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ARTICLE

CREATING A SPECIAL BENEFITS DISTRICT FOR BALTIMORE'S PATTERSON PARK

Scott M. Richmond¹

I. INTRODUCTION

Patterson Park is an important asset to the high-density neighborhoods surrounding the park. That importance was demonstrated during the drafting of Patterson Park's 2016 Master Plan.² During that process, the community engaged with Baltimore City agencies, non-profits, and urban planning and design consultants to make recommendations to improve Patterson Park in a significant way.³

One of the most substantial parts of Patterson Park's 2016 Master Plan involved recommended changes to the management and maintenance structure at Patterson Park.⁴ These structural changes were recommended to make management and maintenance more efficient, more responsive to park users, and more strategic in long-term planning.⁵ While these recommended changes to maintenance and operations were important to the future of the park, funding remains a challenge.

The Baltimore City Recreation and Parks Department operations budget is underfunded to a large degree compared to average spending in other high-density cities.⁶ Patterson Park's Master Plan process identified many of the maintenance and operations deficiencies that stem from such underfunding at Patterson Park.⁷ In other park systems, private donations from charitable foundations, corporations and individuals along with special

¹ Scott Richmond is an attorney at Venable, LLP, the President of the Board of Directors of the Friends of Patterson Park, and a former member of the Patterson Park Master Plan Steering Committee.

² Baltimore City Recreation and Parks Department, *Patterson Park 2016 Master Plan*, BALTIMORE CITY RECREATION AND PARKS DEPARTMENT (June 14, 2016). (See <https://drive.google.com/file/d/0BzmWPd92eAaWcWIBU3B3c3d1dmc/view>)

³ *Id.* at x-xii.

⁴ *Id.* at 44-48.

⁵ *Id.*

⁶ See *infra* Figure 1.

⁷ *Patterson Park 2016 Master Plan*, *supra* note 2, at 44-48.

events fees, help minimize the impact of such budget shortfalls at individual parks or park districts.⁸ At Patterson Park, the Friends of Patterson Park coordinate such fundraising activities.⁹

Analysis of fundraising efforts by the Friends of Patterson Park demonstrates that philanthropic giving from individuals, corporations, and charitable foundations fail to provide an adequate supplement to the operations funding shortfalls at Patterson Park.¹⁰ Similarly, fees for special events at Patterson Park do not provide direct benefit to the park.¹¹ Although current fundraising and special events fees fail to properly supplement a lagging operations budget, imposition of special tax could be a realistic and achievable option to improve operations spending at Patterson Park.

While there are a large amount of different taxing options, the creation of a special benefits district to fund operations and maintenance at Patterson Park merits strong consideration. First, Baltimore already has experience creating successful special benefit districts for communities and businesses.¹² Extending these districts to parks does not require creating an entirely new tax structure. Second, a special benefits district can be crafted to apply a low tax burden on those who benefit from improvements to Patterson Park.¹³ Third, a special benefits district can provide a consistent revenue stream that allows for the long-term operations and maintenance planning recommended in Patterson Park's Master Plan.¹⁴ Lastly, there is strong evidence that the community will support a small tax to improve Patterson Park's maintenance and operations structure.¹⁵ With these fundamental elements in place, Patterson Park is a prime candidate for a special benefits district.

⁸ See *infra* note 83.

⁹ Friends of Patterson Park, *Analysis of Fiscal Year 2016 Fundraising*, FRIENDS OF PATTERSON PARK (2017). (See <https://drive.google.com/file/d/1iiXENhiuYvEE0VCBqYCASCwpzBS9kYno/view?usp=sharing>).

¹⁰ See *infra* pp. 10-16.

¹¹ See *infra* p. 18.

¹² See *infra* pp. 22-24.

¹³ See *infra* pp. 19-21.

¹⁴ See *infra* p. 22.

¹⁵ See *infra* pp. 25-26.

II. BACKGROUND ON THE MASTER PLAN PROCESS

In 2012, the process to update Patterson Park's Master Plan began to percolate. It started with a proposal by the City to insert ninety-six parking spaces and a loop road in Patterson Park to support a Senior Center operating inside park grounds.¹⁶ As park rules, along with common usage, restricted driving inside the park, such a proposal would have changed the character of Patterson Park.¹⁷

The City's proposed parking lot, and loop roadway were met with fierce opposition from park users, the Friends of Patterson Park, and the Councilman representing the district that includes Patterson Park.¹⁸ Opposition coalesced rapidly with social media campaigns, a petition drive, and political pressure.¹⁹ The City relented within weeks and the proposal was shelved.²⁰

Although the proposal was defeated, the City decided to harness the energy that fueled the opposition to create a Patterson Park Master Plan Working Group.²¹ That working group was eventually made up of representatives from the community, various Baltimore agencies, and non-profits that worked both in and around the park.²² The process was led by the Recreation and Parks Department, along with consultants from a local urban

¹⁶ Scott Dance, *Residents Irate at Proposal to Pave Over Green: City Might Add Spaces for 96 Cars within Patterson Park*, THE BALTIMORE SUN, Sept. 19, 2012, at A1; Mark Reutter, *Paving Paradise?*, BALTIMORE BREW, Sept. 18, 2012, <https://baltimorebrew.com/2012/09/18/paving-paradise/>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*; Fern Shen, *Suburban Vision Wrong for an Urban Park, Neighbors Say*, BALTIMORE BREW, Oct. 2, 2012, <https://baltimorebrew.com/2012/10/02/suburban-vision-wrong-for-an-urban-park-neighbors-say/>; Kevin Rector, *Hundreds of Resident Oppose Patterson Park Parking Plans*, THE BALTIMORE SUN, Oct. 2, 2012, at A6.

²⁰ Luke Broadwater, Keven Rector, *Rawlings-Blake Call for Park Study Group*, THE BALTIMORE SUN, Oct. 3, 2012, at A4; *Mayor Extends an Olive Branch to Patterson Park*, BALTIMORE BREW, Oct. 2, 2012, <https://baltimorebrew.com/2012/10/02/mayor-extends-an-olive-branch-to-patterson-park/>; *Update: Kraft Cancels Patterson Park Hearings and will Work with Mayor's Group*, BALTIMORE BREW, Oct. 3, 2012, <https://baltimorebrew.com/2012/10/03/vondrasek-discusses-patterson-park-on-wypr/>.

²¹ *Id.*

²² *Patterson Park 2016 Master Plan* x, xi, *supra* note 2.

planning and design firm.²³ The stated goal of this new working group was to update Patterson Park's almost two-decade-old Master Plan.²⁴

The Working Group planning meetings had many fits and starts before finally organizing into a series of committees: the Capital Improvement Committee, Finance Committee, Governance and Maintenance Committee, Natural Resources and Ecology Committee, and the Programming / Events Committee.²⁵ These five committees reported to a Steering Committee that had ultimate control over the recommendations made in the Master Plan, along with input from the smaller subject-based committees.²⁶ While the subject based committees were generally small groups focused on discrete areas of the Master Plan, the Steering Committee was larger, comprised of a wide variety of stakeholders, and was the committee with the most influence over the Master Plan's final recommendations.²⁷

After the subject matter committees met and organized their recommendations, the emphasis was placed on a few subject matters – capital improvement, park management and governance, rules enforcement, and ecology.²⁸ Eventually, reports were generated setting forth priorities and/or specific recommendations on each topic.²⁹ These reports were then presented to a Steering Committee for comment, change, or acceptance after deliberation of the entire group.

Although these committees were tasked with making recommendations, the design, data collection, and drafting of the Master Plan was ultimately

²³ *Rec and Parks to Lead Patterson Park Master Planning*, THE BALTIMORE GUIDE, Mar. 19, 2014.

²⁴ *Community Tapped for Update to Patterson Park Master Plan*, THE BALTIMORE GUIDE, Mar. 5, 2014.

²⁵ *Patterson Park 2016 Master Plan*, *supra* note 2, at x.

²⁶ *Id.*

²⁷ *Id.* at x-xi, 1-2, 29.

²⁸ *Id.* at x.

²⁹ Maintenance and Governance Committee, *Maintenance Report* (Aug. 2014), <https://drive.google.com/file/d/0B3XwyDlzSQBKrkM0VIB6US0tT00/view>; Maintenance and Governance Committee, *Recommendation on Management and Governance of Patterson Park* (2014), <https://drive.google.com/file/d/0B3XwyDlzSQBKQ0hMRmFGbGdvZIU/view>; Ecology and Natural Resources Committee, *Priorities* (Sept. 2014), <https://drive.google.com/file/d/0B3XwyDlzSQBKVIZXTHFESzlxR0E/view>; Capital Improvements Committee, *Priority Improvement For Patterson Park* (2014), <https://drive.google.com/file/d/0B3XwyDlzSQBKMVVfZU1uMmtmUXc/view>; Programming Committee, *Priorities Report* (2014), https://drive.google.com/file/d/14kQWMeXz4lt9JVQOiUhgf2n1ymunb4_/view?usp=s haring (See also <https://drive.google.com/file/d/1IHU-ta0ySpDf6EkSFqtlF6UWsguflU1/view?usp=sharing>).

the responsibility of the City and its consultants.³⁰ The City and consultants provided the bulk of the data collection by way of focus groups, surveys of park users, and gathering of comments made at community meetings.³¹ After data collection and analysis, the City and its urban planning and design consultants made their recommendations and drafts of the Master Plan available to the Steering Committee for comment, acceptance, or rejection. By the end of the process, Patterson Park's Master Plan resulted from collaboration between the City Government, urban planning professionals, non-profits, park users, and surrounding community members.

One of the most substantial parts of the Master Plan process involved a recognition that Patterson Park's building, pathways, courts, entrances, and fencing suffered significant maintenance needs with some of these issues failing to be addressed for more than a decade.³² In an effort to correct these deficiencies, the Master Plan suggested structural changes to Patterson Park's operations and maintenance systems. For instance, the Master Plan recommended that long-term financial, management and maintenance plans be implemented – something that is not currently done.³³ In addition, the Master Plan recommended the addition of a dedicated park manager at Patterson Park to oversee park maintenance and operations along with the implementation of long-term strategies.³⁴ The committee that made many of these recommendations believed that such additions would help alleviate some of the operational problems that exist at Patterson Park, and would lead to an efficient and responsive management system.³⁵

In 2016, four years after the process began, Patterson Park's Master Plan was finally approved by the City and published.³⁶ While the Recreation and Parks Department and the Friends of Patterson Park have taken some steps to implement the Master Plan's recommendations, the maintenance and operational recommendations remain a work in progress.

³⁰ *Patterson Park 2016 Master Plan*, *supra* note 2, at 1-2.

³¹ *Id.*

³² *Maintenance Report*, *supra* note 29.

³³ *Id.* at 1.

³⁴ *Id.* at 5.

³⁵ *Recommendation on Management and Governance of Patterson Park*, *supra* note 29, at 3.

³⁶ *Patterson Park 2016 Master Plan*, *supra* note 2, at ii.

III. WHAT WAS MISSING FROM PATTERSON PARK'S MASTER PLAN

Although the organization of the various committees was well formed, the process faltered in one major area – finance. The Finance Committee originally organized and had meetings. Unfortunately, the committee could not sustain itself as a contributor, and made no recommendations to include in the Master Plan.

