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I am submitting herewith a thesis written by Katalin S. Menendez entitled "The Leasing of Public Lands for Private Use as a Technique for Effective Land Management: Ross Barnett Reservoir, A Case Study Example." I have examined the final copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Science in Planning.

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We have read this thesis and recommend its acceptance:

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The Graduate School

THE LEASING OF PUBLIC LANDS FOR PRIVATE USE AS A TECHNIQUE FOR EFFECTIVE LAND MANAGEMENT: ROSS BARNETT RESERVOIR, A CASE STUDY EXAMPLE

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ABSTRACT

The purpose of this study was to ascertain the feasibility of leasing public lands for community development. In particular, the issues which were addressed examined whether large-scale leasing was effective as a land management tool, whether the public purpose was being met, if such a project is financially feasible, and if leasing by a public entity for private purposes is valid.

The Ross Barnett Reservoir near Jackson, Mississippi, was chosen as the case study example of leasing public lands for private use. The program has been in effect for the last two decades, and, as a result, both the strengths and weaknesses of such a program are readily ascertainable.

The method of analysis included a site visit to the Ross Barnett Reservoir to see the level, pattern, and intensity of development. The research also included telephone interviews and a literature search.

While this study has been able to answer the basic research questions, it has raised other, more fundamental questions which need to be answered before another public agency implements the concepts from the Ross Barnett example. These questions are in the final chapter of this study.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

LIST OF PLATES

CHAPTER I

INTRODUCTION

The concept of using publicly-owned land as an instrument to guide growth and develop new communities to meet desirable public purposes is not a new concept. Until the early part of the twentieth century, the pattern of urban growth in the United States was frequently based on state or municipal platting of publicly-owned lands. Then, after the mid-nineteenth century, these activities in most instances were conducted by the private sector.[1] It was not until shortly after the first World War that land use controls based on the police power of the states came into use in the nation's municipalities. These controls had a negative effect on development insofar as they proved ineffective in the development of whole communities with a full range of housing opportunities, public facilities, and amenities. The inability to build complete communities with high-quality environments for all citizens suggests a need to re-think older public policies of controlling public

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[1] John W. Reps, "The Future of American Planning--Requiem or Renaissance," Planning 1967 (Chicago, ASPO, 1967), pp. 47-65; John W. Reps, The Making of Urban American (Princeton, N.J.: Princeton University Press, 1965).

development through advanced acquisition and holding of land for future community development.[2]

"Public lands" is defined as any land, or interest therein, which is owned by a federal, state, or local unit of government. This definition of "public lands" is often used in this broad sense.[3]

In the United States, there has historically been a resistance to public landownership, with increments in land values accruing from increased development potential going to the successful speculator rather than to the public-at-large to offset public development costs. Case study examples are numerous of landowners who have been compensated for damages by public planning decisions. However, we would be hard-pressed to find examples of the landowner who has been charged for decisions in which they benefited.[4]

The potential use of public landownership as a method of community development can be derived from successful European planning, of which public ownership is a crucial

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[2]Kermit C. Parsons et al., Public Land Acquisition for New Communities and the Control of Urban Growth: Alternative Strategies (Ithaca, N.Y.: Cornell University Press, 1974), pp. x-xvii.

[3]Kindred v. Union Pacific R.R. Co., 225 U.S. 582, 596 (1912).

[4]Ann L. Strong, Land Banking: European Reality, American Prospect (Baltimore, Md.: Johns Hopkins University Press, 1979), p. 1.

element. Towns and urban centers in Finland, the Netherlands, France, Sweden, as well as in Canada, to name a few, share the common element of public land acquisition in advance of development.

A distinctive feature in most of the European and Canadian examples of public landownership is that the land is leased rather than sold for development. If the desired use of the land changes over time, the public can secure the altered use--as well as increments in land values--through negotiation of new lease terms.[5]

Leasing of Public Lands

There are several implications of public landownership as it relates to land management, both in practice and theory. However, this study will only address the disposition of public lands. The most traditional method of land disposition is sale in fee simple. The method which will be studied in this report is the utilization of annual ground rents (leases) as an effective land management tool.

When a public agency considers leasing its lands, whether for residential, commercial, recreational, or industrial purposes, it needs to consider how the price should be set. The price can be set with reference to market value, acquisition price, intended use, public costs during

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[5]Ibid., p. 3.

the holding period, and/or public policy on return from land.

With the use of a long-term lease, operating agencies would directly benefit from appreciation in land value by increasing rents or through a new lease for a more intensive use.

Many commentators on the subject of land management agree that leasing is preferable to sale. As the Douglas Commission said,

> Wherever feasible, long-term leases should be the preferred method of disposing of any public land, and lease terms should be set so as to permit reassembly of properties for future replanning and development.[6]

In structuring the means for disposition of public land, the most desirable arrangement would be to lease all land, but some land might have to be sold to obtain immediate cash to pay debts and to provide the initial phases of urban services.

With public lands, a holding agency is in a position to demonstrate innovations in land disposition and management practices by using the long-term leases. In most instances of public ownership, there are many attributes already inherent when considering leasing:

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[6] Ibid., p. 280.

1. The land was acquired before development values were attached to it.
2. Land can be assembled into tracts large enough for major development.
3. Gains in land value from public development decisions accrue to the public-at-large.
4. There is a built-in mechanism by which to curb speculation.
5. Land can be committed to the building of infrastructure and then to development in an orderly, efficient manner.
6. Sensitive, phased development, based on market forces, will permit the project to make the maximum possible contribution to the region.
7. Public investment in land and improvements can be averaged over a long term and over the holding period, so that specific site costs do not dictate site use.[7]

Need for the Study

Most of the land area of the United States was once publicly owned. Eventually, lands were transferred to

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[7]Ibid., p. 2.

private ownership and quasi-public agencies to encourage settlement, to stimulate railroad and road construction, to aid education, to provide revenue, and other purposes.

The public lands were once thought to have value only for grazing, mining, or timber. Most recently there has been a realization that some of the public lands have important values as watersheds, for wildlife habitat, and for recreational, residential, and other land use purposes. In some areas we have recognized that these latter uses may be of greater importance than the older, traditional uses.[8]

Much of the public lands which have been transferred to managing agencies are located away from urban areas, proper and effective land management is important because land use and development controls are usually absent. Some problems which are encountered are the timing and method of development to prevent sprawl, the provision of urban-type services, operation and maintenance costs, and cost factors associated with maintaining a high level of administering these areas without impeding development objectives. Leasing the land could be a major component of an overall management plan which provides a revolving fund for continued improvements and maintenance costs which outright sale would not provide.

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[8]Western Resources Conference, Public Land Policy (Boulder, Col.: Colorado Associated University Press, 1970), pp. vii-ix.

Research Questions and Methodology

This thesis will investigate the results of the leasing of public lands, specifically the leasing program of the Pearl River Valley Water Supply District at Ross Barnett Reservoir near Jackson, Mississippi. The reasons that Ross Barnett Reservoir was selected as the case study example are: (1) there is no other public agency in the U.S. which has such an extensive leasing program for development purposes[9]; (2) the magnitude of the program is such that there is extensive data and information; (3) the length of time of the leasing program is of such duration that valid observations can be made; and (4) the program appears to be successful.

This study will investigate the following questions:

1. How was the concept of leasing the land surrounding Ross Barnett Reservoir derived?
2. How does the leasing program fit into the comprehensive planning process and/or plan?
3. What problems and opportunities are present in leasing public land?

This study will be conducted with (1) a review of planning literature to assess both historical and current

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[9]David Mosena, APA, Director of Research, telephone interview, April 1982.

examples of leasing of public land, and (2) a case study of an active leasing program. The case study will include personal interviews, telephone interviews, and site visits.

Thesis Content

This study will present a current example of the state-of-the-art of leasing. Chapter II gives a historical perspective of public land acquisition and disposition. An early example of large-scale leasing in Baltimore, Maryland, is discussed.

In Chapter III, the leasing system of Stockholm, Sweden is presented. Although the Stockholm example deals primarily with leasing in the urban areas, there are several similarities with the leasing system of Ross Barnett Reservoir.

The case study of leasing public lands for private use at Ross Barnett Reservoir is presented in Chapter IV. Along with a background discussion of the concept, a discussion of the relationship to the planning process, the mechanics of leasing, organization and administration, and financing of the Ross Barnett Project is included. A detailed discussion of the problems which are associated with the project is included in this chapter.

Chapter V compares the concepts on which the Ross Barnett Project are based with the Stockholm, Sweden,

example. A discussion of other reservoir development in the United States is included. A matrix at the end of the chapter illustrates the key issues of the Stockholm and Ross Barnett examples.

Conclusions and observations of the Ross Barnett Project are the subject matter of Chapter VI. Recommendations are also made.

CHAPTER II

HISTORY OF PUBLIC LAND DISPOSITION THROUGH LEASING

Leasing of lands and the improvements thereon has been practiced in countries all over the world. The methods differ, but the concept is the same, as the premises described in the written document are rented for a stated consideration and for a definite term. The owner is known as the lessor and the tenant as the lessee.

The practice of leasing land extends back to the early Roman Empire. Although the history of the practice as followed there is vague, there is little doubt that the rulers of the early empire exercised control over all the land and apportioned it out among a favored few, who became the overlords. Having large areas of land which they were not able to cultivate or realize a profit from, they devised a rental or leasing system which has its counterpart today in modern long-term leases.[1]

It is from this early source that land leases came into existence in England, from which early American leasing programs evolved. The feudal or baronial system as practiced in England was patterned after the Roman systems.

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[1]Stanley L. McMichael, Leases: Percentage, Short and Long Term (New York: Prentice-Hall, Inc., 1947), pp. 1-2.

English kings claimed the ownership of all the land in their kingdom.

England, in following its practice of leasing land for long periods, has handed down many of the peculiarities of the present system. Modern demands and conditions, however, have resulted in the introduction of new and different features, resulting in a lack of uniformity in the construction of leases.[2]

The Public Domain: Creation and Disposition

The land ownership patterns in the colonies prior to the revolution showed considerable diversity, but there were two common elements: all grants were held in tenancy from the king, and the grants required payment in money or in kind. Some holders of colonial charters made fee grants to towns, some to individuals, some to both. Towns that received grants of land managed the land in a variety of ways: some land was sold, some was sold subject to the town's right of preemption, some was leased, and some was held by the town for common use. Both the New England towns, with their holding of common pasture and woods, and cities with a checkerboard pattern of private-public holdings were acting on the assumption that the public good

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[2]Ibid., pp. 2-3.

would best be served by retention of substantial areas in public ownership.

The principal initial impact of the Revolution on land ownership patterns was that the new states laid claim to immense and often ill-defined holdings. The Federal government initially was landless. Both the disparity of holdings among the states and the lack of Federal land soon were recognized as major problems. Some states worried about the potential advantage of other states with large land holdings. Many saw Federal land ownership as one means of funding the treasury of the new Federal government.

Initially, a majority of the states with external lands favored retaining these lands, but eventually ceded their holdings. By 1802, the transfers to the United States of land were complete. This land was the nucleus of the public domain.

Acquisitions for the Public Domain

After the creation of the United States, all further acquisition of land was carried out by the Federal government. The lands, except for Texas and Hawaii, became part of the national public domain. Between 1803 and 1867, 1.8 billion acres, or 79 percent of the present total area of the United States, passed into the public domain.[3] For the

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[3]Ann L. Strong, Land Banking: European Reality, American Prospect (Baltimore, Md.: The Johns Hopkins

land that was bought, the average cost was four cents per acre.

It was decided very early that governmental functions in the public domain should be divided between newly created states and the central government. However, new states were not to come into being until there were enough people and enough development in an area for it to support the functions of a state government. Just as cessions of land by seven of the original states had been spurred by a concern over inequality of power among the existing states, so was the formation of new states affected by the desire of the existing states that the new states not surpass them in wealth or population.

