additional use of partnerships with foundations by park and recreation agencies is consistent with ‘load shedding’ – shifting responsibilities away from government agencies to the private nonprofit and profit sectors – and fiscal conservatism which is the prevailing political philosophy in many US jurisdictions. Since there are no signs of these conditions changing, it seems likely that the number of these partnerships will continue to grow in the future.

REFERENCES


Roles of foundations in the delivery of park and recreation services