The failure of the Finance Committee left a glaring hole in the Master Plan. The estimated budget for the Master Plan was over \$40 million for the lifetime of the plan.³⁷ While many of these budget items were likely loose estimates, any figure in that range is impracticable under current funding mechanisms for Patterson Park. Without realistic and achievable funding recommendations from the Finance Committee, implementation of the proposed changes to the operations and maintenance structures at Patterson Park remain in jeopardy.

IV. CURRENT FUNDING AT PATTERSON PARK

A. *Recreation and Parks*

Little is known about how funds are allocated to Patterson Park by the Recreation and Parks Department. During the Master Plan process, the Governance and Maintenance Committee requested an explanation of how budgets and funding decisions for Patterson Park were made, and what amounts were allocated.³⁸ This information was not forthcoming, and it is suspected that no particular budget exists specific to Patterson Park.³⁹ Despite that fact, Baltimore City budgets provide an overall picture of the Recreation and Parks Department spending. With some extrapolation, a gen-

³⁷ *Id.* at 94.

³⁸ *Recommendation on Management and Governance of Patterson Park*, *supra* note 29, at 5, n. 3.

³⁹ *Id.* (It is possible that this information was not provided because the Department of Recreation and Parks was undergoing a multi-year performance audit at the time.); City of Baltimore, *Performance Audit Reports for Fiscal Years 2010-2014* (June 2016), DEPARTMENT OF RECREATION AND PARKS https://finance.baltimorecity.gov/sites/default/files/Baltimore%20City%20Rec%20and%20Parks%20-%20Performance%20Audit%20Report%20-%20FY2010%20-%202014_Final.2016.10.05.pdf. (This was the first such audit of the Department in recent history and was a politically sensitive issue that highlighted certain deficiencies of financial management within the Department).

eral picture of operations and maintenance spending throughout the park system, and at Patterson Park, can be made.

The operations spending for the Recreation and Parks Department in the fiscal year of 2016 was \$38,018,596.⁴⁰ The category of operations spending includes “landscaping, maintenance, tree work, programming, administrative, and debt service.”⁴¹ With those funds, the Recreation and Parks Department serviced 4,874 acres of parkland.⁴² This leads to operations spending of \$7,800 per acre. If applying that spending equally over each acre of parkland, Patterson Park would receive \$1,045,200 to maintain and operate the 134 acres on a yearly basis.⁴³

Although the operations figures mentioned above include maintenance costs for the entire park system, Baltimore City breaks out park maintenance budgets into five geographic park districts.⁴⁴ Patterson Park is located in the Patterson Park District, and includes thirty-nine parks totaling 272 acres, with Patterson Park being the largest at 134 acres.⁴⁵ Fiscal year 2016 maintenance costs for the Patterson Park District was \$942,599 for all thirty-nine of the parks within the district boundaries.⁴⁶ This allows for maintenance spending of \$3,465 an acre if all acres of parkland are treated equally. Patterson Park’s share would be \$464,310 and over forty-nine percent of the entire maintenance budget for all thirty-nine parks. Such spending is unlikely as that would only lead to maintenance spending of \$12,587 for each of the thirty-eight other parks in the district if each park was allocated the same maintenance dollars. In reality, maintenance expenditures by the

⁴⁰ The Trust for Public Land, *City Park Facts 2017, Staffing and Spending* <https://www.tpl.org/2017-city-park-facts#sm.0000uiq381j3ecyz662ghvnszqzy> (scroll to bottom of page and click Staffing and spending (XLS) to see excel spread sheet); See also Baltimore City, *Fiscal 2018 Budget, AGENCY DETAIL 437* (Vol. II), https://bbmr.baltimorecity.gov/sites/default/files/Agency_Detail_Vol2_FINAL_2017-05-05.pdf (indicating that the total spending for the entire department was \$38,792,528 in fiscal year 2016).

⁴¹ *City Park Facts 2017, Staffing and Spending*, *supra* note 40.

⁴² The Trust for Public Land, *City Park Facts 2017, Acreage and Park System Highlights*, THE TRUST FOR PUBLIC LAND <https://www.tpl.org/2017-city-park-facts#sm.00017qq80cqnres8vr2gkuob3gzn> (scroll to bottom on page and select link marked Acreage and Park System Highlights).

⁴³ Baltimore City, *Open Baltimore*, BALTIMORE CITY <https://data.baltimorecity.gov/Geographic/Patterson-District-Parks/imft-spq7>.

⁴⁴ Baltimore City, *Fiscal 2018 Budget, Agency Detail*, *supra* note 40, at 448.

⁴⁵ See Baltimore City, *Open Baltimore*, *supra* note 43.

⁴⁶ Baltimore City, *Fiscal 2018 Budget, Agency Detail*, *supra* note 40, at 448.

Recreation and Parks Department for Patterson Park are likely much lower than \$464,310.

B. *Friends of Patterson Park*

The Friends of Patterson Park was created in 1998 as a result of Patterson Park's first Master Plan.⁴⁷ At the time, Patterson Park was in poor condition, and the City needed support to help Patterson Park improve.⁴⁸ The Friends of Patterson Park was created to "assist and work together with Baltimore City agencies to make Patterson Park the best park in the city."⁴⁹ In addition, the Friends of Patterson Park envisioned "raising funds to support special projects for the park."⁵⁰

Raising funds has been an important part of the Friends of Patterson Park's purpose in the intervening years. The Friends of Patterson Park is funded largely through donations from individuals, companies, and charitable foundations.⁵¹ These funds allow the Friends of Patterson Park to employ three full-time employees and two part-time employees.⁵² These employees coordinate volunteer efforts, provide park programming, advocate on behalf of the park, fundraise, and act as a liaison between the community and the City.⁵³ Raised funds are also used to maintain historic structures, and buy equipment for maintenance and park clean up activities.⁵⁴

⁴⁷ Baltimore City Recreation and Parks Department, *Patterson Park 1998 Master Plan, Letter from Mary Roby* (attached to beginning of Master Plan), BALTIMORE CITY RECREATION AND PARKS DEPARTMENT (June 1, 1998) https://bcrp.baltimorecity.gov/sites/default/files/Patterson%20Park%20Master%20Plan_0.pdf.

⁴⁸ Peter Harnik, *The Best Backyard in Baltimore* 7-8, (2002), THE TRUST FOR PUBLIC LAND, <http://cloud.tpl.org/pubs/ccpe-baltimore-MD-park-system-rpt.pdf>.

⁴⁹ *Patterson Park 1998 Master Plan, a letter from Mary Roby*, *supra* note 47.

⁵⁰ *Id.*

⁵¹ Friends of Patterson Park, *2016 Annual Report*, FRIENDS OF PATTERSON PARK, https://drive.google.com/file/d/1mJQVyeX92iSgSHeLi_y1sKk3-D7BPVeA/view?usp=sharing.

⁵² FRIENDS OF PATTERSON PARK, <https://pattersonpark.com/thefriends/>.

⁵³ Friends of Patterson Park, *Annual Report* (2015), FRIENDS OF PATTERSON PARK (*see* <https://drive.google.com/file/d/1czvoowAVyZCNeV-X4knZiypk0ihtmnYb/view?usp=sharing>).

⁵⁴ *Id.*; Friends of Patterson Park, *supra* note 51.

The revenue for the Friends of Patterson Park fluctuates annually. Between 2013 and 2016, the range of the Friends of Patterson Park's revenue was between \$253,436 and \$397,853.⁵⁵

C. Program Open Space

Program Open Space is a state program that allocates funds for the acquisition and conservation of parkland for state and local governments.⁵⁶ The allocated funds derive from the state real estate transfer tax – a fee generated from the transfer of property in the state.⁵⁷ Although the stated purpose of Program Open Space's local government program is to encourage the acquisition, development, and capital improvement of land for use as parks, Baltimore City has more flexibility with its use of Program Open Space funds.⁵⁸

For instance, while Program Open Space prohibits allocation of funds beyond acquisition and development of parkland, Baltimore City is an exception.⁵⁹ Baltimore City can use local project funds for operations and maintenance of projects requiring “capital renewal.”⁶⁰ Capital renewal means “renewal of a capital project for which an improvement is necessary to ensure the physical integrity of . . . [a] facility . . . [f]ixed equipment . . . or [a]n existing physical improvement.”⁶¹ Essentially, Baltimore City can use Program Open Space funds to fix or repair park facilities, and pay for operations costs for such repairs. As a result, Program Open Space can provide needed operations and maintenance funding for Patterson Park and other parks within Baltimore City that have park facilities in need of repair or replacement.

Recent legislative changes to Program Open Space provide further advantages to Baltimore City's Recreation and Park Department.⁶² These changes require Program Open Space to annually allocate \$6 million of extra revenue to Baltimore, starting in 2020.⁶³ Like typical allocations of Pro-

⁵⁵ FRIENDS OF PATTERSON PARK, IRS FORM 990 (2016); FRIENDS OF PATTERSON PARK, IRS FORM 990 (2015); FRIENDS OF PATTERSON PARK, IRS FORM 990 (2014).

⁵⁶ MD. CODE ANN., NAT. RES. § 5-901 *et seq*

⁵⁷ MD. CODE ANN., TAX – PROP. § 13-101 *et seq.*, 13-209

⁵⁸ MD. CODE ANN., NAT. RES. § 5-902(a)

⁵⁹ *Id.* § 5-901(h)

⁶⁰ *Id.*

⁶¹ *Id.* § 5-901(c)(1).

⁶² *Id.* § 5-903(a)(1)(ii).

⁶³ *Id.* § 5-903(a)(2)(ii)(2)(D).

gram Open Space funds, the extra revenue can also fund maintenance and operations of parks.⁶⁴

In fiscal year 2018, Patterson Park received \$300,000 of extra Program Open Space funds for three particular projects – park lighting, park entrances, and expansion of the community garden plots.⁶⁵ Future allocations of funds are not earmarked for Patterson Park.⁶⁶ Instead, those allocation decisions are left to the Recreation and Parks Department with approval by the state.⁶⁷

V. FUNDING DEFICIENCIES

By comparing Baltimore City's Recreation and Parks Department operations spending with other high-density cities, it becomes apparent that Baltimore's operations budget is well below the norm. The Trust for Public Land ("TPL") indicates that cities comparable in density to Baltimore, spent on average three times more on operations per acre of parkland than Baltimore, and thirty-six percent more per resident.⁶⁸ Baltimore's operations budget also lags behind less densely populated cities and highly ranked city park systems.⁶⁹

Comparing recreation and parks budgets to other cities can be difficult, due to variations between park systems, however, the TPL's collection of park-related spending data from the most populous 100 cities in the United States allows for some generalized comparisons.⁷⁰ TPL reported operations

⁶⁴ *Id.* §§ 5-901(h), 5-903(a)(2)(ii).

⁶⁵ *Id.* § 5-903(a)(2)(ii)(4)(E); *Program Open Space FY 2018 Consolidated Annual Program Grant*, DEPARTMENT OF NATURAL RESOURCES (June 30, 2016), <http://dnr.maryland.gov/land/Documents/POS/AnnualPrograms/FY2018/BaltimoreCity.pdf>.

⁶⁶ MD. CODE ANN, NAT. RES. § 5-903(a)(2)(ii)(2)(D).

⁶⁷ *Id.* § 5-903(a)(2)(ii)(1).

⁶⁸ See *infra* Figure 1.

⁶⁹ See *infra* Figures 2, 3.