Disposition of the Public Domain

If it was considered not only desirable but even urgent for the new nation to expand its land holdings, the prevailing view, at least for the first 100 years of the public domain, was that it was equally desirable and urgent that the land be committed to private ownership. Thomas Jefferson and Andrew Jackson both represented the philosophy of rapid settlement and creation of a society of landowners. John Quincy Adams would have preferred stressing public return and more orderly settlement.

University Press, 1979), pp. 24-34. This citation applies to the material until the discussion of Baltimore begins.

The government's disposal policy was shaped by several factors. These factors were: the desire to get land settled and into productivity as rapidly as possible, the need for revenue for the Federal treasury, the need for dispersed settlement of the west to provide a place for immigrants and to increase safety from the Indians, the commitment to reward soldiers with land, and the aim of promoting self-sufficiency in the newly formed states.

The best method for transferring land into private ownership was not self-evident. There was no comparable experience in Europe on which to draw, and there were many conflicting opinions. Whether to sell land or give it away and whether to market it to large entrepreneurs acting as middlemen or directly to settlers were continuing issues. Among those favoring sale, there was disagreement as to price, size of tracts, terms of sale, and places of sale. The end results of any method of disposition, however, was that in the period of early settlement, those who had most received most, while later the individual frontiersman had a better chance.

Simultaneously with the selling or giving of the public domain to private owners, it was also granting land to the states, often for earmarked public purposes. By the end of the nineteenth century, almost no public domain remained in the eastern half of the country.

There were three primary features for managing the public domain between 1780 and 1840. They were: creation of a uniform method of surveying, grants of specified surveyed sections to the states as a source of school revenues, and periodic downward adjustments of the minimum acreage required for purchase.

> The law required that the territory to be sold should be laid in rectangular townships, 6 miles square. Each township was to be divided into 36 square sections of 1 square mile or 640 acres. Half the land was to be sold to townships, the other half by sections. . . . Section boundaries proved natural rural road lines and villages either established themselves at junctions, or were laid out and promoted by property speculators.[4]

A portion of the public domain was given to soldiers. Other land was allocated to satisfy script claims. These claims had arisen where, as a result of poor surveying or duplicate grants, there were overlapping ownerships of the same tract or where a tract description was inadequate to locate the land. All land was granted in fee simple, and all deeds were required to be recorded. Initially, the government tried to sell the land in township-sized parcels to private enterpreneurs who could further subdivide and sell it. While this idea floundered due to the fact that early land companies didn't prosper, many settlers were

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[4]A. E. J. Morris, History of Urban Form, Prehistory to the Renaissance (London, England: George Godwin, Ltd., 1972), pp. 220.

eager to buy parcels directly from the government at less than township-size tracts for their own use.

The years 1840-1900 were characteristic of an increase in immigration and settlement and in conversion of land from public domain to private ownership. First, preemptive rights then, free grants to individuals and massive free grants to the railroads marked disposal policies to the private sector. This period also brought major expansion in the cession of lands to the states.

Some states were allowed to sell the land that they were given and segregate the income from the sale to create a fund for the provision of special-purpose institutions, such as hospitals, colleges, and prisons. More often, however, the states were prohibited from selling the land and were restricted to leasing it. This was because Congress believed that retaining the fee title in the hands of the states would prove to be more in the public interest over time.

Between 1840 and 1900, 140 million acres were given to railroad companies, either by Federal or state grant. The primary reason for this was to open up the country and make the West more accessible to settlers. Another reason for the grants, which did not materialize, was the hope that railroad construction would drive up land prices so that Federal and state governments would profit from land sales.

However, the government did not even recover the value of the land given to the railroads. Speculators had foreseen which routes would be awarded to the railroads and already had bought many of the choice sites. Between them, the speculators and the railroads held the best land and made the profits from subdividing it.

Not until the close of the century, with the establishment of forest reserves in 1891 and Federal grazing permits in 1900, was there the beginning of a recognition that the public interest might be served by holding and conserving portions of the public domain.

The period from the Revolution to the close of the nineteenth century was marked by the abolition of tenancy in land and by the expansion of private control of land use. A commitment to individual and corporate freedom and initiative in the use of land was a cornerstone of public policy. This policy dictated that public domain land should be transferred to private hands as rapidly as possible.

The twentieth century has been notable for a reversal of the direction of public policy. An increasing recognition of the finiteness of our land resources and of the interconnection between land uses has led to increasing support for public landownership or public control of land use. The land management themes of the late nineteenth and early twentieth centuries are as follows: expansion versus

growth control, disperson versus concentration, and exploitation versus conservation as signified by the trend to settle frontier lands.

An Early Example of Leasing for Land Management and Development: Baltimore, Maryland

The wave of building and community development in the mid-1700s in Baltimore was based on the ground rent. This was rare in the United States, but common in Baltimore, and was devised when capital and hard currency were scarce and land was cheap. In order to give value to that town lot and to make their land produce some income, the landowners would contract to "rent" or "lease" the land, effectively forever, at a fixed annual sum, to someone who had the capital or the credit to build a house or a commercial establishment. The lessee could in turn rent or sell the building. It became common practice to dispose of lots by long-term leases for 99 years renewable forever. The leaseholder paid an annual ground rent to the original owner, their heirs, or buyers of the ground rent. This method of development was favorable to the upward spiral of rising population, rapid construction, and capital accumulation.[5]

An early example of the success of utilizing leasing to promote development in Baltimore occurred in the mid-1800s.

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[5]Sherry H. Olson, Baltimore (Baltimore, Md.: The Johns Hopkins University Press, 1980), p. 23.

The Canton Company was to develop a complete industrial neighborhood with a number of different enterprises. In 1845 the company rebuilt some wharves and located a warehouse near the wharves. By 1850 it was finishing the Atlantic Wharf, with 752 feet fronting on the railroad and approximately 1,200 feet fronting on the water. The company contracted to build private wharves jutting out from it for lumber and coal yards and shipbuilding. The company bridged a creek and continued to pave streets to the east. There were 350 brickmakers at work. The corporation received roughly equal thirds of its income from the sale of brick clay, ground rents, and the sale and lease of industrial property. The ground rents assured a relatively steady income, while the other sources augmented cash flows during high-investment periods, in the development process. The strategy was to have a balanced investment and balanced land use. Residential and semipublic facilities were provided to encourage industrial growth. Workers could purchase their homes, but did not need to purchase the land, as it was subject to the ground rent. Essential to the construction of new houses for the working class were the financial innovations that allowed them to purchase a home.[6]

In 1870, Baltimore experienced a construction boom which was financed primarily by advance mortgages. Nearly

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[6]Ibid., pp. 116-117.

all the buildings, approximately 6,000 of them, were built on advances. The advances consisted of a landowner selling a leasehold interest to a builder and then advancing their working capital in installments as the work progressed. The advances usually amounted to half the cost of the building. While this mechanism promoted construction, it captured a lion's share of all profits for the landowner. The landowner received an annual ground rent as before, but more important, was able to charge more for the land. In some instances a builder would have to pay double for a lease due to an advance being made to him or her. The higher land price was passed on to the consumer, and required building for higher income people. If the builder failed, the landowner foreclosed and received the whole property for the value of the prior claim, or about half its cost.[7]

The shift to a mass market in housing in the 1880's depended on effective financing and advance building. Meanwhile, ground rents became a favored form of financing, as they were safe and tax free. While ground rent originally meant the right of the landowner to collect an annual rent on the land from the developer or owner of buildings on it, the market value of the ground rent rights was generally greater than the actual market value of the land. This

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[7]Ibid., pp. 168-169.

meant the ground rent owner was, in fact, making a loan to the owner of the house. The house owner had to pay the property taxes on both house and land, and the ground rent owner was well secured. If the house owner failed to pay either ground rent or taxes, the ground rent owner could claim the house. The leaseholder could not demolish or rebuild his or her house without permission from the ground rent owner. Houses were sometimes built ahead of demand merely to create these ground rents or loans. The financial incentives stimulated building and brought ownership within the reach of more people.

A disadvantage to the ground rent was that while it facilitated new development of urban land, it hindered its redevelopment. As buildings depreciated or became obsolete, the fixed charge seemed disproportionately great. Confusion of land titles arose as ground rents were divided among heirs, and in some instances, numerous parties were assigned to a single lot. Leasehold owners found it hard to sell their buildings subject to these handicaps on redevelopment. To ease these problems, laws in the 1880's required that all new ground rents created could be bought out by the leaseholders after five years. These redemption acts fixed the relation between the annual rent and the amount that would have to be paid to buy it out. Ground rents were to be capitalized at 6 percent. The ground rent remained

attractive for 75 years, so long as 6 percent was well above the market interest rate.[8] In addition, private monopolies of public land, such as streets, bridges, railroads, gas-works, harbors, electric water works, etc., were no longer allowed. Private enterpreneurs could no longer be offered perpetual rights on particular land uses which "squander the rights of those who are to come after us." They could be offered 15-year leases. The object was to "exact from every natural monopoly using public property full compensation."[9]

The Taking Issue

There are some basic issues to consider when a public agency begins to acquire lands to form a leasehold system. The taking clause of the U.S. Constitution, ". . . nor shall private property be taken for public use, without just compensation," is the primary recourse of those challenging government action affecting private use of land. There are two issues under this clause: (1) the government action is an unconstitutional taking because there is to be no public use of the land, and (2) the government action is proper but invalid because uncompensated. The challenge to government authority to take property goes to the scope of public power, and is an area in which past decisions offer a basis

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[8] Ibid., pp. 219-220. [9] Ibid., pp. 224-225.

for predicting future outcomes. The demand for compensation involves the question raised in the discussion of sovereignty: when does equity dictate that government pay for losses caused by its restrictive action? While the answer is not certain, much depends on a given court's weighing of the relative significance of protection of private interests and achievement of public benefits. In general it is said that government regulations may cause substantial declines in land values without giving rise to the requirement of compensation.[10]

A taking occurs when the impact of government action is "so complete as to deprive the owner of all or most of his interest in the subject matter."[11] Government may take property only for a public use. The concept of public use as interpreted by the courts is subject to change. The definition has been broadened steadily in the areas of protection of resources and management of development.[12] Two important decisions that illustrate judicial support for innovative legislative decisions in those areas are Berman v. Parker[13] and Kamrowski v. State of Wisconsin.[14] Berman

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[10]Strong, p. 36.

[11]United States v. General Motors, 323 U.S. 373 (1945), pp. 377-78.

[12]Strong, p. 37.

[13]348 U.S. 26 (1954).

[14]31 Wis 2d 256, 142 N.W. 2d 793 (1966).

v. Parker upheld the constitutionality of the District of Columbia Redevelopment Act of 1945. The law authorized the designation of an area as blighted (even though some of the structures in the area were structurally sound), the condemnation of all property within the designated area, and the resale of the property to private developers for redevelopment.

The Kamrowski case sustained legislation authorizing condemnations of scenic easements by the State of Wisconsin. The purpose of the easements was to protect the view of the Mississippi River from Great River Road, the adjacent highway. The court agreed with the legislative findings that the view constituted a public use and that physical access to the site was not necessary.[15]

A third issue when considering whether a taking has occurred relates to government regulation. There have been instances that a government regulation is so restrictive, that the landowner is deprived of an economical use of his property.

As stated previously, one of the issues which this thesis will look at is to determine the possible outcomes of a deliberate public taking in assembling land for development which would take the form of a new community.

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[15]Strong, p. 37.

Governmental processes of land assembly, developmental planning, land improvement, and the provision of urban-type services in the instance of Ross Barnett Reservoir are all under government direction.