⁷⁰ Trust for Public Land, *2017 City Park Facts Report* 11, 20-21, TRUST FOR PUBLIC LAND, <https://www.tpl.org/2017-city-park-facts#sm.00017qq80cqnres8vrx2gkuob3gzn>; *2017 City Park Facts, Staffing and Spending Data*, *supra* note 40; (TPL data includes spending by national, state and local governments. To determine average and median spending on operations per acre of parkland, only the major local government park system spending was analyzed – not all contributions from all the different sources. In this way, local government spending by the agencies primarily responsible for the park system can be compared. In addition, the data used by TPL includes operations spending for each city for either fiscal year 2016 or 2015. For Baltimore, operations spending was reported for fiscal year 2016. While it is not ideal to compare spending in different fiscal years, such data does allow for a level of generalized comparison.)

and capital spending per year, the number of acres managed, the population of each city, the amenities offered by each park system, and the parkland per resident, among other things.⁷¹ TPL's data is publicly available to allow for further analysis and comparison.

A review of TPL's data shows that different park systems throughout the country have wide variations in the populations serviced, acres managed, spending, and amenities offered.⁷² To compare similar types of cities, TPL used population density as one of the metrics for comparison, and categorized each city as high, medium-high, medium-low, and low-density.⁷³ Density is an important consideration when comparing park systems, as there is substantial evidence that parks are considered more valuable to those that live in high-density cities than in lower-density cities.⁷⁴ TPL classified Baltimore as a high-density city, along with seventeen others.⁷⁵

The range of operations spending in those high-density cities spanned between \$5,691 per acre and \$60,988 per acre.⁷⁶ As noted in figure 1, operations spending in Baltimore was well below the average, and median, spending of TPL's high-density city category.⁷⁷ For instance, Baltimore's operations spending per acre was \$17,627 lower than the average spending per acre, of the seventeen high-density cities, and \$13,456 below the median. Additionally, Baltimore's operations spending was \$37 lower per resident than average, and \$26 lower than the median of high-density cities.

⁷¹ 2017 City Park Facts Report, *supra* note 42; 2017 City Park Facts, *Staffing and Spending Data*, *supra* note 40.

⁷² *Id.*

⁷³ 2017 City Park Facts Report, *supra* note 42, at 11-12.

⁷⁴ Luke M. Brander & Mark J. Koetse, *The Value of Urban Open Space: Meta-Analyses of Contingent Valuation and Hedonic Pricing Results*, 31 J. OF ENVTL. MGMT 2763, 2769 (2011) (concluding that "the value of open space increases with crowdedness and scarcity of open space."); Soren T. Anderson & Sarah H. West, *Open Space, Residential Property Values, and Spatial Context*, 36 REGIONAL SCI. AND URB. ECON. 773, 787 (2006) (finding that densely populated neighborhoods near central business districts value open space higher than less densely populated suburban neighborhoods); Timm Kroeger, *Open Space Property Value Premium Analysis 4*, NATIONAL COUNCIL FOR SCIENCE AND THE ENVIRONMENT (2006) (citations omitted), https://defenders.org/sites/default/files/publications/open_space_property_value_premium_analysis.pdf.

⁷⁵ 2017 City Park Facts Report, *supra* note 42, at 11-12.

⁷⁶ 2017 City Park Facts Report, *supra* note 42, at 11, 20-21; 2017 City Park Facts, *Staffing and Spending Data*, *supra* note 40.

⁷⁷ *Id.*

Fig. 1 - Operations Spending in Baltimore vs. High-Density Cities.

| | Baltimore City | Average for High-Density Cities | Median for High-Density Cities |
|----------------------------------|----------------|---------------------------------|--------------------------------|
| Operations Spending Per Acre | \$7,800 | \$25,427 | \$21,256 |
| Operations Spending Per Resident | \$67 | \$104 | \$93 |

Even though Baltimore was characterized as a high-density city, TPL data in figure 2 indicates that Baltimore's operations spending even lagged in comparison to medium high-density cities.⁷⁸ While Baltimore's operations spending per acre was well below the average and median of medium-high density cities, while operations spending per resident was only slightly lower.

Fig. 2 – Operations Spending in Baltimore vs. Medium-High Density Cities

| | Baltimore City | Average for Medium-High Density Cities | Median for Medium-High Density Cities |
|----------------------------------|----------------|--|---------------------------------------|
| Operations Spending Per Acre | \$7,800 | \$11,903 | \$9,245 |
| Operations Spending Per Resident | \$67 | \$73 | \$73 |

Analysis of operations spending in the top twenty rated city park systems in the country, also shows higher operations spending than in Baltimore as noted in figure 3.⁷⁹ Baltimore's operations spending per acre of

⁷⁸ *Id.*

⁷⁹ TPL ranks park systems in the most populous cities using a variety of metrics including spending per resident, acres of parkland available, access to parkland and availability of different park amenities like playgrounds and basketball courts. The Trust for

parkland was well below both average and median operations spending, compared to the top twenty ranked city park systems, and had less than half the spending per resident.

Fig. 3 – Operations Spending in Baltimore vs. Top Ranked Park Systems

| | Baltimore City | Average for Top Ranked Park Systems | Median for Top Ranked Park Systems |
|-------------------------------------|-------------------|---|--|
| Operations Spending Per Acre | \$7,800 | \$16,984 | \$9,959 |
| Operations Spending Per Resident | \$67 | \$137 | \$137 |

There does not appear to be a budget specific to Patterson Park. It was estimated, in the chart above, that operations spending should be \$1,045,200 for Patterson Park's 134 acres, if all acres of parkland are to be treated equally across Baltimore's park system. Based on the median operations spending of other high-density cities, and, again, treating all acres of parkland equally, operations spending at Patterson Park should be \$2,848,304. This would require Baltimore City to allocate an additional \$1,803,104 in operations spending for Patterson Park to keep pace with the median operations spending in high-density cities. At the very least, this basic analysis of operations spending across Baltimore's park system suggests that it is unlikely that operations spending at Patterson Park is anywhere near the median spending of comparable high-density cities.⁸⁰

Public Land, *Park Score 2017*, THE TRUST FOR PUBLIC LAND, http://parkscore.tpl.org/rankings_advanced.php#sm.00acfksv15ogcq911al15ilmgrg5n. Operations spending in those top twenty ranked cities was determined by identifying the top twenty ranked park system in TPL's Park Score 2017 and comparing the operations spending for those cities' local park systems using *2017 City Park Facts, Staffing and Spending Data* and *2017 City Park Facts Report*. *Id.*; *2017 City Park Facts Report*, *supra* note 42, at 11, 20-21; 2017 CITY PARK FACTS, STAFFING AND SPENDING DATA, *supra* note 40.

⁸⁰ If maintenance and operations spending at Patterson Park is close to this figure, citizens should expect much better and more efficient maintenance and operations outcomes than are currently experienced at Patterson Park. The maintenance and operation

Patterson Park's lack of maintenance and operations funding is not entirely unique. Many park systems share in such funding challenges, as most park related funds are spent on acquisition of parkland and capital projects.⁸¹ Maintenance and operations receive much less attention. For instance, a 2012 report regarding Seattle's Park system noted that "[s]ince 1988, states and communities nationwide have approved 2,263 conservation financing measures that have generated more than \$54 billion for local parks, greenways, and natural areas. However, nearly all of that funding was to acquire land and build new parks, rather than for maintenance and operations."⁸²

Given the large funding disparities between Baltimore's operating expenditures and other comparable park systems, it is unlikely that Patterson Park's operations expenditures will reach levels spent in other high-density cities. Incremental improvement in funding, however, could lead to positive results. As mentioned in a report generated during the master plan process, financing the development of new maintenance and governance structures at Patterson Park can have significant effects on the park going forward.⁸³

VI. FUNDING OPTIONS

A. Philanthropy

Three major areas of private philanthropy are typically used to help fund public parks – donations from individuals, donations from corporations, and donations from charitable foundations.⁸⁴ These donations can be

deficiencies currently experienced at Patterson Park are contained with Patterson Park's 2016 Master Plan.

⁸¹ Tom Beyers & Ken Bounds, *Sustaining Seattle's Parks: A Study of Alternative Strategies to Support Operation and Maintenance of Great Urban Park Systems*, CEDAR RIVE GROUP, Jan. 2012, at 4. <http://cedarrivergroup.com/crgwpf/wp-content/uploads/2013/12/Parks-Funding-Study-Final-Jan-23-2012.pdf>.

⁸² *Id.*

⁸³ *Recommendation on Management and Governance of Patterson Park*, *supra* note 29, at 3-5.

⁸⁴ *National Recreation and Parks Association, Revitalizing Inner City Parks: New Funding Options Can Address the Needs of Underserved Urban Communities*, NATIONAL RECREATION AND PARK ASSOCIATION, (last visited). <https://www.nrpa.org/contentassets/f768428a39aa4035ae55b2aaff372617/urban-parks.pdf>. Margaret Walls, Resources for the Future. Private Funding of Public Parks: Assessing the Role of Philanthropy 8-9, RESOURCES FOR THE FUTURE (2014)

solicited directly by the local government or through friends of the park groups, and donations can be applied to a large variety of park projects, programs, or operations.

The Friends of Patterson Park currently solicits these types of donations for Patterson Park. The Friends of Patterson Park's fundraising experiences, compared with statistics and programs cited in park and fundraising literature, help inform what might work to raise future funds for maintenance and operations at Patterson Park.

i. Individual Giving

As Patterson Park is surrounded on all sides by thousands of row homes, there are a large number of potential donors near the park. The Friends of Patterson Park has actively solicited donors and volunteers in those neighborhoods over the course of many years. Between 2015 and 2017, the Friends of Patterson Park had between 440 and 550 individual donors a year, with yearly income from those donors ranging between \$76,617 and \$87,202 annually.⁸⁵

An analysis of the donors in 2016 shows that 89.6% of those individual donors resided in neighborhoods surrounding Patterson Park.⁸⁶ Of those individual donors, 79.4% were homeowners who resided in their properties, and only 9% were renters.⁸⁷ Although the Friends of Patterson Park has established a consistent foundation of donors, it has had only minor success with increasing the donor base and income from those donors over the last

<https://www.rff.org/publications/issue-briefs/private-funding-of-public-parks-assessing-the-role-of-philanthropy/>; The Trust for Public Land, *Downtown Parks: Funding Methods, Management Structures, and Costs* 25-27, table A, THE TRUST FOR PUBLIC LAND (2008) <http://cloud.tpl.org/pubs/ccpe-DowntownParkFinance-inMN.pdf>; PARK, *Analysis of Fiscal Year 2016 Fundraising*, *supra* note 9.

⁸⁵ *Analysis of Fiscal Year 2016 Fundraising*, *supra* note 9.

⁸⁶ *Analysis of Fiscal Year 2016 Fundraising*, *supra* note 9; Michael Murray, *Private Management of Public Spaces: Nonprofit Organizations and Urban Parks*, 34 Harv Envtl. L. Rev. 179, 225 (2010) (This is likely consistent with other parks. For instance, the Central Park Conservancy indicates that the majority of its donations come from those that live within the neighborhoods surrounding Central Park.)