CHAPTER III

LEASING AND DEVELOPMENT CONTROL OUTSIDE THE UNITED STATES: STOCKHOLM, SWEDEN

This chapter examines Scandinavian municipal development controls. The obvious operational, aesthetic, and social accomplishments of west European urban development, including the numerous new communities, satellite communities, and expanded towns built in the last 50 years, suggest the existence of policies and programs that may improve U.S. practices. The success of development in western Europe may be traceable largely to large-scale public ownership of land through which municipalities exercise direct control over location, scale, pace, and detailed design of development.[1] While other western European countries, such as France, lease public lands for development, the Swedish model is the most advanced.

The Stockholm Example

The publicly owned land in the Stockholm region constitutes the largest public holding in western Europe. Twenty-seven percent of the county's 1,606,000 acres is

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[1] Kermit C. Parsons et al, Public Land Acquisition for New Communities and the Control of Urban Growth: Alternative Strategies (Ithaca, New York: Cornell University, 1974), page 1.

in public ownership, excluding streets. The national government, Stockholm County, the city of Stockholm, and most of the 22 other municipalities in the county each own some of this land.[2]

Private ownership of land was virtually unknown in Stockholm prior to the 19th Century. The land was publicly owned either by the national or municipal government, and was leased for housing, business, or industry. The terms of the lease were nominal and served to establish the principle that the land did not belong to the user. However, during the 19th Century, lessors were permitted to acquire full title to the land by the payment of a sum equal to 30 times the annual lease payment. By 1850, most of the land area not used for municipal purposes had passed into private ownership.[3] At the turn of the century, however, the city of Stockholm was convinced that a mistake had been made and proceeded to regain land ownership. By 1966 the city owned and leased about half of the central business district, 36 percent of the land in the Inner City, and 83 percent in the Outer City. This totals 74 percent of all the land inside the city; and it owned and leased twice

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[2]Ann L. Strong, Land Banking: European Reality, American Prospect (Baltimore, Md.: The Johns Hopkins University Press, 1979), p. 43.

[3]Reuel G. Hemdahl, Cologne and Stockholm: Urban Planning and Land-Use Controls (Metuchen, N.J.: The Scarecrow Press, Inc., 1971), p. 148.

as much land outside the city limits. By retaining ownership and leasing the property, the city can control land use for the public interest.[4]

Thomas Atner and Bjorn Linn (National Association of Swedish Architects), analyzing city planning, write:

> The essential task of the moment is to organize the city into an efficient tool for living, a city adapted to all sections of the community which serves them in their work, home life, and recreation.

The economic efficiency of a city, including land use determination for industry, commerce, and residential purposes, circulation for people and materials, and adequate tax base data, which has been a major consideration in American cities, is not enough. The Swedish planners moved from major attention to economic efficiency in the 1920's to an emphasis on the residents' needs for light and air in the 1930's, and thereafter gained a realization that there were other psychological and spiritual needs that had to be met so that a city was a good place in which to live.

> Town planners will do their share to create a "living environment," not being content simply with arranging things so that people breathe and move in a healthy environment.

A "living environment" most effectively characterizes Stockholm.[5]

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[4] Ibid, pp. 265-266.

[5] Ibid, p. 140.

The Early Years

Too many people and too rapid growth have never been problems for Sweden. It was, in fact, the vast emigration at the end of the 19th Century that led to the reacquisition of a substantial land base. By holding down land costs and making cheaper housing available to working people, Swedish cities sought to offset the lure of the United States. This movement was called the "Own-Home Movement," developed to stem the flow to American farm homesteads.

Between 1850 and 1900, one million Swedes, or about one-third of the population emigrated. Net emigration peaked in the 1880's, when an average of 38,000 people left each year.

At this time, Stockholm was a city of 100,000 people. The wealthier people lived in the northern portion of the city, while the less affluent lived in the southern section. The historic economic segregation is of significance because it is a pattern that has been perpetuated. The first area bought by the city and leased for housing development was in the south sector of the city for low- and middle-income people.

The Stockholm City Council almost unanimously supported the initiation, in 1904, of a city land bank. Concern about emigration and a desire to make homeowning possible were

the immediate reasons for action. For Sweden, there was a long tradition of public landownership, so starting a land bank was an unusual, but not revolutionary undertaking. Land was owned by the crown from the Middle Ages until the 19th Century.[6]

Stockholm was one of the first Swedish municipalities to implement the concept of publicly owned land. Because Stockholm continues to be a faster growing area, it has faced problems of local government organization--central city annexations, city-suburban rivalry, and empowerment of regional agencies. These same factors are prevalent in the large metropolitan areas of the United States. The underlying urban problems of rapid growth, including the assimilation of rural immigrants and foreign workers and the decline of the central city, also have parallels in the United States. Unlike the United States, one of the responses to Stockholm's problems has been to acquire massive land holdings for more development control.

Sweden's goal has remained constant since the initiation of public land acquisition: the creation of a high-quality living environment for all people. Its large land holdings have been the principal factor enabling

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[6]Strong, pp. 47-48.

Stockholm to develop in an efficient, orderly manner and assure that public services will be available when each new area is opened to residents. The new developments have provided high minimum standards of housing space and quality and ready access to open space, public transportation, and commercial and community facilities. Cooperative agreements between Stockholm and neighboring municipalities in which it owns land have enabled the city, with its greater financial resources, to build there as well.

A common assumption in Stockholm is that early acquisition also reduced the price of development. Whether this is true is debatable because records have not been kept in a manner where calculations can be made.[7]

The Planning Process

The first step undertaken in public land acquisition and development control is the search for appropriate land. This step involves decisions on location and intended use. These decisions are based on criteria such as availability of utilities, status of land-use regulations, and cost of financing of land improvements. They are made within the existing framework for planning and development established and defined by statutes which are intended to coordinate the

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[7] Ibid, pp. 45-46.

various planning policies in land development at the different levels of government, together with other policies (e.g., taxation and finance) that are directly related to land development.

Where an entity undertakes these decisions, its relationship to the larger planning and development systems is critical to its success. In Sweden, approval of local and metropolitan regional development plans by the national government is generally a prerequisite to acquisition and/or development activities. National and local taxing powers regarding real property transactions, government restrictions on tenure and use of agricultural lands, national programs of loans and grants for land acquisition, land development, and municipal services are equally important parts in the implementation of these coordinated growth policy programs.[8]

A significant element in Sweden in the search phase of land acquisition is the master plan. The search phase of local land acquisition grows out of a planning process under which master plans for communities are supposed to be prepared and adopted by municipalities and ratified by the

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[8]Parsons, p. 3.

national government. No building is to take place that is not in accordance with the master plan.

The overall master plan provides the basis for a more detailed town plan which designates specific areas for development in the short term. No landowner can develop his land for high density use unless given permission by the municipality. Changes in the town plan must be submitted for approval to the county government, or if they are extensive, to the national government. The town plan is frequently kept in draft form as it is developed so that the purchase prices of land being acquired can be based on the existing-use values.

A detailed development plan is prepared for approval by local building committees. It is also subject to review and approval by the county government. Thus, all building in an urban area is guided by three governmental levels of planning in terms of detail: national, county, and municipal. Planning is initiated locally but is subject to public review at one or more higher levels of government where broader aspects of the public interest are assessed.

It is the positive developmental role, and the strong legal ability to act as developers in the carrying out of city plans, that engages Stockholm in extensive land ownership and preparation activities. The relationships

between the overall Swedish planning system and public land ownership are repeated with minor variations in other Scandinavian countries and in the Netherlands.[9]

It has been suggested that to exercise control over development, a development agency or corporation should control at least 60 percent of the land. As previously stated, by 1966, Stockholm owned 74 percent of the land in the city proper.[10]

Although there appears to be some tendency to sell land rather than lease it because of capital shortages, most Scandinavian disposition practices use long-term leases rather than sale of land in fee simple for development. In Sweden, the leasehold system is of great importance for both new construction and urban renewal. No land has been sold in Stockholm for the past 20 years. Because it is leased, land is developed according to plans rather than as a reflection of market value. The lease period is 100 years, except for residential land which is leased for 60 years.[11]

Acquisition

In Sweden, land acquisition for urban development is generally carried out by the municipalities. Negotiated

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[9]Ibid, pp. 5-6.

[10]Ibid, p. 17.

[11]Ibid, p. 20.

purchases are the rule rather than the exception. Compulsory purchase powers are available, but used sparingly. However, if private landowners decide to withhold improvement of land that is designated for urban development in the city plan, the municipal government may, after waiting for a "reasonable time" proceed to purchase the land compulsorily for development.[12]

When Stockholm began its land acquisition program in 1904, the city purchased 4,940 acres. This number is remarkable when compared with the 4,199 acres that were then the total built-up area of Stockholm. The newly acquired land was in five parcels outside the city limits, and the city paid an average of $184 per acre for the land.

The 1590-acre site of Farsta, now one of the better known of Stockholm's satellite centers, was acquired in 1912, but not developed until the 1950's. Land for Vällingby, the first and probably best known of Stockholm's satellite centers was bought in the late 1920's and early 1930's.

From 1904 until World War II, the pattern of land acquisition was much the same. As large estates in the Stockholm region came on the market, the city sought to buy them if they appeared to have potential for future development. Usually there were between one and five

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[12]Ibid, p. 14.

purchases annually, although in some years, no land was bought. A few small parcels were acquired but the average size was over 600 acres.

Acquisitions began to taper off during the 1920's when the Conservatives became stronger in the city council. They were concerned that the city was making too great a financial commitment to raising living standards in outlying areas. Another factor was the awareness that it would be years before many of the tracts purchased would be needed for development. Since, between 1920 and 1946, a two-thirds vote of the city council was necessary to approve either the purhcase or sale of the land, not as many prospective purchases received city council approval.

In 1880, administration of the land bank program was placed in the hands of the newly created Agricultural Holding Committee of City Council. Previously, land transactions had been the responsibility of the city council Finance Commission, but it was decided that different skills were needed for the acquisition, planning, and development of outlying lands. In 1919, another reorganization grouped the city's land and housing policies together in the newly formed Real Estate Commission.

Each of those administrative arms of the city council continued the policy of acquiring land as it became available.

By 1939, the city had acquired 43,810 acres, including a few parcels bought prior to 1904. Acquisitions from 1904 to 1939 totaled 33,074 acres.[13]

The Peak Years

Investment in land picked up substantially from 1945 to 1951. After that, partly due to a very tight money market and partly due to a conservative shift in the political composition of the city council, land banking activities slowed once again until 1958. Then the Social Democrats came back into power, and with them came a revival in the land bank program. In 1961, the biggest land buying campaign in Stockholm's history began. This peaked in 1967 and fell off rapidly thereafter. This was influenced by several major factors, including new capital gains tax legislation, new land use controls, and the shifting of power and wealth from the city out to the suburbs.

By 1967, Stockholm had bought 138 thousand acres for a price of some $110 million. The total area of the city was then 456 thousand acres, so municipal acquisitions tripled the city's size.[14]

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[13] Strong, pp. 49-50.

[14] Ibid., pp. 53-56.