⁸⁷ *Analysis of Fiscal Year 2016 Fundraising*, *supra* note 9. (This information was derived by taking the addresses provided by the donor and looking up the ownership status of the properties on the Maryland State Department of Assessments and Taxation website. This website provides information on the names of the owners associated with the property along with whether that property is used as a principal residence)

several years.⁸⁸ Past efforts suggest that increasing donations from individuals in the neighborhoods surrounding the park will be difficult, and the impact on operations and maintenance at Patterson Park would be negligible.

One difficulty in expanding the individual donor base at Patterson Park relates to the demographics of the neighborhoods surrounding the park. Patterson Park is surrounded by four major neighborhoods according to Baltimore Neighborhood Indicators Alliance data - Canton, the Patterson Park Neighborhood, Highlandtown, and Fells Point.⁸⁹ The homeowners in these neighborhoods are some of the most mobile in all of Baltimore City.⁹⁰ For instance, in 2015 the Baltimore Neighborhood Indicators Alliance tracked the percentage of owner-occupied households that remain under the same ownership for a five-year period.⁹¹ Canton, Highlandtown, and Patterson Park had some of the lowest homeowner retention rates in the entire city. They only retained between 58.6% and 62.9% of its homeowners, compared with 73.5% citywide.⁹²

Additionally, according to a 2015 citywide community survey, 44% of people surveyed indicated they would likely or very likely move out of Baltimore in the next one to three years.⁹³ The authors noted that “this percentage has remained statistically unchanged over time.”⁹⁴ There is also evidence that 66% of those that initiated moves in Baltimore City moved outside of the city instead of retaining residence in their neighborhood.⁹⁵ These neighborhood and citywide statistics suggest that the residents in

⁸⁸ *Analysis of Fiscal Year 2016 Fundraising*, *supra* note 9.

⁸⁹ Baltimore Neighborhoods Indicators Alliance, *Grow Baltimore*, Brief No. 2, Migration Patterns by Community in the Baltimore Region, University of Baltimore, 3, fig. 1, BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE (2015). <https://bniajfi.org/wp-content/uploads/2015/05/Brief-2-May-2015.pdf> (The neighborhood boundaries set forth by the U.S. Census Bureau and the Baltimore Neighborhood Indicators Alliance do not correspond precisely with how the community defines neighborhood boundaries. This is most prominent with respect to Fells Point. The community identifies Butcher’s Hill and Upper Fells Point neighborhoods on the west side of Patterson Park with Fells Point existing to the south and west of those neighborhoods.)

⁹⁰ *Id.* at 9, table 6.

⁹¹ *Id.* at 12-13, fig. 5, table 11.

⁹² *Id.*

⁹³ City of Baltimore Bureau of the Budget and Management Research, *Community Survey (2015) Report of Findings 18*, CITY OF BALTIMORE BUREAU OF THE BUDGET AND MANAGEMENT RESEARCH https://bbmr.baltimorecity.gov/sites/default/files/2015%20CITIZEN%20SURVEY%20FINAL%20REPORT_1.pdf.

⁹⁴ *Id.*

⁹⁵ *Grow Baltimore*, Brief No. 2, *supra* note 89, at 7.

neighborhoods surrounding Patterson Park are highly mobile, with a large percentage moving in and out of the area within a relatively short time frame.

If homeowners who reside around Patterson Park will continue to be the most likely donors, identifying and soliciting these prospective donors will be challenging with such a mobile population. Existing donors that move out of the area are unlikely to continue to donate funds to operate and maintain Patterson Park. Former donors that leave the area must be replaced with new donors moving into the neighborhoods. This would require intensive and constant efforts of outreach, and acquiring these new donors would be a costly endeavor to identify, contact, and solicit.

Although the residents in the neighborhoods surrounding the park are highly mobile, income demographic information suggests an opportunity. All the neighborhoods surrounding the park have median incomes well above the median income for Baltimore City, which was \$42,241 for 2015.⁹⁶ To the south of Patterson Park, Canton had the highest median income of \$95,362.⁹⁷ To the west and southwest, Fells Point had a median income of \$82,263.⁹⁸ To the north, east, and southeast, the Highlandtown and Patterson Park Neighborhoods had median incomes of \$68,702 and \$57,200 respectively.⁹⁹ Both Fells Point and Canton were in the top five median incomes in all of Baltimore City.¹⁰⁰

⁹⁶ Baltimore Neighborhood Indicators Alliance, *Vital Signs 15 Community Statistical Area Profiles - Patterson Park North and East* (2017), BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, <https://bniajfi.org/wp-content/uploads/2017/04/VS15-Patterson-Park-Profile-and-Map.pdf>.

⁹⁷ Baltimore Neighborhood Indicators Alliance, *Vital Signs 15 Community Statistical Area Profiles - Canton* (2017), BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE <https://bniajfi.org/wp-content/uploads/2017/04/VS15-Canton-Profile-and-Map.pdf>.

⁹⁸ Baltimore Neighborhood Indicators Alliance, *Vital Signs 15 Community Statistical Area Profiles - Fells Point* (2017), BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, <https://bniajfi.org/wp-content/uploads/2017/04/VS15-Fells-Point-Profile-and-Map.pdf>.

⁹⁹ *Vital Signs 15 Community Statistical Area Profiles - Patterson Park North and East*, *supra* note 96; *Vital Signs 15 Community Statistical Area Profiles - Highlandtown, Baltimore Neighborhood Indicators Alliance* (2017), BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, <https://bniajfi.org/wp-content/uploads/2017/04/VS15-Highlandtown-Profile-and-Map.pdf>.

¹⁰⁰ Baltimore Neighborhood Indicators Alliance, *Vital Signs 15, Measuring Progress Toward a Better Quality of Life in Every Neighborhood 30* (2017), BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, https://bniajfi.org/wp-content/uploads/2017/04/VS15_Compiled-04-12-17-08-41.pdf.

These income levels suggest that the neighborhoods surrounding Patterson Park have the capacity to contribute what might not be available in less affluent parts of the City. While capturing these highly mobile potential donors will be a challenge, an opportunity exists. This is particularly important in Canton and Fells Point, where median incomes are approximately double the median income of Baltimore City residents as a whole.

ii. Corporate Giving

Typically, corporations give charitable donations to parks in three major ways: (1) direct giving; (2) through taxes imposed by a business interest district, and (3) through sponsorships of events.¹⁰¹ With respect to the Patterson Park area, a business interest district does not exist. This leaves direct giving and sponsorships as potential sources of corporate giving.

In the past, corporations have sponsored events and contributed to the Friends of Patterson Park through direct giving. Despite that fact, corporate contributions are only a small percentage of the charitable gifts received to support Patterson Park.¹⁰² For instance, the Friends of Patterson Park's fundraising efforts for fiscal year 2016 indicate that only 7% of its total income came from businesses, while 80% derived from foundation and government grants and individuals.¹⁰³ The remaining 13% of funds derived from fundraising events and a small endowment.¹⁰⁴ While the income derived from corporate giving is important, the Friends of Patterson Park's fundraising experience suggest that corporate giving will only make up a small amount of the total fundraising income.

These numbers loosely match with corporate giving statistics nationwide. For instance, Giving USA estimates that businesses only made up 5% of charitable giving in 2016, while individuals and foundations constituted 87% of overall philanthropy.¹⁰⁵ Only about one-third of all companies claim charitable gifts on their federal corporate income tax returns.¹⁰⁶ A

¹⁰¹ See Peter Harnik, *Local Parks, Local Financing, Paying for Urban Parks Without Raising Taxes* (Vol. II, 1998), TRUST FOR PUBLIC LAND, <https://www.tpl.org/sites/default/files/cloud.tpl.org/pubs/ccpe-localparks-localfinancingvol2-textonly.pdf>; Christopher Rizzo, *Alternative Funding for an Equitable Park System in New York City and State*, 32 PACE ENVTL. LAW REV. 635, 651-55, 658-59 (2015).

¹⁰² ANALYSIS OF FISCAL YEAR 2016 FUNDRAISING, *supra* note 9.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ GIVING USA, HIGHLIGHTS: AN OVERVIEW OF GIVING IN 2016 (2017).

¹⁰⁶ ADRIAN SARGEANT ET. AL, FUNDRAISING PRINCIPLES AND PRACTICE 434 (2010).

small survey of seventeen conservancies and urban park advocacy organizations in 2009 indicated that corporations made up only 12.45% of park funding.¹⁰⁷ While the survey author makes clear that because of the small survey size, use of this survey should be done carefully, such numbers are in-line with the Friends of Patterson Park's fundraising efforts.¹⁰⁸ Such statistics suggest that corporate giving will only make up a small part of the overall charitable donations to park systems.

Regardless of the amount of corporate giving, the location of Patterson Park serves as an additional obstacle to increasing corporate gifts. Patterson Park is surrounded by residential neighborhoods with some small businesses scattered among the rowhouses. There is not a concentration of large businesses. The absence of a concentration of businesses near the park is a disadvantage to receiving corporate donations. For instance, the relationship between corporate giving and the location of the business was noted in a thesis by Feixue Chen, which concerns Chicago's Millennium Park.¹⁰⁹ Chen noted that at Millennium Park large businesses near the park gave sizable amounts of money for projects such as plazas and art, both to benefit the park and to benefit their "branding and public relation strategy."¹¹⁰ This relationship is symbiotic, as the park benefits from corporate philanthropy and the business benefits from an improved park through reputation or sales from increased foot traffic and park visitors.¹¹¹ This suggests that "a well maintained public space will increase commerce for local businesses," thus making local businesses more likely to support the park to increase revenue.¹¹²

Although Patterson Park only has a few small businesses scattered throughout the neighborhoods surrounding the park, just a few miles away

¹⁰⁷ Walls, *supra* note 84, at 7-8.

¹⁰⁸ *Id.* at 9.

¹⁰⁹ Feixue Chen, *Grant Park vs. Millennium Park: Evolution of Urban Park Development* (2013), UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN, <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.834.767&rep=rep1&type=pdf>.

¹¹⁰ *Id.* at 22.

¹¹¹ *Id.* at 22, 32. See also, Edward K. Uhler, *The Millennium Park Effect*, GREATER PHILA. REGIONAL REV. 21-24 (Winter 2006)

¹¹² *Closing the Gap: Public and Private Funding Strategies for Neighborhood Parks*, MINNEAPOLIS PARK & RECREATION BOARD (Oct. 21, 2015), https://www.minneapolisarks.org/_asset/11bxwt/Closing-the-Gap---Public-and-Private-Funding-Strategies-for-Neighborhood-Parks-10-21-15.pdf.

there is a concentration of large businesses.¹¹³ Many of those large corporations are contained within business interest districts that operate in the neighborhoods where they are located. In particular, the Downtown Partnership and the Waterfront Partnership manage two of the business interest districts nearest to Patterson Park.¹¹⁴ Those business interest districts pool resources from the companies within their district to manage, maintain, and promote the areas where they are located.¹¹⁵ Those pooled resources are used in part to maintain several parks within business interest district boundaries.¹¹⁶

While some of those same businesses do contribute to Patterson Park, they are already otherwise obligated to fund maintenance and operations of the parks within their own district. Asking them to expand those obligations to a park outside of their district would be a tough sell. Additionally, due to the lack of businesses near Patterson Park, creation of a business interest district is not feasible.