Financing

Stockholm, as well as other Scandinavian municipalities, can finance land acquisition and development by the use of income taxes on individuals and businesses, by the levy of minor taxes on houses, and by collecting user fees for public services. They can also use funds granted or loaned by the national government or by nongovernment financial sources. Some of the funds used to purchase land around Stockholm originally were appropriated for purchase of recreational land.[15]

Stockholm's borrowings for land purchases have been, for decades, part of general borrowing to finance various city operations. There is no account in the city budget to show, from year to year, how much of the city's outstanding debt is allocated to land purchases. The city's practice is to pay for capital expenses partly from current revenues, partly from the sale of bonds to cover borrowings from the national government or private sources, and partly from the sale of short-term notes to cover other borrowings. Amortization provisions vary from loan to loan. On occasion, bonds are paid off by the proceeds from the sale of new bonds. Even though one cannot segregate land transactions,

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[15]Kermit C. Parsons et al., p. 25.

it is possible to show that the city's revenues from its leases are at a lower interest rate than it is paying on its loans. The city always has held to the view that it should not profit from its investments, including land, but opinion has fluctuated over time and is dependent on an individual's politics and job as to whether the return from public land should cover land-related costs or be subsidized from other city revenues. For decades, by not attempting to cover the cost of amortizing principal, the latter view prevailed. Lease revenues were supposed to have covered interest costs, site planning, ground improvements, infrastructure, and administrative costs, but never principal costs. Whether they actually did or not is not known.

Many of Stockholm's lease rates were set for 60 years, so that what might have been a reasonable rate in 1910 was far from reasonable in 1970. It has been calculated that a residential lease of 7,700 square feet was priced at $36 per year in 1915, $308 per year in 1968, and $692 per year in 1973. Fifty-five percent of Stockholm's residents live on leased land. Stockholm holds approximately 24,000 leases in the city and approximately 2,000 leases in the suburbs. Of the total amount of these leases, 17,000 leases were entered into with 60-year terms. Since the law was not changed to establish 20-year residential terms until 1953, some of the 60-year leases will not expire until 2013.

The 20-year leases entered into in 1968 will not expire until 1988. These long-term, fixed-rent lease provisions result in obvious inequities among lessees, and they also lead to the city's receiving very low income from many properties.

The city has been debating what policy to establish for leases coming up for renegotiation on rates as well as for new leases. In 1973, the Real Estate Office decided to base lease rates on the market value of land. For new residential leases, the average cost of raw land would be used. For renegotiated residential leases, 70 percent of assessed value would be used. For commercial, nonprofit, and industrial leases, market value, as evidenced by recent sales, or expropriation awards would be used. The rate charged on the base would be 5.1 percent for residential properties, 16 percent for industrial sites, and 9 percent for other uses.

The financial office of the city views the past and present lease policies as detrimental and politically motivated. Its staff proposes using the market value, adjusting it annually with a price index, and setting the rate at the city's borrowing rate. The essential question that the city must resolve is whether lease rates should cover land costs or whether the city's general revenues should continue to be used to subsidize these costs. In 1973, it was

estimated that there was an $8 million gap between lease income and interest due on loans to cover land investments, so the question is a significant one.[16]

Significant Development in the Leasing Concept

When the Stockholm land bank program began in 1904, Swedish law permitted the sale, but not the lease of land. In 1907, Parliament passed a law enabling the state and municipalities to lease public land once it was planned and plotted for development.

Following enactment of the 1907 law, the Stockholm City Council articulated the program:

1. While national legislation permitted lease terms of 26 to 100 years, Stockholm would use a 60-year term for residential properties. Sites for apartments, commercial and industrial uses would be sold to recapture some of the city's investment. Interim uses of farm and forest use would be implemented for those areas not ripe for development.
2. The principal cost of the land would not be amortized. Lease charges were to cover the cost

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[16]Strong, pp. 92-94.

to the city of interest payments on its borrowings for land acquisition and the cost of making the land ready for development, no more, no less. The annual rent charge would be 5 percent of these costs, allocated to a given site.

3. To prevent lessees from profiting from the municipality's subsidy, the amount that could be charged in a sublease was restricted.

The 1907 law did not provide for renegotiation of rates.

Initially, lessees had some problem mortgaging their leases. Because the law provided that, at the end of the lease term, the municipality could retake possession of the land or issue a new lease, lenders viewed the lease as less secure an interest than they sought. Partly because of this, Stockholm created a leasehold bank which loaned solely for single-family housing development.

Stockholm's program for disposing of development sites continued in much the same manner from 1908 until the 1930's, when there were some shifts in policy. During the 1920's until the mid-1930's, some 500 to 600 parcels of land were leased annually for single-family houses. Apartment construction was limited largely to central Stockholm on land previously in private ownership or sold by the city to the highest bidder. The city altered

this policy of central-city apartments ringed by single-family housing and committed itself to apartment construction in nuclei outside the central areas.

Beginning in 1934, much of this land for apartments was leased rather than sold, as had been the practice since 1904. This decision also included land intended for industrial and commercial use, as well as for apartments and single-family houses.[17]

Several legislative changes were enacted in the 1940's and 1950's. In 1946, owners of farm land were prohibited from selling land to nonfarmers without specific authorization from the county agricultural board. The intent of this law was to keep land in farming by preventing speculators from purchasing it and causing a general escalation in farm prices.

In 1949, the Expropriation Act was amended to permit municipalities to condemn land for urban uses and then to lease it for development. The municipality was permitted to resell the land only if it could show that the condemned owner was unable or unwilling to develop it within a reasonable period and with housing at a reasonable price. A municipality wishing to expropriate first gave notice to the landowner and offered what it thought was a fair price.

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[17]Ibid, pp. 52-53.

If the landowner did not accept the offer, a real estate court fixed the value. Only when the expropriation price had been paid did the municipality get possession of the land.

In 1953, the 1907 Lease Act was amended to alter the terms of municipal land leases. First, under the new law, the term of the lease became indefinite. However, a municipality could give notice of its intent to end the lease, after 60 years for residential properties or 20 years for commercial and industrial properties, if it could prove that it needed the land. In such a case, the municipality paid the value of all buildings on the site at the time of termination of the lease. If the lessor municipality did not terminate the lease after the first 60 or in the case of the commercial lease of 20 years, it could not act to terminate again until another 40 years had passed for residential properties or 20 years for commercial and industrial properties. Second, the law prohibited the municipalities from limiting the lessee's power to transfer the rights they enjoyed under the lease. Third, the municipalities were authorized to adjust rent terms every 20 years on residential leases and every 10 years on other leases. The rent basis was the value of the site at the beginning of the lease term.

Those revisions helped both lessors and lessees. The lessee was placed in a better position to mortgage his or

her interest in the land because the likelihood of termination of the lease was reduced substantially. The lessor could recoup some of the rise in land value.[18]

The laws of the late 1940's, which were intended to halt speculation had not proved sufficient in the 1960's. As the standard of living rose, more and more Swedes bought land for single-family housing. Around the metropolitan areas, prices rose and scattered development occurred. By the late 1960's, the city was paying between $4800 and $7200 per acre for land which was up from the $870 per acre average of a few years prior.

One response was the Nature Conservancy Act of 1964, which authorized county administrative boards to designate all land within 984 feet of a lake, river, and sea shorelines as land open to the public. A person is no longer entitled to undertake even sparse development. If the land was placed in a nature reserve, with no development allowed, the landowner would not be due any compensation for the loss of the right to sparse development.

An unresolved question as of yet is who will develop Stockholm's vast land holdings and who will pay for it. While growth has slowed considerably, there will still be

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[18]Ibid, pp. 56-59.

a considerable volume of development. Therefore, there will still be demand for much of the city-owned land.[19]

As of 1979, Stockholm has realized that it is no longer rich. As people and jobs have moved to the suburbs, the city has been left with aging structures, needing maintenance with little available revenue.

For decades, Stockholm provided leadership and initiative in planning for growth, buying land, and making decent housing available at prices all could afford. This has changed as no more land is being bought and the lease program is being challenged. The city is debating what policy to establish for leases coming up for renegotiation of rates as well as new leases.[20]

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[19] Ibid., pp. 63-64.

[20] Ibid., pp. 92-93.

CHAPTER IV

ROSS BARNETT RESERVOIR: A CASE STUDY EXAMPLE OF LEASING PUBLIC LANDS FOR PRIVATE USE

Background

The Pearl River Valley Water Supply District was created as a state agency by the Mississippi State Legislature in 1958. The purposes of creating the Pearl River Valley Water Supply District were for the preservation, conservation, storage, and control of the waters of the Pearl River and its tributaries and its overflow waters for domestic, municipal, commercial, industrial, agricultural, and manufacturing purposes, for recreational uses, timber development, irrigation, and pollution abatement. The District was also empowered to construct dams and reservoirs on the Pearl River or its tributaries.

The District area encompasses Hinds, Leake, Madison, Rankin, and Scott Counties, Mississippi. All powers of the District are exercised by a Board of Directors consisting of two members from each member county and four members from various state boards and commissions. The State Legislature empowered the Pearl River Valley Water Supply District to issue bonds not exceeding $25,000,000 for the purpose of paying the costs of acquiring land and for the

construction of the dam and reservoir. The bonds were issued and construction was begun on the main dam, an earth-filled structure sixty-four feet high and approximately three and one-half miles long. The main dam is located about ten miles northeast of the central business district of Jackson, Mississippi, near the Hinds-Madison County line. Figure 1 shows the location of the reservoir in relation to the State of Mississippi. The dam and reservoir are located virtually in the geographic center of Mississippi and are easily accessible from all areas of the state via interstate or federal highways. The dam was completed in 1962, and 30,000 surface acres of water. By December 1964, various highway and utility easement relocations, as well as the clearing of the main lake area, had advanced to a stage of completion which would permit raising the reservoir pool to the planned normal pool elevation of 296 feet above mean sea level on or after January 1, 1965.

During 1964, several channels were excavated in portions of the Pelahatchie Creek area to provide navigable waterways to proposed shoreline recreational facilities, residential areas, lodge sites, and other proposed shoreline uses. This work was essential to developing the full potential of certain shoreline areas and to ensure future lease and rental income to the District. The master plan for

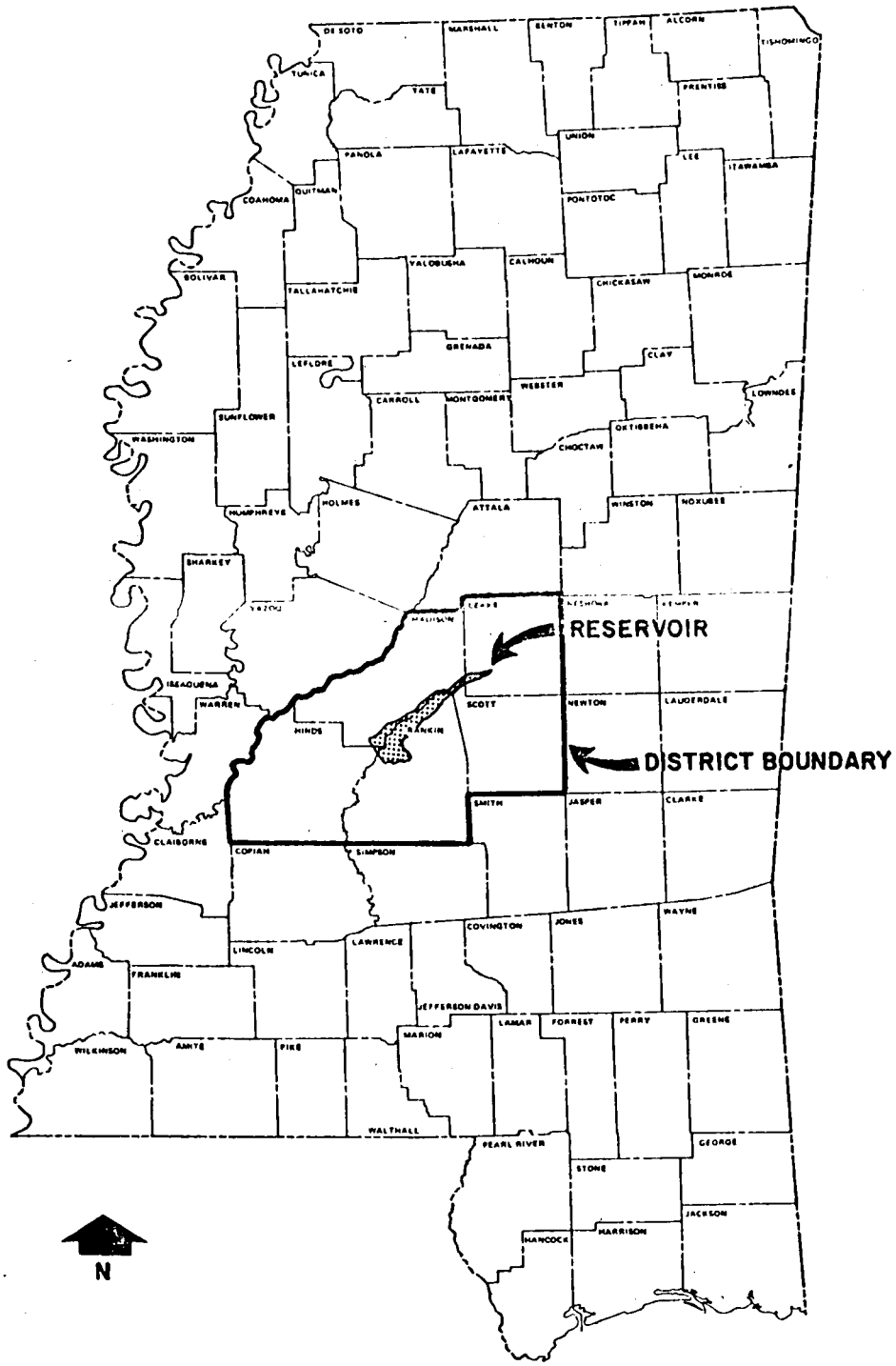

Figure 1. Pearl River Valley Water Supply District, Ross Barnett Reservoir.

development of the shoreline of the reservoir has evolved from a series of studies and marketing outlines which began in 1963. Also during 1964 construction was completed on a District Maintenance Shop to provide for adequate maintenance and storage of District equipment.

While the reservoir was being filled from 1962 until early in 1965, site grading and other work was being accomplished for shoreline activities such as marinas, boat launching ramps, commercial sites, parks and picnic areas, as well as roadways for residential subdivisions.

The reservoir was completed and formally dedicated in January 1965 and was named after the Governor of Mississippi, then in office, Ross R. Barnett.[1]

The Leasing Concept

The idea of leasing the reservoir lands for private use occurred in 1963, while the dam was under construction. The Shoreline Development Plan had been formulated for recreational, commercial, residential, and industrial uses. However, the $25,000,000 bond issue was just enough to cover construction of the dam, and it was realized that there were no funds for infrastructure development. In addition to this, the location of the reservoir and the fact that the

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[1]Wortman and Mann, Inc., Economic Impact of Pearl River Valley Water Supply District (Jackson, Miss.: Wortman and Mann, 1976), pp. 1-3.

Pearl River Valley Water Supply District would hold title in fee simple to all of the shoreline prompted the decision to market the property on long-term net ground leases. This afforded the District the maximum control against pollution, control of development timing, and the accrual of a revolving fund to help in operations.

As a result of the income from the annual ground rents, the full range of urban services has been provided. Finally, the income generated from the development fees and annual lease fees will help retire $25,000,000 in revenue bonds by 1998. The District had levied a tax totaling $1.25 million on the five counties which comprise its membership. The tax payments will cease when the bonds have been retired.

Leasing versus sale in fee simple was instituted to give the stated objective of the "public purpose" of the project validity to the general public. During the early stages of the development, it was discussed that, even though an inappropriate taking did not occur by virtue of the powers of eminent domain granted to the District by the state legislature, there would be a significant amount of public outrage if the District sold the land to private developers for profit after it had displaced the previous

land owners during the acquisition phase of the project. With the retention of fee simple title, it can be said that the District is not profit-motivated, but that it will be engaged in those activities which create a quality living, working, and leisure environment for as long as the District exists.[2]

Residential Leases

Prior to offering lots for lease, engineering plans were necessary to lay out and clear the streets for rough grading and drainage. The lots were offered at this stage of development. Completion of the streets and water and sewage services occurred after a sufficient number of contracts to lease have been secured to justify the development.

In addition to the layout and rough grading, a marketing brochure was prepared describing each development with plat, protective covenants, and price list. The price list included the pro rata development fee and annual rental.

The pro rata development fee is an up-front payment by a prospective developer to the District. The fee is based on the market value of a particular lot. The cost of providing water and sewer and a paved road to the lot is

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[2]Charles Moak, General Manager, The Pearl River Valley Water Supply District, telephone interview, August 1983.

subtracted from the development fee. The difference between the up-front development fee and the improvements cost is the amount on which the annual ground rent is based. For example, the District will "sell" a lot to a developer for a $5000 pro rata fee (the market value of the land). The District will then provide the improvements, funding them from the development fee (e.g., for a cost of $1500). The annual rental on that lot is calculated at a percentage rate (usually 6 percent) of the remaining $3500.[3] The pro rata development fee is placed in revolving Property Improvement fund. Any surplus accruing from the development fees is reinvested into the project for the development of new properties. Annual rental fees are deposited into a revolving Operation and Maintenance fund.[4]

In all contracts for lease which are executed by the Pearl River Valley Water Supply District, there is a cancellation right by either of the two entities in the event the demand is not sufficient to justify the expenditure required to construct any or all of the development. On all accepted contracts, the lessee is required to execute the lease and pay the pro rate development cost either in

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[3]Merle Mann, President and Founder, Wortman and Mann, telephone interview, August 1983.

[4]Larry Benton, CPA, Pearl River Valley Water Supply District, telephone interview, August 1983.

cash or one-third cash with the balance paid in two annual installments plus interest. The effective date of the beginning of the lease term begins with the date the utilities were installed and the streets either paved or ready for pavement when weather permits. The first annual payment of the ground rent is payable on the effective date of the lease.

The leases are for 60 years, with an option to renew for successive 10-year period. The purpose for the option to renew at the end of teh initial lease term is necessary to give the owner or his or her heirs protection against loss of the improvements upon expiration of the lease.

To ensure that each person has an equal opportunity to secure a lot of his choice, a date is set when all contracts are publicly opened and alternative choices noted. In the case of more than one contract on the same lot, names are drawn, and the name drawn is the contract accepted. An example of a residential lease, which is presently in effect at Ross Barnett Reservoir, is included in the Appendix.[5]

The residential leases do not have an escalation clause. A lease which was assigned in 1965 will have the same annual

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[5]Merle Mann, President and Founder, Wortman and Mann, personal interview and file notes, March 1981.

ground rent when the lease expires in 2025. There are only two instances when the annual rental fee is changed. The first is at the end of the initial 60-year lease term. The new rental rate is determined at the then value of the lot. The second instance of adjustment of the annual rental fee could occur when a lease is transferred from one lessee to another.[6] The development fees and annual rental fees for the first two subdivisions are compared with costs of later subdivisions. This comparison is contained in Table 1. The comparison includes the fees for comparable lots to highlight the escalation of property values and to demonstrate how the District could benefit from periodic reassessments. The 1980 values for waterfront lots, as an example, have increased in value 12 times over the 1966 value for a similar lot. The annual rental, however, increased only twice in the fee amount from the same period of time.

Commercial Leases

Commercial leases at Ross Barnett Reservoir include everything other than single-family residences. As a result, apartments, condominiums, and patio homes are subject to commercial leases as they are income-producing.

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[6]David Lane, Vice President of Real Estate, Wortman and Mann, telephone interview, March 1983.

Table 1

Lot Costs by Year--Ross Barnett Reservoir

Subdivision	Type Lot	Development Cost	Annual Rental
	1966		
Bay Park	Waterfront	$3,750	$360
Bay Park	Interior	$1,950	$120
Turtle Creek	Waterfront	$3,200	$360
Turtle Creek	Interior	$1,600	$120
	1978		
Sunrise Point	Waterfront	$42,500	$540
Sunrise Point	Waterview	$18,000	$360
Sunrise Point	Interior	$12,500	$300
Paradise Point	Waterfront	$41,500	$540
Paradise Point	Waterview	$15,500	$360
Paradise Point	Interior	$14,500	$300
	1980		
Sunrise Point	Waterfront	$44,900	$540

Commercial leases are granted only if the intended use conforms with services needed by residents and visitors. This stipulation increases the desirability of the area as a place to live and visit. In all cases, unless it is felt that a requested use filled a need or is a possible attraction, the prospect is not encouraged to advertise for a lease. It is a basic principle that the land suitable for commercial use serve the present and future needs of the visitors and residents and be carefully committed to a specific demand. This determination is made according to proximity to residential areas, recreation areas, and schools.

Commercial leases are also structured for 60 years. In the terms of the commercial lease, as in the residential lease, the developer must pay a pro rata development fee as well as the annual rental. However, unlike the residential lease, there is a reevaluation of the annual rental fee after a time specified in the terms of the lease, usually after 25 years. At that time, renegotiation then reoccurs in five-year increments after the initial process. Other important considerations associated with the commercial lease include: (1) improvements are to be insured at replacement value, (2) free access is granted to the lessor to conduct inspections, and (3) the lessor has reposession rights in the event of forfeiture and termination of the lease.

A commercial lease contract is awarded on a sealed bid basis. First, the District advertises for bids. The interested party submits a full description of the proposed facilities and services along with the cost. Following a public opening, the District reviews and analyzes received proposals. Additional information may be requested from any bidder. Bids will be awarded based on agency policy for acceptance. The Invitation for Proposals, Invitation to Bid (given to a potential bidder after his Invitation for Proposal has been accepted), and the commercial lease form, all utilized by the District, are included in the Appendix.[7]

Leasing in Relationship to the Land Use Planning Process

The master plan of development of the shoreline of Ross Barnett Reservoir evolved from a series of studies and marketing outlines beginning in 1963. During the initial planning and development of the reservoir by the Pearl River Valley Water Supply District, the decision was reached that a portion of the approximately 10,000 acres of shoreline real estate surrounding the lake would be developed and offered for lease to the public for private use. Goals underlying this decision were to provide sites for activities supportive of the reservoir's recreational

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[7]Merle Mann, President and Founder, Wortman and Mann, file notes, 1979.

and water supply purposes and to provide a source of continuing income to the District after the tax levee on its five member counties is discontinued.

The District's shoreline development program involved formulation of a land use plan that identified properties that will be offered to the public for lease for specific purposes; a marketing plan and program that helped to determine the prices, terms, conditions, and timing of individual parcel offerings; administrative policies and procedures for offering, bidding, leasing, and management of landlord/tenant relationships; and a substantial program of direct investment in developing infrastructure, such as utility systems and roadways by the District.