Despite the disadvantage of Patterson Park's location and the low level of corporate charitable giving historically, one avenue of corporate giving could be increased – corporate sponsorships and naming rights. Corporate sponsorships make up about one half of the corporate giving to the Friends of Patterson Park.¹¹⁷ These sponsorships mostly support the free summer concert series. In return for a sponsorship, these businesses receive recognition in a variety of formats at the concerts and in print, as well as electronic and social media messaging promoting the series.¹¹⁸

¹¹³ Downtown Partnership, *2017 State of Downtown Baltimore Report 9* (April 2018), DOWNTOWN PARTNERSHIP, https://www.godowntownbaltimore.com/library/docs/2017_State_of_DT_Balt_Report_spring2018.pdf.

¹¹⁴ DOWNTOWN PARTNERSHIP, <http://www.godowntownbaltimore.com/about/dma-board/index.aspx> (last visited Oct. 5, 2018); Waterfront Partnership of Baltimore, Annual Report (2017), WATERFRONT PARTNERSHIP OF BALTIMORE http://baltimorewaterfront.com/wp-content/uploads/2017/12/wp_ar2017_v5FINAL_WEBlr.pdf.

¹¹⁵ *Id.*

¹¹⁶ Kirby Fowler, *If You Build It...*, DOWNTOWN PARTNERSHIP OF BALTIMORE ANNUAL REPORT (2017), http://www.godowntownbaltimore.com/library/docs/DTP_annual%20report_2017.pdf.

¹¹⁷ Friends of Patterson Park, *Annual Report* (2015), *supra* note 53; *Analysis of Fiscal Year 2016 Fundraising*, *supra* note 9.

¹¹⁸ *Friends of Patterson Park Sponsorship Opportunities* (2018), <https://static1.squarespace.com/static/57bc59a48419c2441f7853b5/t/5a7345a5ec212d457fa2c5e3/1517503951589/FPP+2018+Concert+Sponsor+Opps.pdf>.

The expansion of corporate sponsorships to other events and structures beyond the summer concert series is an opportunity for additional fundraising. Chicago's park system uses both sponsorships and contractual agreements from large events to help fund park maintenance and operations throughout the entire park system.¹¹⁹ The experience in New York City suggests that sponsorships must be large enough to generate enough publicity to garner interest from businesses. For instance, in 2012 New York City sought corporate sponsorships for several smaller "park amenities like dog runs and basketball courts."¹²⁰ Those sponsorship opportunities were deemed too small to generate sufficient interest.¹²¹ However, larger sponsorship opportunities and events such as naming rights for high profile capital projects and music festivals generate sponsorship interest from the business community.¹²²

Recurring events at Patterson Park are not on the same scale as those in Chicago. Chicago hosts tens of thousands of visitors at its large park events such as the Lollapalooza Music Festival, the Air and Water Show, and Taste of Chicago.¹²³ Fees generated at the Lollapalooza Music Festival earned the city \$2.9 million by itself in 2014.¹²⁴ Patterson Park events do not compare. Even when Patterson Park hosts significant events, it is unclear what amounts are paid to the City by the companies running the events, and how that revenue is utilized. Considering that permitted events across Baltimore City amounted to only \$563,315 in fiscal year 2016, it is likely that permit fees from Patterson Park events do not add significantly to the park revenues.¹²⁵

The Friends of Patterson Park's experience along with national statistics suggest that corporate giving is not a reliable source of income to fund operations and maintenance at parks. While improvements can always be made to corporate fundraising campaigns, it is not likely to yield sufficient results to operate and maintain Patterson Park.

¹¹⁹ MINNEAPOLIS PARK & RECREATION BOARD, *supra* note 112, at 7, 21.

¹²⁰ Rizzo, *supra* note 101, at 658-659.

¹²¹ *Id.*

¹²² *Id.*

¹²³ MINNEAPOLIS PARK & RECREATION BOARD, *supra* note 112, at 21.

¹²⁴ *Id.*

¹²⁵ *Fiscal 2018 Agency Detail, Volume II – Board of Estimates Recommendations, supra* note 40, at 470-72.

iii. Charitable Foundation Giving

Charitable foundations have played an important role at Patterson Park over the last two decades. For instance, the Friends of Patterson Park has secured funding from a variety of charitable foundations for projects that span from maintenance projects to planning for large capital improvements.

Although charitable foundations have provided important support, the support has been variable and uncertain. While a charitable foundation may fund maintenance of a park asset in one year, it may decline to fund similar efforts in future years. In addition, relationships with different charitable foundations grow or diminish over time. While charitable foundations are important to Patterson Park, the lack of consistency in funding levels and long-term commitments make it difficult to rely on these charitable foundations as a constant revenue stream to fund maintenance and operations over the long-term.

Some of the literature pertaining to charitable foundations provides a good overview of charitable foundation giving. There are a large variety of charitable foundations in the United States. In 2012, 86,192 charitable foundations existed nationwide with \$715 billion in assets and total grants of \$52 billion for the year.¹²⁶ In Maryland, there were 1,457 foundations, with a total contribution of \$843,673,564 in 2014.¹²⁷ Most foundations are small with “70 percent of all foundation assets . . . controlled by just 2 percent of foundations.”¹²⁸ Regardless of their size or influence, each foundation is different with varying goals, personalities, risk tolerances, and cultures.¹²⁹ Similarly, the reasons foundations give are just as diverse. Some foundations give for purely altruistic purposes, while others are self-serving.¹³⁰ The most dominant purpose, however, is to create “large scale, lasting social change.”¹³¹

Most foundations set up “‘program areas’ that confine the fields within which they plan to do their grant-making.”¹³² These fields, are just as wide-

¹²⁶ Foundation Center, *Key Facts on US Foundations* (2014), FOUNDATION CENTER http://foundationcenter.org/gainknowledge/research/keyfacts2014/pdfs/Key_Facts_on_US_Foundations_2014.pdf.

¹²⁷ Foundation Center, *Foundation Stats, Aggregate Fiscal Data of Foundations in Maryland* (2014), FOUNDATION CENTER <http://data.foundationcenter.org/#/foundations/all/state:MD/total/list/2014>.

¹²⁸ Joel L. Fleishman et al., *The Foundation: A Great American Secret* 27 (1st ed, 2007).

¹²⁹ *Id.* at 28.

¹³⁰ *Id.* at 35-36.

¹³¹ *Id.* at 39-40.

¹³² *Id.* at 61.

ranking as the reasons for giving with 60% of foundation giving in the health, education and human services fields.¹³³ Given these statistics, the vast majority of foundations are not necessarily providing funding for program areas that pertain to Patterson Park. Relying on charitable foundations as a consistent source of funding for operations and maintenance activities at Patterson Park over the long term is not a viable option.

iv. Criticism of Private Philanthropy

While there are some opportunities to improve fundraising efforts from individuals, corporations, and foundations, over-reliance on philanthropy can be problematic. Using private philanthropy to fund maintenance and operations at Patterson Park could lead to unintended consequences, and create inconsistent and/or unreliable funding levels. Such issues will likely make budgeting and planning over the long term impracticable.

For instance, considering the relative inadequacy of the maintenance budget for the Patterson Park District, there is a real concern that an increase in private money to fund maintenance and operations at Patterson Park would lead to a decline in funding from the Recreation and Parks Department. When the Recreation and Parks Department must make tough decisions on which parks will receive maintenance dollars, it would be natural to omit Patterson Park's expenditures if private money was helping to sustain basic maintenance needs.¹³⁴ Such a result is counterintuitive to the goal of improving the maintenance and operation levels of a park or park system, as the private money only serves as a replacement for government funds instead of acting as a supplement to the budget. This creates a shift in funding responsibility while only maintaining current levels of service.

Over-reliance on private philanthropy can also lead to "free-riding" from those who benefit from increased maintenance and operations efficiencies at the park, but fail to contribute to such improvements.¹³⁵ Essentially, these free riders gain an advantage paid for by others.

The primary example of free-riding at Patterson Park comes from landlords that own houses in the neighborhoods surrounding the park. An anal-

¹³³ FOUNDATION CENTER, *supra* note 126, at 4.

¹³⁴ Walls, *supra* note 84, at 10-11. To combat the potential for displacement of public funding at Central Park in New York City, the Central Park Conservancy obtained assurances that the Parks Department would not reduce "funding allocated to city personnel working in the park by more than any percentage reduction in the overall Parks Budget." Murray, *supra* note 85, at 214-15.

¹³⁵ Walls, *supra* note 84, at 10-11.

ysis of the fundraising efforts of the Friends of Patterson Park makes this point as no landlords could be identified as donors in fiscal year 2016, while 79.4% of individual donors owned their homes as a primary residence.¹³⁶ Regarding income, homeowners who resided on their property made up 82.5% of revenue with renters making up 11.2% of revenue.¹³⁷ In the neighborhoods surrounding the park, owner-occupied homes ranged from 46.8% to 66.6%.¹³⁸ This suggests that landlords are not contributing to fund Patterson Park's needs beyond paying taxes, even though their property benefits directly from its proximity to the park. Instead, these landlords rely on those who live in the neighborhoods to donate their time and money to fund and maintain Patterson Park. As discussed below, these landlords derive an economic advantage from properties that are in the vicinity of Patterson Park, but offer no contribution to sustain the economic advantage.

Beyond the concepts of free-riding and decreased government support, probably the most important downfall of private philanthropy is lack of certainty in funding levels. The biggest donors to Patterson Park are charitable foundations.¹³⁹ Foundation funding decisions are typically made on a yearly basis. If charitable foundations could be convinced to fully fund maintenance and operations in one year, there is no way to determine whether that funding would be continued every year.¹⁴⁰ This uncertainty makes it difficult to make long-range financial and operational decisions.

¹³⁶ *Analysis of Fiscal Year 2016 Fundraising*, *supra* note 9. This information was derived by taking the addresses provided by the donor and looking up the ownership status of the properties on the Maryland State Department of Assessments and Taxation website. This website provides information on the names of the owners associated with the property along with whether that property is used as a principal residence. It is possible that some landlords live in the neighborhoods surrounding the park and also rent additional properties in the area. Unfortunately, the analysis done through the Maryland State Department of Assessments and Taxation website does not allow identification of those individuals.

¹³⁷ *Id.*

¹³⁸ Vital Signs 15 Community Statistical Area Profiles – Highlandtown, *supra* note 99; Vital Signs 15 Community Statistical Area Profiles – Fells Point, *supra* note 98; Vital Signs 15 Community Statistical Area Profiles – Canton, *supra* note 97; Vital Signs 15 Community Statistical Area Profiles – Patterson Park North and East, *supra* note 96.

¹³⁹ Friends of Patterson Park, *Annual Report* (2015), *supra* note 53; *Analysis of Fiscal Year 2016 Fundraising*, *supra* note 9.

¹⁴⁰ Even if a group of charitable foundations agreed to long-term funding, this could create additional problems. In cases where a small number of donors are providing the majority of the maintenance and operations dollars, those donors influence over funding priorities naturally increases. This has the potential to lead to decision-making that may be in the donors' best interests, rather than the best interest of park users. Such a sce-

This lack of funding certainty would not be solved by relying on individual donors or corporations to fund operations and maintenance at Patterson Park. As mentioned above, the neighborhoods surrounding Patterson Park are highly mobile, and the vast majority of donors are those that live near the park. It would be too speculative to suggest that voluntary donations from such a mobile population could fund Patterson Park's maintenance and operations in a consistent manner over a period of years.

With respect to companies, they are much like foundations in that charitable giving decisions are made yearly, and relying on such contributions over the long-term is impracticable. The only way to guarantee such support would be contractually through the creation of a business interest district. As mentioned above, the creation of a business interest district is not feasible at Patterson Park.