Prior to actual plan formulation and implementation detailed suitability and capability studies were undertaken. The initial land use plan (or Master Plan for Shoreline Development) included a map showing the future growth of the city of Jackson in the direction and surrounding the reservoir within the ensuing fifty years. In addition, conceptual plans were shown for six selected areas giving the type of development suitable for each area, including suggested public parks.[8]

The Master Plan's original concept was that the land below Mississippi Highway 43 be primarily suburban in

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[8]Merle Mann, President and Founder, Wortman and Mann, telephone interview and file notes, August 1983.

character, and this concept continues. A limited amount of the land above Highway 43 was originally envisioned as being leased for primarily recreational use such as lodges, camping facilities, weekend cottages and mobile home sites. The natural environmental character of the land north of Highway 43, as well as its location and accessibility, dictates that the majority of it be maintained as wilderness, for wildlife and conservation purposes, and for public use with only a small proportion available for private use leases. This does not preclude the future use of an increased amount of presently reserved land above Highway 43 for private use, but recognizes that it will probably never be developed with the types and intensity of uses to the south of Highway 43.[9]

The Master Plan has continually been updated. The plan of 1975 updated the plan of 1972 by various detailed studies and plans such as engineering reports, analyses of municipal services, and economic impact studies. In addition to the periodically revised and updated "Master Plan for Shoreline Development," the overall Master Plan includes a number of other components, including all outstanding leases, many legally recorded subdivision plats

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[9]Joseph A. Lusteck and Associates, Inc., Master Plan for Shoreline Development: Ross R. Barnett Reservoir (Jackson, Miss.: Joseph A. Lusteck and Associates, October 1981), p. 4.

and associated protective covenents, lotting plans for various proposed subdivisions, a property identification system that sets forth various tracts available for commercial uses, area and neighborhood plans, roadway and utility plans, public facility plans and the system of channels and public access points to the lake.[10]

The land use plan, in addition to portraying current rental rates on land use, can determine an estimate of rental income on future property to be leased. The public parks, undeveloped and wilderness areas are all nonrevenue, but are included to account for the total estimated land area. The land use planned for in each part of each area is designed to represent the highest and best use as needed to fill the demand or needs of the public and the residents. Highest and best use also implies the most annual income possible for an area of land.[11] Although the two stated objectives are sometimes in conflict, the District officials have stated a desire to achieve both results of highest and best use.

Presented in Table 2 is a land status summary for the entire shoreline area of the Barnett Reservoir. Review of all the plan components prepared in October 1981 indicates

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[10]Ibid., p. 2.

[11]Joseph A. Lusteck and Associates, Inc., Shoreline Development: Ross Barnett Reservoir (Jackson, Miss.: Joseph A. Lusteck and Associates, 1975), p. 1.

Table 2

Land Status Summary Master Plan for Shoreline Development--Ross Barnett Reservoir

Plan Area	Existing Leases	Proposed for Lease	Parks and Public Use	Reserve	Total Project
		Lower Lake			
1	26.0 Ac.	26.3 Ac.	-	24.2 Ac.	76.5 Ac.
2	109.2	22.6	62.0 Ac.	-	193.8
3	-	126.0	26.0	-	152.0
4	-	170.0	76.0	-	246.0
5	40.0	125.0	113.0	-	278.0
6	-	143.0	-	-	143.0
7 & 8	-	115.0	80.0	-	195.0
9	-	114.0	-	-	114.0
10	40.6	15.0	119.0	-	174.6
11	161.2	52.6	130.7	-	344.5
12	161.0	-	25.0	-	186.0
14	457.4	136.2	83.4	-	677.0
15	-	41.2	304.8	-	346.0
16	-	108.4	23.6	-	132.0
17	-	190.6	57.1	-	247.7
18	-	280.6	84.1	-	364.7
19	-	30.3	30.0	-	60.3
20	-	28.9	35.1	-	61.0
21	7.0	148.1	48.1	-	203.2
22,23 & 24	-	-	-	614.3	614.3
24	10.0	116.0	100.0	-	226.0
Subtotal above 300' Elevation	1,012.4 Ac.	1,989.8 Ac.	1,397.9 Ac.	638.5 Ac.	5,038.5 Ac.
Land Below 300' Elevation	-	-	-	2,275.4	2,275.4
Total for Upper Lake	1,012.4 Ac.	1,989.8 Ac.	1,397.9 Ac.	2,913.9 Ac.	7,314.0 Ac.
		Upper Lake and River			
28	-	500.0 Ac.	-	-	500.0 Ac.
29	11.0 Ac.	120.0	-	557.0 Ac.	688.0
33	62.0	198.5	-	471.5	732.0
Parks, Wilderness & Game Refuge	-	-	238.0 Ac.	3,481.0	3,719.0
Subtotal Above 300' Elevation	73.0 Ac.	818.5 Ac.	238.0 Ac.	4,509.5 Ac.	5,639.0 Ac.
Land Below 300' Elevation	-	-	-	4,820.0	4,820.0
Total for Upper Lake and River	73.0 Ac.	818.5 Ac.	238.0 Ac.	9,329.5 Ac.	10,459.0 Ac.
		Total Project			
All Land Above 300' Elevation	1,085.4 Ac.	2,808.3 Ac.	1,635.9 Ac.	5,148.0 Ac.	10,677.6 Ac.
All Land Below 300' Elevation	-	-	-	7,095.4	7,095.4
Aggregate for Upper & Lower Lake	1,085.4 Ac.	2,808.3 Ac.	1,635.9 Ac.	12,243.4 Ac.	17,773.0 Ac.

Source: Joseph A. Lusteck and Associates, Inc.

that 1,100.4 acres of land have been leased, and another 2,808.3 acres have been proposed for lease. This accounts for 22 percent of the total shoreline area. Another 1,610.9 acres or 9.1 percent of it has been designated for parks and public use. The remaining 12,243.4 acres, or 68.9 percent of the shoreline property, is designated for Master Plan purposes as being reserved. A determination has not yet been made as to the ultimate use of that land. However, the environmental circumstances of most of it and the District's water supply and recreational purposes will dictate that most of it be used for public use and conservation. Of the total area leased or proposed to be leased, 3,027.2 acres, or 77.2 percent, is in the lower lake and 891.0 acres, or 22.9 percent is in the upper lake and river. Approximately 10,677.6 acres of the shoreline (or almost 60 percent) is above 300 feet mean sea level in elevation. The District's planned real estate development program focuses on land above 300 feet in elevation.

Absorption of shoreline property for private use, as evidenced by leases, increased slightly on an average annual rate basis between 1975 and 1981. The absorption rate amounted to an average of 60.5 acres per year, compared with an average of 59.8 acres per year before 1975. It is hoped that the pace of absorption will continue to increase during the remainder of the twentieth century.

As of October 1982, 28.3 percent of the shoreline property designated for development use was leased and nearly 50 percent of the life of the bonds issued to acquire and construct the reservoir have been issued.[12]

Using this measure, the shoreline development program seems to be making progress. However, from October 1981 until the present time, only 23 acres have been leased. These leases were for commerical uses.[13]

While legally recorded plats and leases and capital improvements freeze certain lands into specific uses for a determinable period of time and correspondingly to determinable income generation, the feasibility of the plan relative to future land use is appropriate to realization of the general goal of using a portion of the shoreline land resource as a tool to ultimately generate operation and maintenance funds for the District.[14]

Organization and Administration

The Pearl River Valley Water Supply District is a public entity created by an act of the State Legislature. This

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[12]Joseph A. Lusteck and Associates, Inc., Master Plan for Shoreline Development, pp. 4-7.

[13]Joseph A. Lusteck, Joseph A. Lusteck and Associates, Inc., telephone interview, August 1983.

[14]Joseph A. Lusteck and Associates, Inc., Master Plan for Shoreline Development, pp. 1-3.

entity acts as a repository for income generated by leasing. The District holds the fee simple title to the Reservoir lands, and offers it to the private sector for lease. One of the reasons for the success that it has had in plan implementation is because of local business and political backing. The agency, by virtue of its power to acquire, manage, and dispose of land in accordance with the land use plan, has been able to control the timing and development of the land. Through its Board of Directors, the District maintains control of policy decisions and development strategy.[15]

The character of the management of the board has evolved over the years. In the beginning, the Ross Barnett project was a construction project. As a result, the District's mode of operation was not so much policy oriented as it was construction oriented. Much of the project was constructed with the District's own work force. They were primarily engaged in building the infrastructure, and the recreation areas. The major portion of the District's personnel was comprised of skilled and unskilled labor. As construction was completed, the District became more of a policy-making body and more oriented toward the provision of services as well as operation and maintenance of the reservoir.

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[15]Merle Mann, President and Founder, Wortman and Mann, file notes, 1979.

The District's Board of Directors has traditionally been comprised of leading citizens of the five counties. They are appointed in staggering terms by the governor of the State of Mississippi. This factor lends stature to the Board. In addition, four state agencies are represented on the Board. The Board has traditionally been a unified Board and has been effective in making policy. Because the Board members are appointed, and several state agencies represented, it has the appearance of being politically responsive in the arena of local and state politics.[16]

A unique feature and a key to the success in marketing the long-term leases is the retention of a managing property broker. The managing property broker has been employed to execute all areas of business related to leasing and development.

The managing land broker hired by the District is the firm of Wortman and Mann. The managing land broker, whose expertise is essential to ensure the success of leasing, is employed to market and manage the reservoir property for a percentage of the annual income. The firm, in effect, carries out all aspects of business transactions. The broker leases and markets the reservoir property. It is

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[16]Charles Moak, General Manager, Pearl River Valley Water Supply District, telephone interview, August 1983.

involved, in some degree, with development and development strategy. The firm deals directly with developers and ultimately in negotiation and execution of leases. It determines, through land appraisal, the appropriate development fees and lease fees. In short, it accomplishes the leasing, operation, maintenance, collection of fees, disbursements, and recordkeeping for significant improved residential, commercial, and industrial properties.

Technical work is accomplished by an engineer and a horticulturist, plus a staff of field and office personnel. At times, various consultants have been retained for design and inspection of unusually large or complex components of the overall reservoir project by a maintenance superintendent and five foremen. Besides the normal maintenance required of a project of this size, the maintenance personnel still undertake the construction of District improvements which can be done more economically by District forces than by contract.

The District has provided police and fire protection for residents and businesses. Assisting the General Manager with the public safety aspects of the reservoir project is a Chief Security Officer plus eleven other officers. The number of public safety personnel has remained constant. A

volunteer fire department was formed in 1973, and the District purchased a fire engine and contructed a fire station. The District employs a fireman, who is assisted by volunteers who are local residents of the District.[17]

Financing

The authorized expenditure for the Ross Barnett project was $25,000,000 to be provided by the sale of bonds.

The legislation established four sources of revenue designed to satisfy the requirements of bond retirement and interest as well as to provide funds for maintaining and operating the project.[18] Those sources are:

1. A contract with the City of Jackson for water supply for which the city will pay the District $500,000 per year as long as any bonds are outstanding.

2. Revenue from a State of Mississippi tax levy of two mills on real and personal property in each of the five member counties of the District. This ad valorem tax levy will remain as long as any

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[17]Wortman and Mann, Inc., Economic Impacts, pp. 5-6.

[18]Michael Baker, Jr., Inc., Consulting Engineer's Annual Report Covering Operation and Maintenance of the Ross Barnett Reservoir Under the 1964 Trust Indenture, (Jackson, Mississippi: Michael Baker, Jr., Inc., 1975), p. III-7.

District bonds remain outstanding and currently provides revenue in excess of $1,000,000 per year.

3. The District is empowered to levy a special tax, not to exceed two mills, on all taxable property within the five-county District. For the last several years this levy has amounted to 1.50 mills, which, until this year, provided revenue of $1,250,000 per year. As is the case with the state tax levy, this special tax levy is only in effect while the District has outstanding bonds. Madison and Rankin Counties now pay a total of 1 mill, or $200,000.
4. The District is permitted to lease District-owned land for residential, commerical, and other uses. This source of revenue provides approximately $600,000 per year. Water sales and sewer charges add an additional $350,000 per year.[19]

The income generated from the land leases needs to be viewed within the context of the public purpose for which it is to be used, that is to fund the District's operation and maintenance budget after the year 1999, when the bonds will be retired. However, in light of trends in lease rates and

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[19]Larry Benton, CPA, The Pearl River Valley Water Supply District, telephone interview, August 1983.

the slow-down of leases being awarded, and with an ever-increasing rate of the District's expenditures, fully funding the District's operation and maintenance budget from land leases by 1999 probably cannot be done. The District's operation and maintenance budget has increased at an average annual rate of about 9.3 percent since 1976. The program had been able to market only about 60 acres of land per year until 1981. Since 1981, only 23 acres of commercial land has been leased. Finally, overall rental rates per acre have increased by 4.9 percent per year since 1976. This is not even as much as the yearly rate of inflation.[20]

Presented in Table 3 is an analysis that indicates the amount of land that needs to be leased and the average lease rates necessary to fund only one-half of the District's operating and maintenance budget by the year 1999 if the current trends continue. These figures were selected because they appear to be achievable. However, their accomplishment will necessitate a more aggressive marketing and pricing approach in the future. In the table, annual operating and maintenance budget figures for the District were projected, based on actual growth experience since 1975.