Another disadvantage in relying too heavily on private philanthropy is the cost of fundraising.¹⁴¹ To raise money from individuals, businesses, and private foundations requires employees with development experience and administrative costs. Any funds raised need to pay for those salaries and costs further diminishing the impact these funds could have at Patterson Park.

While private philanthropy has an important role at Patterson Park, funding maintenance and operations by relying on consistent donations from individuals, corporations, and foundations is unrealistic and could lead to decreased government funding, free-riding, and high fundraising costs. Most importantly, the inability for private philanthropy to provide reliable and consistent funding levels would make it difficult to form sound long-term financial and management plans.

B. *Permit Fees*

Patterson Park has numerous permitted activities. The two most prominent permitted events are festivals that take place in the spring and summer, and sports leagues that utilize athletic fields. Other permitted activities involve the renting of pavilions, use of the ice rink, and other events.

Each of these permitted activities are charged a permit fee.¹⁴² Even though Patterson Park is heavily utilized for permitted events, none of the

nario creates conflict and the potential for undue private influence over the management of a public park. Walls, *supra* note 84, at 13-14.

¹⁴¹ *Id.* at 11-12.

¹⁴² See *Application for General Park Use Permit* (2016), BALTIMORE CITY RECREATION AND PARKS DEPARTMENT

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permit fees are returned to Patterson Park and there appears to be no calculation of maintenance costs associated with these permitted events.¹⁴³

During the process to re-write Patterson Park's Master Plan, the Maintenance & Governance Committee requested information on the fees generated from permitted events at Patterson Park.¹⁴⁴ Although this information was not forthcoming, the Baltimore City budget provides some details about how funds from permitted activities are used by Recreation and Parks.

For instance, in fiscal year 2016, the Recreation and Parks Department reported income of \$563,315 in permit fees from approximately 2,000 permits across all of its park systems.¹⁴⁵ Those fees were used to fund the Recreation and Parks Department's Park Programs & Events division.¹⁴⁶ That division manages the permit process and "coordinates volunteers, Nature Programs, Special Events, and Park Rangers."¹⁴⁷ Given that an entire division of Recreation and Parks is funded by fees generated by permits, there is little chance that permit fees generated at Patterson Park will be returned to Patterson Park. Even if such fees were used to maintain Patterson Park, such fees would likely be well below park maintenance costs.

C. Taxes

Implementation of a special tax to pay for operations and maintenance at Patterson Park is an intriguing funding mechanism given the limitations of private fundraising from individuals, businesses, and foundations mentioned above. Using a special tax to fund parks is not a novel concept. In fact, there are an overwhelming number of different taxes that can fund

<http://bcrp.baltimorecity.gov/sites/default/files/General%20Park%20Use%20Application%202016.pdf>; BALTIMORE CITY RECREATION AND PARKS DEPARTMENT, SPECIAL EVENT PERMIT APPLICATION,

<http://bcrp.baltimorecity.gov/sites/default/files/SPECIAL%20EVENT%20APPLICATION.pdf>; Baltimore City Recreation and Parks Department, *Addendum to DRP Special Events Application: Patterson Park*, BALTIMORE CITY RECREATION AND PARKS DEPARTMENT

[https://bcrp.baltimorecity.gov/sites/default/files/Patterson%20Park%20Addendum%20to%20Department%20of%20Recreation%20and%20Parks%20Events%20Application%20\(PDF\).pdf](https://bcrp.baltimorecity.gov/sites/default/files/Patterson%20Park%20Addendum%20to%20Department%20of%20Recreation%20and%20Parks%20Events%20Application%20(PDF).pdf).

¹⁴³ *Fiscal 2018 Budget*, *supra* note 40, at 470-72.

¹⁴⁴ *Maintenance Report*, *supra* note 29, at 1.

¹⁴⁵ *Fiscal 2018 Budget*, *supra* note 40, at 470-72.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at 470.

parks.¹⁴⁸ As each park system has its own unique needs, organization, funding mechanisms, and politics, not all special taxing systems are feasible in all park systems.

While different taxing systems can be used, the goal of any park taxing system in Baltimore should be to impose a low burden on tax-payers and ensure those taxed are those that stand to benefit from improvements in maintenance and operations.¹⁴⁹ Such a system spreads the burden to all those who benefit from improved park operations and maintenance, rather than collecting from the few who are generous with their charitable giving.

i. Who Benefits

Improved operations and maintenance efforts at Patterson Park mostly benefit those park users who live in the neighborhoods surrounding Patterson Park. For instance, in a 2002 article about Patterson Park, Peter Harnik noted that “virtually everyone in Baltimore – especially the residents of southeast Baltimore – considers Patterson Park a ‘neighborhood park’” that is used mostly by those who live near the park.¹⁵⁰ Some fourteen years later, surveys of park users confirm Peter Harnik’s declaration that Patterson Park is a “neighborhood park” by indicating that the vast majority of park users live in the neighborhoods surrounding the park.¹⁵¹ Those local park users “see the park as a local amenity, one that enhances the quality of their

¹⁴⁸ Emily Van Dunk, et. al., Public Spaces, Public Priorities: An Analysis of Milwaukee County’s Parks 21 (2002), THE PUBLIC POLICY FORUM, <https://publicpolicyforum.org/sites/default/files/parkstudy.pdf>; *Downtown Parks: Funding Methods, Management Structures, and Costs*, *supra* note 84, at 7-23.

¹⁴⁹ Walls, *supra* note 84, at 3, 18. Assuring that this tax is not burdensome is especially important in Baltimore City. City real estate taxes are more than double neighboring counties’ tax rates. MARYLAND DEPT. OF ASSESSMENTS & TAXATION, COUNTY & MUNICIPAL PROPERTY TAX RATES IN EFFECT FOR JULY 1, 2017 TAX BILLS, http://dat.maryland.gov/Documents/statistics/Taxrate_July12016.pdf. Income taxes are also the highest in the state. *Id.* To remain competitive with surrounding jurisdictions and to combat population loss, Baltimore has set a goal to reduce property taxes in a significant way. Julie Scharper, Luke, Broadwater, *Mayor’s Property Tax Cut Introduced*, THE BALTIMORE SUN, Mar. 19, 2012. Although City taxes are high, current funding for the park system is not meeting citizen needs as other priorities are taking precedent. Despite the need, any proposed special tax to fund parks should be extremely modest so as not to add anything beyond a novel amount to the tax burden already imposed on City residents.

¹⁵⁰ Harnik, *supra* note 48, at 8-9.

¹⁵¹ *Patterson Park 2016 Master Plan*, *supra* note 2, at Appendix B, Seasonal Field Study of Patterson Park.

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living environment” and is “essential to the quality of life of those in the many communities that surround it.”¹⁵² Additionally, many park users indicated a desire to improve maintenance and operations at the park.¹⁵³ Such facts indicate that any operational and maintenance improvements will mostly benefit park users made up of residents in Patterson Park’s surrounding neighborhoods.

From an economic perspective, those that own property near Patterson Park benefit from that proximity through an increase in property values. As recognized by Frederick L. Olmsted, Sr., “just as a local park of suitable size, location and character, and of which the proper public maintenance is reasonably assured, [a park] adds more to the value of the remaining land in the residential area which it serves than the value of the land withdrawn to create it.”¹⁵⁴ This principle was further confirmed by research conducted by John Crompton of Texas A&M. In a monograph and series of articles, Crompton coined the phrase “the proximate principle,” which indicates that properties in proximity to a park typically have property values that are higher than comparable properties farther away from a park.¹⁵⁵ Those properties typically receive this boost in value if the park is well maintained and is an overall quality park to “which residents are passionately attached.”¹⁵⁶ Parks have a negative impact on property values when they are poorly maintained, “dilapidated, dirty, blighted . . . with decrepit facilities

¹⁵² *Id.* at 39.

¹⁵³ *Id.* at 12.

¹⁵⁴ Frederick Olmsted, *Proceeding of the Eleventh National Conference on City Planning: Niagara Falls and Buffalo*, N.Y. at 14 (1919), <http://scans.library.utoronto.ca/pdf/3/4/proceedingsofnat11natiuoft/proceedingsofnat11natiuoft.pdf>.

¹⁵⁵ John Crompton, *The Impact of Parks and Open Spaces on Property Taxes*, TRUST FOR PUBLIC LAND (Constance T.F. de Brun ed., 2007), http://cloud.tpl.org/pubs/benefits_econbenefits_landconserve.pdf (stating that the “proximate principle states that the market values of properties located near a park or open space (POS) frequently are higher than those of comparable properties located elsewhere.”); John L. Crompton, *The Proximate Principle: The Impacts of Parks, Open Space and Water Features on Residential Property Values and the Property Tax Base* 18, NAT’L RECREATION AND PARK ASSOC. (2nd ed. 2004), ; John L. Crompton, *The Impact of Parks on Property Value: Empirical Evidence from the Past Two Decades in the United States*, 10 MANAGING LEISURE 203 (Oct. 2005); John L. Crompton, *The Role of the Proximate Principle in the Emergence of Urban Parks in the United Kingdom and the United States*, 26 LEISURE STUD. 214 (Apr. 2007); John L. Crompton, *The Impact of Parks on Property Values: A Review of the Empirical Evidence*, 33 J. OF LEISURE RES. 2 (2001).

¹⁵⁶ Crompton, *supra* note 155, at 8.

and broken equipment in which undesirable groups congregate.”¹⁵⁷ A study of the effect of property values in proximity to open space in Minneapolis-St. Paul further expanded on this research. In that study, the authors found that open space in densely populated neighborhoods near central business districts had increased property values over less densely populated areas farther away from central business districts.¹⁵⁸ Other studies from Boston, Philadelphia, and Portland also show increases in values of properties located in proximity to urban parks.¹⁵⁹

A study of Baltimore’s parks by Troy and Grove in 2008 led to similar findings.¹⁶⁰ In this study, the relationships between Baltimore’s parks, crime, and property values were analyzed. The authors found increased property values in “relatively” low crime areas when those properties were in proximity to Baltimore parks.¹⁶¹ The study uses the term “relatively” because it categorizes Baltimore’s low crime parks as those that fall below 351 times the national crime rate average.¹⁶² Using that criterion, Patterson Park was categorized as a low crime park, where property located in proximity to the park had higher property values than those properties located further away from the park.¹⁶³

¹⁵⁷ *Id.* at 8; See also, I-Jui Lin, *et. al.*, *Examining the Economic Impact of Park Facilities on Neighboring Residential Property Values* 326-27, 45 APPLIED GEOGRAPHY 326-27 (2013) (indicating the certain characteristics of urban parks can lead to negative valuations of neighboring properties especially when those parks contain active facilities such as children’s play areas and skate parks); C.C. Konijnendijk, *et al.*, *Benefits of Urban Parks: A Systemic Review, A Report for IFPRA* 22 (2013), INTERNATIONAL FEDERATION OF PARK AND RECREATION ADMINISTRATION <https://worldurbanparks.org/images/Newsletters/IfpraBenefitsOfUrbanParks.pdf> (indicating crime, noise from the park and neon lights can have negative effects on property values).

¹⁵⁸ Soren T. Anderson & Sarah H. West, *Open Space, Residential Property Values, and Spatial Context* 787, 36 REGIONAL SCI. AND URB. ECON. 773, 787 (2006).