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[20]Joseph A. Lusteck and Associates, Inc., Master Plan for for Shoreline Development, p. 7.

Table 3

Analysis of Land Absorption and Lease Rates Necessary to Fund 50 Percent of the Projected Operation and Management Budget by the Year 2000--Pearl River Valley Water Supply District

Year	Projected Budget for Operation and Maintenance[1] ($ Millions)	Necessary Incremental Land Absorption[2] (Acres)	Cumulative Amount of Land Leased (Acres)	Projected Lease Income	Lease Income as Percent of Operation and Maintenance Budget	Average Annual Lease Income per Acre	Required Incremental Average Lease Rate
1980-81	2.5	64.7	1,059.3	$ 596,149	23.8%	$ 563/Ac.	$1,207/Ac.
1981-82	2.7	68.7	1,124.0	674,244	24.9	599	1,306
1982-83	3.0	72.9	1,192.7	763,985	25.4	641	1,394
1983-84	3.2	77.3	1,265.6	865,672	27.1	684	1,491
1984-85	3.5	82.0	1,342.9	980,893	28.0	730	1,592
1985-86	3.8	87.1	1,424.9	1,111,450	29.2	780	1,698
1986-87	4.2	92.4	1,512.0	1,259,384	29.9	832	1,814
1987-88	4.6	98.0	1,604.4	1,427,008	31.0	889	1,938
1988-89	5.0	103.6	1,702.4	1,616,943	32.3	949	2,077
1989-90	5.4	110.4	1,806.4	1,832,158	33.9	1,014	2,209
1990-91	5.9	117.1	1,916.8	2.076,018	35.2	1,083	2,359
1991-92	6.5	124.3	2,033.9	2,352,336	36.2	1,156	2,519
1992-93	7.0	131.8	2,158.2	2.665,432	38.1	1,235	2,692
1993-94	7.7	140.0	2,290.0	3,020,200	39.2	1,319	2,871
1994-95	8.4	148.5	2,430.0	3,422,189	40.7	1,408	3,067
1995-96	9.1	157.5	2,578.5	3,877,683	42.6	1,504	3,277
1996-97	10.0	167.2	2,736.0	4,393,802	43.9	1,606	3,498
1997-98	10.8	177.4	2,903.2	4,978,617	46.1	1,714	3,735
1998-99	11.8	188.6	3,080.6	5,641,241	47.8	1,831	4,022
1999-2000	12.8		3,269.2	6,400,000	50.0	1.957	

[1]Assumes continuation of 9 percent annual average increase.

[2]Based on past pace of absorption and an 80 percent lease out by 2000.

Source: Joseph A. Lusteck and Associates, Inc.

A 9.0 percent compound rate was used. By 1999, if the trend continues, the operating and maintenance budget will grow to $12.8 million. Inherent in this number is a projection of land absorption that assumes production and marketing of 80 percent of the land designated in the Master Plan for development purposes by the end of the century. This means a significant and progressive increase in the pace of sellout: from 60 acres per year as experienced in 1975-81 to 73 acres per year in 1980-85, to 98 acres per year in 1985-90. If this occurs, then 80 percent of the land planned for development use should be leased by 1999. The pace of sellout will need to grow by a compound rate of 6.1 percent to achieve the levels indicated.

Another critical component of funding one-half of the District's operating and maintenance budget by 1999 involves the lease rates realized. Currently, lease income amounts to approximately 24 percent of the District's operation and maintenance budget. To reach one-half by 1990 will require a 13.3 percent annual average rate of increase in lease income. Translated, this means that, on an average per acre basis, the lease income will have to grow by 6.8 percent annually, compared to the 4.9 percent per acre increase that occurred since 1975. This implies that the average per acre earnings realized should presently be approximately $1300. This will have to increase significantly, to $4,022 per acre by 1999. Since 1975 the per acre lease rates

realized averaged $934 annually. Table 4 presents information on all existing leases and the levels of income suggested for those lands proposed to be leased. The rental rates indicated were based on an area by area, and in some instances a parcel by parcel analysis of each property and its use potentials. While the absorption of land between 1975 and 1981 increased at an average annual rate of 7.4 percent, the income derived from it grew at an annual rate of 14.2 percent. However, on a per acre basis, lease income is only $611, compared with $459 in 1975. On the average, land leased since 1975 earns $934 per acre.[21]

Problems with the Ross Barnett Leasing Concept

There are several factors which have occurred, some since 1979, which could be barriers to the continued development and success of the Ross Barnett Reservoir. Some of these problems can be solved by using alternative approaches, while some are beyond the scope of immediate control.

Flooding

The first factor is associated with one of the original reasons for constructing the reservoir system, that of flood

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[21] Ibid., pp. 9-10.

Table 4

Financial Summary Master Plan for Shoreline Development--Ross Barnett Reservoir

	Existing Leases			Proposed to be Leased			Total Project		
	Land Area	Lease Income per Year	Average Earnings per Acre	Land Area	Lease Income per Year	Average Earnings per Acre	Land Area	Lease Income per Year	Average Earnings per Acre
Area 1	26.0 Ac.	$ 27,792	$1,069	26.3 Ac.	$ 99,200	$ 3,772	52.3 Ac.	$ 126,992	$2,428
Area 2	109.2	144,056	1,319	22.6	50,400	2,230	131.8	194,456	1,475
Area 3	-	-	-	126.0	151,200	1,200	126.0	151,200	1,200
Area 4	-	-	-	170.0	425,000	2,500	170.0	425,000	2,500
Area 5	40.0	10,575	265	125.0	184,000	1,472	165.0	194,575	1,179
Area 6	-	-	-	143.0	171,600	1,200	143.0	171,600	1,200
Areas 7 & 8	-	-	-	115.0	172,000	1,496	115.0	172,000	1,496
Area 9	-	-	-	114.0	136,800	1,200	114.0	136,800	1,200
Area 10	40.6	59,496	1,465	15.0	86,000	5,733	55.6	145,496	2,617
Area 11	161.2	108,917	675	52.6	114,775	2,182	213.8	223,692	1,046
Area 12	161.0	64,410	400	-	-	-	161.0	64,410	400
Area 14	457.4	217,310	475	136.2	196,480	1,442	593.6	413,790	697
Area 15	-	-	-	41.2	98,880	2,400	41.2	98,880	2,400
Area 16	-	-	-	108.4	343,590	3,169	108.4	343,590	3,169
Area 17	-	-	-	190.6	302,820	1,588	190.6	302,820	1,588
Area 18	-	-	-	280.6	435,390	1,552	280.6	435,390	1,552
Area 19	-	-	-	30.3	45,450	1,500	30.3	45,450	1,500
Area 20	-	-	-	28.9	43,350	1,500	28.9	43,350	1,500
Area 21	7.0	1,650	236	148.1	344,310	2,324	155.1	345,960	2,230
Areas 22, 23 & 24	-	-	-	-	-	-	-	-	-
Area 24	10.0	5,040	504	116.0	208,000	1,793	126.0	212,040	1,683
Total Lower Lake	1,012.4	$639,246	$ 631	1,989.8	$3,609,245	$1,814	3,002.2	$4,248,491	$1,415
Area 28	-	-	-	500.0	378,000	756	500.0	378,000	756
Area 29	11.0	2,280	207	120.0	120,000	1,000	131.0	122,280	933
Area 33	62.0	21,825	352	198.5	269,400	1,357	260.5	291,225	1,118
Total Upper Lake and River	73.0 Ac.	$ 24,105	$ 330	818.5 Ac.	$ 767,400	$ 938	891.5 Ac.	$ 791,505	$ 888
Combined Total Lower and Upper Lake	1,085.4 Ac.	$663,351	$ 611	2,808.3 Ac.	$4,376,645	$1,558	3,893.7 Ac.	$5,039,996	$1,294

Source: Joseph A. Lusteck and Associates, Inc.

control. The Pearl River was regularly inundating the Jackson area with devastating floods.

Public perception of the project is that it was constructed primarily for flood control. While this is certainly one of the justifications for the project, the public views it as the only one. The floods of 1979 and 1983, which caused millions of dollars of damage below the dam each time, cast doubt as to the validity of the project. The development at Ross Barnett is above the dam, and, as a result, no damage occurred.

Public opinion as well as media coverage has been negative, charging that public tax dollars were used to create an exclusive development for a privileged few. The District has been trying to overcome this negative image.[22]

Lease Adjustments

It has already been discussed that, because there is no escalation clause in the leases, earnings from lease income cannot fund the District's operating and maintenance budget by the year 2000. It is unrealistic to include any more land area for development because of land needed to fulfill the District's water supply and recreational

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[22]Charles Moak, General Manager, The Pearl River Valley Water Supply District, telephone interview, August 1983.

purposes. While it has been suggested that the lease rates be adjusted upward accordingly, this would in all probability have an adverse impact on the marketability of the properties remaining to be leased.

In light of this, an option is that the District cut its costs. Since its inception, the District has assumed responsibility for providing various municipal services in the areas that it has developed and offered for lease. Typically a municipality charges a user fees and ad valorem taxes to its residents and property owners for the services. The residents pay leasehold improvement taxes which, compared with ad valorem taxes, are low. The residents are not charged for police and fire protection or road maintenance despite available county funds and lease clauses that permit assessing residents their pro rata share for these services. This assessment to the residents is now under consideration.[23]

Another option which could eliminate the inevitable deficit is for the reservoir to incorporate. By the year 2000, it is projected that all the planned shoreline development sites will be 80 percent built out. If this level of development is realized, the population would be

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[23]Joseph A. Lusteck and Associates, Inc., Analysis of Possible Municipal Services Funding Alternatives (Jackson, Miss.: Joseph A. Lusteck and Associates, Inc., October 1981), p. 1.

approximately 9,700 people. At full development, the area is expected to have a resident population of 11,500 people.

Another option to eliminate a potential shortfall is for the district to get out of the municipal services business. The District was not organized to provide these services and is under no contractual obligation to do so.[24] However, the provision of these services has helped to attract development; and the elimination of these services could be a deterrent to future growth. Therefore, this option is not recommended.

Challenge of Financing

In 1982, one of the district counties, Hinds County, brought suit against the District. Hinds County charged that the special millage which each county pays toward bond retirement has been used illegally to subsidize development and urban-type services.

Hinds County and the four other counties in the district are required to pay up to a two mill tax levy. One mill is equal to $1 for every $1,000 of assessed value. A special assessment of up to two mills can also be levied if the District management decides the initial levy is not sufficient to make that year's bond payment.

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[24] Ibid., p. 23.

This is stated in Section 51-9-139 in the Pearl River Valley Water Supply District Law:

> To provide additional funds for the payment of the principal of, interest on, and other charges in connection with bonds issued under the provisions of this article, in the event its anticipated revenue and funds are found to be insufficient therefor by order entered on its minutes each year that such tax is found necessary . . .

The District prepares a budget each year for the following fiscal year. The District has maintained that Operation and Maintenance has had priority over the debt service on the bonds relative to the general levy. Then, any shortfall toward the debt service would be funded by the special levy.[25]

Hinds County filed suit in Chancery Court to block the special levy. The county contended that the special levy was used by the District to finance construction of the reservoir and has provided police and fire protection, maintained streets, constructed a 180-acre golf course, and provided its manager with a home.