¹⁵⁹ Kayo Tajima, *New Estimates of the Demand for Urban Green Space: Implications for Valuing the Environmental Benefits of Boston’s Big Dig Project*, 25 J. OF URB. AFF. 641, 654 (2003); T.R. Hammer, *et al.*, *Research Report: The Effect of a Large Park on Real Estate Value*, 40 J. OF THE AM. INST. OF PLANNERS 274, 277 (1974); Margot Lutzenhiser, Noelwah Netusil, *The Effect of Open Spaces on a Home’s Sale Price*, 19 CONTEMP. ECON. POL’Y 291, 297-98 (2001).

¹⁶⁰ Austin Troy, Morgan J. Grove, *Property Values, Parks, and Crime: A Hedonic Analysis in Baltimore, MD*, 87 LANDSCAPE AND URB. PLAN. 233, 242-43 (2008).

¹⁶¹ *Id.*

¹⁶² *Id.* at 243, fig. 9.

¹⁶³ *Id.* at 242-43.

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Beyond increased property values, the authors further recognized that Patterson Park is a “vital neighborhood amenity, which is further reinforced by the existence of community-based park management organizations, such as the Friends of Patterson Park.”¹⁶⁴ The authors indicate that such organizations have a positive effect on the surrounding communities and “would be expected to further raise property values” for those properties in proximity to the park.¹⁶⁵ This study further validates the proximate principle, and demonstrates a positive effect on property values near Patterson Park and other relatively low crime parks in Baltimore.

The proximate principle makes further sense when viewed in conjunction with the importance that residential property owners place on their local parks. For example, in 2013 the National Association of Homebuilders reported that fifty-four percent of survey respondents indicated that having a park in the community “would seriously influence” their decision to purchase a home.¹⁶⁶ Similarly, a 2017 National Association of Realtors survey indicated that being within walking distance to a park is an important consideration when deciding where to live.¹⁶⁷ In Baltimore, 73% of residents indicated that city parks were an important city service and were important to perceptions of a strong neighborhood.¹⁶⁸ These sentiments were also expressed in the Patterson Park Master Plan.¹⁶⁹

Clearly, Baltimore City residents believe that parks are important. There is also no doubt that park users are passionate about Patterson Park as evidenced by the Master Plan process. Given such facts, Olmstead and Crompton’s expression of the proximate principle along with the conclusions of the Troy and Grove study, strongly indicates that residential properties near Patterson Park have an increased value due to the proximity to the park.

¹⁶⁴ *Id.* at 243.

¹⁶⁵ *Id.*

¹⁶⁶ Rose Quint, *What Homebuyers Really Want*, NAT’L. ASSOC. OF HOMEBUILDERS (May 1, 2013).

¹⁶⁷ American Strategies, *National Smart Growth Frequencies 1-3* (2017), NATIONAL ASSOC. OF REALTORS

<https://www.nar.realtor/sites/default/files/documents/2017%20Topline%20Results.pdf>

¹⁶⁸ Baltimore City, *Community Survey, 2015 Report of Findings*, *supra* note 93, at 33.

¹⁶⁹ *Patterson Park 2016 Master Plan*, *supra* note 2, at 34 (stating the importance of Patterson Park to the residents in the neighborhoods surrounding the park).

ii. Special Benefits District

As those who live near Patterson Park benefit from any improvements at Patterson Park, any tax for improvements at the park should be aimed at those individuals. By imposing a small tax on properties in the neighborhoods surrounding Patterson Park, those who use and live near the park would see the benefit from improved operations and maintenance. Essentially, such a taxing structure would create a Patterson Park special benefits district. Taxes would derive from an assessment on property value within the district boundaries. Proceeds from this special benefits district would then provide the needed funding for maintenance and operations with the corresponding benefit going to those park users and property owners who live in the surrounding neighborhoods.

Special benefits districts for parks have been established in various communities throughout the country.¹⁷⁰ Some of these tax districts rely on sales taxes, but the majority rely on property taxes to fund parks.¹⁷¹ For instance, San Francisco utilizes “green benefit districts” to fund park maintenance and capital improvements in several park districts through a levy on real property within district boundaries.¹⁷² New York City has utilized “business interest districts” to fund several parks through property tax levies combined with other revenue sources.¹⁷³ In addition, successful special benefits districts for park systems using property taxes as a primary funding method exist in Charleston, South Carolina; Alameda and Contra Costa counties in California; and St. Louis, Missouri; among a variety of other jurisdictions.¹⁷⁴

One of the biggest advantages of developing a special benefits district for a park is funding consistency.¹⁷⁵ The tax revenue from any special taxing district is constant, and allows for better financial planning and man-

¹⁷⁰ Seattle, Wash., Ordinance No. 124634 (2014); *The Impact of Parks and Open Space on Property Values and the Property Tax Base*, *supra* note 155, at 18-20; Walls, *supra* note 84, at 16-17.

¹⁷¹ Walls, *supra* note 84, at 16 (noting that Charleston, South Carolina, Oakland, California, Alameda County, Calif. Columbus, Ohio, use property taxes supplemented with “revenues generated from everything from cottage and campsite rentals to concerts, races and music festivals.”).

¹⁷² MINNEAPOLIS PARK & RECREATION BOARD, *supra* note 112, at 25-26.

¹⁷³ Rizzo, *supra* note 101, at 651-52; MINNEAPOLIS PARK & RECREATION BOARD, *supra* note 112, at 29-30; Murray, *supra* note 86, at 230-40 (describing the history of New York City’s Bryant Park and associated business interest district).

¹⁷⁴ Walls, *supra* note 84, at 16-17.

¹⁷⁵ *Id.* at 17-18.

agement. The creation of financial and management plans was precisely the operational improvements recommended in Patterson Park's Master Plan.¹⁷⁶ By establishing a consistent stream of revenue, maintenance, and governance of the park can be managed on an active basis using long-term strategies, instead of implementing short-term fixes.

Baltimore does not utilize special benefits taxing districts specifically for parks, but has successfully created special benefits districts for businesses.¹⁷⁷ For instance, the Downtown Partnership and the Waterfront Partnership manage two special business districts in Baltimore's downtown core.¹⁷⁸ Management of both districts are funded through a surcharge on assessed commercial properties within specified boundaries.¹⁷⁹ Both business interest districts have existed for years and their successes and the value they add to the businesses within their districts can be tracked through their annual reports.¹⁸⁰ The value added to the local business districts is also measured in economic reports commissioned by the district managers.¹⁸¹ Further evidence of the success of these business interest districts can be seen in the performance evaluation and re-authorization process that happens every three years.¹⁸²

Although management of these business interest districts revolves around a variety of functions, both the Downtown Partnership and the Waterfront Partnership use portions of their funds to maintain and manage several parks within their boundaries. For instance, the Downtown Partnership is heavily involved in park maintenance, programming, and operations at

¹⁷⁶ *Patterson Park 2016 Master Plan*, *supra* note 2, at 46-48.

¹⁷⁷ BALTIMORE CITY CODE, SPECIAL BENEFITS DISTRICTS, Art. 14. (2018)

¹⁷⁸ DOWNTOWN PARTNERSHIP, <http://godowntownbaltimore.com/about/index.aspx> (last visited March 31, 2019); WATERFRONT PARTNERSHIP, <http://baltimorewaterfront.com/mission/> (last visited March 31, 2018).

¹⁷⁹ In 2017, the Downtown business interest district charges 22.39 cents per \$100 of assessed commercial property value. COUNTY & MUNICIPAL PROPERTY TAX RATES IN EFFECT FOR JULY 1, 2017 TAX BILLS, *supra* note 149. The Waterfront district pays 12.5 cents per \$100 of assessed commercial property value. *Id.*

¹⁸⁰ *Downtown Partnership, Annual Report*, *supra* note 114; *Waterfront Partnership, Annual Report*, *supra* note 114.

¹⁸¹ Downtown Partnership, *Economic Impact of Downtown Baltimore* (2016), DOWNTOWN PARTNERSHIP http://www.godowntownbaltimore.com/library/docs/Econ_Impact_16.pdf; Waterfront Partnership, *Baltimore's Inner Harbor: Economic Impact, Importance and Opportunities for Investment* (Oct. 31, 2013), WATERFRONT PARTNERSHIP, <http://baltimorewaterfront.com/wp-content/uploads/2015/06/Economic-Impact-Study.pdf>.

¹⁸² BALTIMORE CITY CODE, SPECIAL BENEFITS DISTRICTS, art. 14, §§1-20, 8-16.

several downtown parks.¹⁸³ The Downtown Partnership commissioned the development of an open space plan for Downtown that focused in part on enhancing existing parks and other open spaces and creating new open space within district boundaries.¹⁸⁴ Like the Downtown Partnership, the Waterfront Partnership also helps maintain and manage parks within its boundaries.¹⁸⁵ In 2017, the Waterfront Partnership helped the Recreation and Parks Department lead the way in developing a strategic plan for Rash Field – a prominent park within its boundaries – along with other open space plans at Baltimore’s Inner Harbor.¹⁸⁶

Baltimore has also created another type of special taxing district - a community interest district.¹⁸⁷ Community interest districts are funded through property tax assessments on businesses within their boundaries, in conjunction with a tax on residential properties.¹⁸⁸ The services provided within these districts are similar to those provided in business interest districts.¹⁸⁹ Both districts focus on safety, cleanliness, and promotion of the district, along with developing strategic long-term plans.¹⁹⁰ Like the business interest districts, community interest districts require a performance evaluation prior to an annual re-authorization to ensure these districts succeed in their operations.¹⁹¹

Two community interest districts are authorized to operate in Baltimore – the Midtown Community Benefits District, and the Charles Village Community Benefits District.¹⁹² The Charles Village Community Benefits District does not maintain parks, but inspects and reports problems with

¹⁸³ *Downtown Partnership, Annual Report*, *supra* note 114, at 4.

¹⁸⁴ DOWNTOWN PARTNERSHIP, DOWNTOWN OPEN SPACE PLAN (2015), <http://www.godowntownbaltimore.com/docs/openspaceplan.pdf>.

¹⁸⁵ *Waterfront Partnership, Annual Report*, *supra* note 114, at 18.

¹⁸⁶ *Id.*

¹⁸⁷ BALTIMORE CITY CODE, SPECIAL BENEFITS DISTRICTS, Art. 14, subtitles 6 and 7.

¹⁸⁸ COUNTY & MUNICIPAL PROPERTY TAX RATES IN EFFECT FOR JULY 1, 2017 TAX BILLS, *supra* note 149.

¹⁸⁹ Midtown Baltimore, *District Parks & Services*, MIDTOWN BALTIMORE <http://midtownbaltimore.org/wp-content/uploads/2011/08/MIDTOWN-DISTRICT-PARKS-9-18-17.pdf>; Charles Village Community Benefits District, *Program Services Mix FY 2018, Charles Village Community Benefits District* <http://charlesvillage.org/wp-content/uploads/2013/06/Program-Services-Mix-FY-2018-July-2017.pdf>.

¹⁹⁰ *Downtown Partnership, Annual Report* (2017), *supra* note 115; *Waterfront Partnership, Annual Report* (2017), *supra* note 114.

¹⁹¹ BALTIMORE CITY CODE, SPECIAL BENEFITS DISTRICTS, Art. 14, subtitles 6-16, 7-16.

¹⁹² BALTIMORE CITY CODE, SPECIAL BENEFITS DISTRICTS, Art. 14, subtitle 6 and 7.

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parks within their boundaries.¹⁹³ Management for the Midtown District, however, helps maintain sixteen parks.¹⁹⁴ Services provided to parks in the Midtown District are limited to cleaning, weeding, edging, and watering, with major maintenance left to the Recreation and Parks Department.¹⁹⁵

The successful operation of the business interest districts and community benefits districts can be duplicated at Patterson Park through the creation of a special park benefits district. Baltimore's tax collection system and the legislative framework to establish a park benefit district already exists. The residents of the surrounding communities are committed to Patterson Park, and actively seek improvements. The Friends of Patterson Park already has employees that work at the park on a full-time basis, are experienced in park and financial management, and work in partnership with the Recreation and Parks Department. The Friends of Patterson Park and the Recreation and Parks Department already have the management and operational structure for successful cooperation. All the elements are in place to use the special benefits district model that currently exists to help fund Patterson Park's lagging maintenance and operations budgets. Patterson Park is well positioned to take advantage of such a model.

iii. Special Benefit District – An Alternate Proposal

A narrower type of special benefits district can also be constructed at Patterson Park – although such a model is novel. Instead of taxing all property owners within the special benefit district boundaries, taxes could be levied on those who rent their properties to others. By narrowing the tax assessment to landlords, such a levy would eliminate the free-riding issue mentioned above, while still maintaining the support provided by property owners who use their homes as principal residences.

As discussed earlier, landlords in the neighborhoods surrounding Patterson Park do not contribute in a meaningful way to Patterson Park's success. Their property values, however, are higher because of their proximity to Patterson Park. In addition, landlords are conducting business and collecting profits in neighborhoods surrounding the park. Those profits represent a benefit with less corresponding costs than those that actually live in the neighborhoods surrounding the park. Confining property tax assessments to landlords allows all those that benefit economically from Patterson

¹⁹³ CHARLES VILLAGE COMMUNITY BENEFITS DISTRICT, *supra* note 189.

¹⁹⁴ MIDTOWN BALTIMORE, *supra* note 189.

¹⁹⁵ *Id.*

Park's success to help fund that success. Such a tax proposal creates equity and eliminates the major contributor to free-riding at Patterson Park.¹⁹⁶

iv. The Boundaries of a Special Benefits District

It is difficult to create a geographic boundary line that captures those that benefit park users, and those that have increased property values due to proximity to Patterson Park. For instance, the Master Plan process indicated that the majority of park users resided in the neighborhoods surrounding the park.¹⁹⁷ The borders of some of those neighborhoods, however, expand well beyond the Patterson Park area. In addition, defining all the properties that benefit economically from its proximity to Patterson Park is a difficult task considering the different types of properties, the different distances from the park, the different amenities offered at Patterson Park, along with other factors.¹⁹⁸

Despite this difficulty, the proximate principle and related studies provide general indications of how to establish these boundaries. For instance, John Crompton suggested in his review of the literature that for community parks over forty acres, property values were increased as far as 1,500 to 2,000 feet away from the park.¹⁹⁹ When looking at all the parks including suburban, urban, and specialty parks, Crompton suggests a general rule of thumb that the majority of the economic benefit from all parks occurs between 500 and 600 feet.²⁰⁰ Crompton acknowledges this general rule can be modified by taking into account the character and size of the park at issue.²⁰¹ For instance, Crompton notes that for larger parks, the economic value likely extends beyond this 600-foot zone as park users likely extend beyond this boundary.²⁰²

¹⁹⁶ Undoubtedly, there are individual homeowners who live in the neighborhoods surrounding Patterson Park who use the park but do not volunteer or donate funds to Patterson Park. The fundraising analysis of the Friends of Patterson Park demonstrates, however, that homeowners are the vast majority of contributors to Patterson Park's success.

¹⁹⁷ PATTERSON PARK 2016 MASTER PLAN, *supra* note 2, at Appendix B, *Seasonal Field Study of Patterson Park in Baltimore, Maryland* (2015).

¹⁹⁸ Despite this difficulty, certain models can take into account different variables and provide an estimation of the value added to properties surrounding Patterson Park at varying distances. Kroeger, *supra* note 73 at appendix 2.

¹⁹⁹ *The Impact of Parks and Open Spaces on Property Taxes*, *supra* note 155, at 14-18.

²⁰⁰ *Id.* at 4.

²⁰¹ *Id.* at 4-8.

²⁰² *Id.* at 6.

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A study of property values in Portland Oregon indicated that properties within 1,500 feet of a park had a positive impact on the property values.²⁰³ Another study of parks focusing on Dallas, Texas also confirmed increased property values, with the majority of the property increases occurring within 800 feet of the park.²⁰⁴ Regarding Baltimore parks, the Troy and Grove study generally indicates that low crime parks have the greatest effect on property values up to approximately 1,000 feet, depending on the level of crime in the area.²⁰⁵ Given these studies, a boundary of 800 to 1,000 feet from Patterson Park would be a reasonable boundary line to capture those that benefit from Patterson Park.

v. Is There Support for Implementing a Tax?

As a general principle, people despise taxes. But there are exceptions to every general principle. Oliver Wendell Holmes, Sr. said it best when he stated, "I hate paying taxes. But I love the civilization they give me."²⁰⁶ Parks are one of the things that provide that civilization.

There is substantial evidence that creating a tax to pay for parks will be supported. For instance, the Trust for Public Land's LandVote database indicates that in 2017, thirty-six ballot measures were introduced to create and preserve parks and open space throughout the country.²⁰⁷ 86% of those measures passed.²⁰⁸ Since 1998, 75% of similar measures have passed in various jurisdictions throughout the United States.²⁰⁹ The Trust for Public Land's data indicates that there is broad-based support for the implementation of taxes to conserve and improve parks and other open space.

²⁰³ B. Bolitzer & N.R. Netusil, *The Impact of Open Space on Property Values in Portland Oregon*, 59 J. OF ENVTL. MGMT. 185, 190-92 (2000).

²⁰⁴ Andrew Ross Miller, *Valuing Open Space: Land Economics and Neighborhood Parks* 86 (2001) (unpublished thesis), <https://dspace.mit.edu/handle/1721.1/8754#files-area>.

²⁰⁵ Troy & Grove, *supra* note 160, at 241-42, figs. 3, 5, 7.

²⁰⁶ Felix Frankfurter, *Justice Holmes Defines the Constitution*, THE ATLANTIC (Oct. 1938).

²⁰⁷ See The Trust for Public Land, 2017 Measures, LANDVOTE, <https://tpl.quickbase.com/db/bbqna2qct?a=dbpage&pageID=8>.

²⁰⁸ See The Trust for Public Land, Summary of All Measures by Year, LANDVOTE, <https://tpl.quickbase.com/db/bbqna2qct?a=dbpage&pageID=8>.

²⁰⁹ *Id.*

The Trust for Public Land's data is further supported by a 2016 survey conducted by the National Recreation and Park Association.²¹⁰ In that survey, nine out of ten Americans indicated that, "parks and recreation are important local government services."²¹¹ The survey also found that 74% of Americans would pay more taxes to support increased spending by parks and recreation agencies.²¹² With respect to politicians, 72% of Americans were more likely or somewhat more likely to vote for local politicians "who make park and recreation funding a priority."²¹³ Incredibly, most of these survey results only had minor variations across party lines, race, and age.²¹⁴

Considering the engaged citizens that surround Patterson Park, the over \$40 million in improvements recommended in Patterson Park's Master Plan, and the national and local surveys indicating the importance of parks, the evidence indicates that residents in the neighborhoods surrounding Patterson Park would support an additional tax to support operations and maintenance.

vi. Proving the Concept

Although the evidence suggests the public will support the implementation of a new tax to support Patterson Park, entering into a new taxing scheme should not be done lightly. To help ensure that the creation of a special benefits district will succeed prior to enactment of a new taxing system, a two-year trial period should be considered. This trial period can be funded through philanthropy and Program Open Space funds.

Starting in the fiscal year 2020, Baltimore is set to receive \$6 million in additional funds from Program Open Space.²¹⁵ These funds are not legislatively earmarked for any particular park projects.²¹⁶ A portion of the Open Space money can help fund an unofficial special benefits district for two years. In that way, the concept of the special benefits district for parks will have time to determine whether such a plan can succeed prior to the implementation of a new taxing system.

²¹⁰ See National Recreation and Park Association, *NRPA Americans' Engagement with Parks Survey* (2016), <http://www.nrpa.org/globalassets/research/engagement-survey-report.pdf>.

²¹¹ *Id.* at 10.

²¹² *Id.* at 15.

²¹³ *Id.* at 14.

²¹⁴ *Id.* at 15.

²¹⁵ MD. CODE ANN, NAT. RES. § 5-902(a)(2)(ii).

²¹⁶ *Id.*

The funding of this unofficial special benefits district cannot be limited to Program Open Space funds because of some of the legislatively imposed spending categories.²¹⁷ Instead, private foundations should be approached to help prove this concept. It is believed that several charitable foundations are interested in helping Baltimore provide services and improve neighborhoods in ways that are more efficient, responsive, and responsible. Proving that a special benefits district can improve Patterson Park and provide services more efficiently before the implementation of new taxes fits within such framework.

vii. **Expansion of the Special Benefits District Concept Beyond Patterson Park**

While this paper is focused on Patterson Park, there is little reason to believe that the concept of special benefits districts could not help fund parks throughout Baltimore City. All the data cited in this paper indicates that such taxing structures can succeed, can add needed funds to meager parks department budgets, and is supported by the public. If the Patterson Park special benefits district proves successful, the city should use such a model throughout Baltimore's park system.

For instance, the Recreation and Parks Department divides its parks into six regional districts for the purposes of management and maintenance. The Patterson Park District contains approximately thirty-one parks. If successful, Patterson Park's individual park special benefits district can be expanded to the entire Patterson Park District by expanding special district boundaries. This would allow the Recreation and Parks Department to expand the reach of a successful program to other area parks to further prove that this concept works. If the larger special benefits district proves successful, separate special benefits districts can be created for all of Baltimore's park districts.

VII. **CONCLUSION**

Patterson Park's 2016 Master Plan identified basic maintenance and operation needs that are not being met. There is little opportunity to fund the structural changes recommended in the Master Plan, considering that the Recreation and Parks Department is underfunded to a large degree. While private philanthropy can assist, it is unlikely to be able to fund the operations and maintenance at Patterson Park over the long term.

²¹⁷ *Id.* § 5-901(h).

Despite these funding deficiencies, there is a strong appetite for improvement at Patterson Park. Data from national and local surveys suggest that park users would support a small local tax to help fund the maintenance and operations recommendations in Patterson Park's Master Plan. The creation of a special benefits district specific to Patterson Park can provide the vehicle for the collection of this small tax within the same basic framework of Baltimore's business interest districts and community benefits districts. By using such a taxing vehicle, those that benefit from improved maintenance and operations are the citizens providing the funding for those improvements.

Baltimore is already positioned to create this special benefits district for Patterson Park. The funding needs are documented in the 2016 Master Plan. The legal framework to create a special benefits district already exists, and the evidence indicates strong community support. Failing to find funding for Master Plan recommendations, however, will place the entire Master Plan in jeopardy, and waste the energy and support originally harnessed by the community.