Hinds County charged that the District has too many police officers and firemen. It also questioned why the District pays for street maintenance even though residents pay county taxes. In addition, residents and commercial establishments are not charged for urban-type services

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[25]Charles Moak, telephone interview, August 1983.

despite lease clauses that permit assessing residents their pro rata share for these services.[26]

The District contended that the tax money subsidizes the services the District provides its residents, but that the subsidized services have been necessary to attract residents. These services are necessary to provide full development of all reservoir property, and that the services available were very important when marketing lots.[27]

The Hinds County Chancery Court decided in favor of Hinds County, and the District appealed the decision to the Mississippi Supreme Court. The appeal was made in May 1983, and the decision as of this date is still pending.

Because of this decision, the District has cut its operating budget by 35 percent to offset the loss of $1,250,000 annually which the special levy provided. It has eliminated capital improvements as well as the equipment budget. Only one full-time fireman (previously there had been three) will monitor calls while the Volunteer Fire Department will monitor night-time and weekend emergencies.

Street maintenance will be paid by member counties unless the counties wish to pay for upkeep in the district

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[26]Natie Caraway, Attorney for the Hinds County Board of Supervisors, telephone interview, August 1983.

[27]Jim Towhill, Attorney for the Pearl River Valley Water Supply District, telephone interview, August 1983.

on a contract basis. Many park and picnic areas may close particularly during the winter months.[28]

Because the District has appealed the Chancery Court decision, Hinds County is seeking a $4,000,000 refund of monies paid by member counties that were not used toward retiring the construction bond issue. This decision is also pending.[29]

Interest Rates

Beginning in 1979, residential construction at the Reservoir slowed considerably. The primary reason for this was due to the high interest rates. Since 1981, only 23 acres had been leased for residential purposes, and no new subdivisions have been started within the last six years.

The housing construction business in the Jackson area is a small business and there are no major developers. Neither are there any large financial institutions. As a result, there were no developers willing to speculate on new residential construction, and investment alternatives available to financial institutions precluded investment in construction.

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[28]Charles Moak, telephone interview.

[29]Natie Caraway, telephone interview.

Despite the depressed economy, the District was faced with funding additional improvements with no additional revenue. However, the District has been able to offset the expense by investing in interest-bearing accounts.[30]

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[30]Joseph A. Lusteck, telephone interview, April 1983.

CHAPTER V

COMPARISON OF THE ROSS BARNETT PROJECT WITH STOCKHOLM, SWEDEN

The Ross Barnett Reservoir Project is unique in that no where else in the United States is such a large amount of land leased for private development purposes. Although Stockholm's leasing program is focused primarily on the urban area, and the Ross Barnett program is suburban in character, a number of comparisons can be made between the two systems.

Comparison with Stockholm, Sweden

Both projects are the largest of their kind in land area and magnitude even though the Stockholm region is approximately 20 times larger. In Stockholm, the land is owned and plans implemented by the municipal government, while land ownership and plan implementation at Ross Barnett is conducted by a utility district.

Both entities develop large public land holdings for private use, utilizing long-term net ground leases as a means of generating income. In Stockholm, the large land holdings constitute a public land bank. The land was acquired and held by the Government for the express purpose of future development. At Ross Barnett, the land base acquired was incidental to the original intent of the

project, which was for flood control, the provision of water to the city of Jackson, and to provide recreational opportunities for the area's residents. The Pearl River Valley Water Supply District decided to develop the properties since they already had fee simple title, and did not acquire it in order to control development.

Although the Stockholm holdings are considered a land bank, and the District holdings are not, both share similarities which are inherent in land banking: (1) regulation of the timing and sequence of development which promotes orderly development, (2) controlling land cost, and (3) the elimination of speculation. By advance acquisition of land, both systems have been able to note market forces and develop the land accordingly with publicly-determined land use plans.

However, the one characteristic of a land bank which Stockholm has and Ross Barnett does not is the constant activity in acquiring and disposing of land. Stockholm has, since 1904, been in a continual acquisition mode, although not as actively in recent years. It has controlled and determined its outward growth by acquiring land in the central city, leasing it, and then moving on to sites more to the periphery. The District has never increased its holdings since it purchased its land in the late 1950's.

The underlying goal in both instances has been the creation of a high-quality living environment and caretakers of the public purpose. Each has been able to provide the necessary services which would attract residents to the area. Through leasing, they have been able to either reduce or recapture the costs of providing these services in conjunction with new development. Since the public, in effect, still owns the land, the increase in value from leasing the land with the spinoff economic benefits automatically accrue to the public. Thus, the public purpose is being met.

There are also other instances of the public purpose being met. Both have included land holdings which will either never be developed or will be sparsely developed. These areas are primarily natural areas or are designated for recreation purposes. In both instances, the public has free access to these vacation lands and to bodies of water.

Both entities have had the financial capability to purchase land and the legal authority to condemn the land. It would be very difficult to be successful in a large-scale development if an agency did not have the power of condemnation, taxation, ability to borrow money, and the capability of issuing tax-free bonds. Both entities possess these characteristics.

In neither instance is land developed which is not in accordance with the master plan. Both the systems have a

dynamic land use plan which is in a continual state of change. The requirements in Stockholm are far more rigid as plans require public review at one or more higher levels of government. The phasing of development as well as the determination of lease rates are based on the land use plan.

Both Sweden and Ross Barnett can finance their programs by levying taxes, collecting user fees and issuing bonds. The most notable similarity is the fact that both systems are experiencing significant shortfalls with their leasing programs. Lease income in neither case is covering the cost of basic services. Both have residential lease rates structured for 60 years without an escalation clause to reflect current trends and conditions. This is perhaps the most notable flaw in both instances, and could cause the ultimate demise of both systems. Direct government assistance would be useful to help fund long term goals. At Ross Barnett, some county government funds are infused as a result of taxation. However, these funds will cease when the bonds are retired, and the District will have to rely solely on its lease income to remain operational. While the lease rates in Stockholm are considered to be politically motivated in part, the lease structure at Ross Barnett was designed to make the area marketable to potential residents and lending institutions.

The Ross Barnett leasing program has remained static since its inception. The District prefers to receive money

up front rather than benefit from an escalation clause. Stockholm's leasing program has been constantly changing and being updated. While the vast majority of Stockholm's leases remain under the old system, recently this has begun to change. The leases are now being structured to benefit the lessor and not harm the lessee. Under the new system, which has an escalation clause, the lessee's property is just as financeable as it was under the old system.

The organizational structure is very different between the two. All of the functions and services at Stockholm which have been discussed are carried out by the municipal government as a part of its normal operations. The District, however, was created to carry out a special function. It is not directly responsive to the electorate. However it is indirectly responsive to the electorate since the Board of Directors is appointed by the Governor and he is an elected official.

The direction and scope of leasing at Stockholm is more dependent on political forces than at Ross Barnett. The political party, whether it is conservative or liberal, determines the direction of leasing. It is believed the manner in which the leases have been structured has been politically motivated. It is possible at Ross Barnett that, because the Board members are appointed by the governor, that they would be used to try to implement current state

policy. However, there has been no evidence of this, and political maneuverings have been primarily internal.

A matrix of issues (Table 5) has been included to more clearly illustrate the differences between the two systems.

Table 5

Specific System Elements of the Ross Barnett and Stockholm Leasing Programs

		Ross Barnett	Stockholm
(1)	Urban focus		x
(2)	Suburban focus	x	x
(3)	Unique example	x	x
(4)	Governmental structure		x
(5)	Public agency	x	
(6)	Public lands for private use	x	x
(7)	Public purpose	x	x
(8)	Land bank		x
(9)	Long-term leases	x	x
(10)	Escalation clauses		
(11)	Large land base	x	x
(12)	Recreation focus	x	
(13)	High-quality environment	x	x
(14)	Regulation and timing of development	x	x
(15)	Control of speculation	x	x
(16)	Continuing land acquisition		x
(17)	Provision of urban services	x	x
(18)	Some areas in no-growth designation	x	x
(19)	Financial capability	x	x
(20)	Eminent domain rights	x	x
(21)	Issue bonds	x	x
(22)	Reliance on land use plan	x	x
(23)	Reliance on other sources of income besides leasing	x	x
(24)	Taxation rights to end	x	
(25)	Political problems		x
(26)	Organiztional structure created by another public entity	x	
(27)	Pollution control	x	
(28)	Water-oriented	x	
(29)	Incorporated government		x
(30)	Development fee	x	

CHAPTER VI

CONCLUSION

Although very little progress has been made over the last several years toward development of the reservoir at Ross Barnett, the interjection of the leasing concept has been successful. The problems which the District is facing and which could reverse the positive trend have little to do with the leasing concept.

The implementation of leasing has made a significant contribution toward the establishment of a high-quality living environment. By maintaining control of the pace and direction of development, the District has been able to prevent speculation and hold down land costs. This factor has provided an incentive for people to move to the area. Income from the leases has enabled the District to provide urban type services of the highest quality at no real cost to its residents and businesses.

One of the stated goals of the project is the control and abatement of pollution. By virtue of its control, this goal has been achieved. Ross Barnett Reservoir is heavily utilized by the public for water-oriented activities of all types.

Through leasing, the District has been able to maintain responsibility for the public purpose in several ways.

First, the Reservoir was planned and constructed in large part to provide recreational opportunities not only for the area's residents, but also for all the residents of Mississippi. This is manifested by numerous access areas to the lake and recreation areas, all of which can be utilized at no charge to the public.

Second, retention of fee simple title was intentional to keep development away from the private sector. Private developers, who are profit-motivated, would install improvements of less quality at much higher cost. The Pearl River Valley Water Supply District, on the other hand, is a not-for-profit agency. Public perception might question the District's public purpose motive if it engaged in entrepreneurial practices.

Finally, the Ross Barnett Reservoir has been a good investment for the governmental entities involved and for the general public. The land was acquired before any market forces could attach a significant value to the land. Therefore, there were no development values attached to the land. The public investment in the land and the improvements are averaged over a long term. As a result, the cost of improvement does not either encourage nor discourage a particular type of development. The development which has occurred at Ross Barnett has greatly increased the land values, and adjacent areas have benefited from this increase by raising their property values.

There is one readily discernible flaw in the Ross Barnett leasing example, and that is the absence of an escalation clause. Although this factor does not pose an immediate problem, it will have significant effects when the bonds are retired in 1998. The omission of the escalation clause was to ensure the financeability of the project so that lending institutions would not think that leases could be easily terminated. The low annual rental payments, which are, in effect, in lieu-of-tax payments may prove to be a long-range problem for the project. It is clear that services and operating expenses will need to be reduced and user changes required of the residents for the District to be self-sustaining. However, if fees are established and annual rental payments increased, the Reservoir area may not be any more desirable than many other areas.

A major problem which the District faces and needs to mitigate is a negative public perception at this time. As previously stated, many of its problems are beyond the scope of immediate control. However, how the District responds to the criticisms is within its control. Although the District is facing personnel reductions, it is crucial to have a trained, professional media spokesperson.

The organizational structure of the District has been highly effective with respect to policy formulation and plan implementation. There are two reasons for this. The first is that the Board of Directors has traditionally been

unified on major issues. The second is that political problems, for the most part, do not impede the effectiveness of the Board. There is good representation of the electorate because the governor appoints the Board members. Also, state government is represented with representatives from four state agencies as members of the Board.

The District has made a key management error in their interpretation of the special levy provision in the bill which created the District. Even if the state Supreme Court rules in the District's favor, the lawsuit filed by Hinds County will have far-reaching and damaging effects. In the early stages of the project, the District should have endeavored to make the special levy assessment more equitable and based on intensity of development located in each county. Hinds County has none of the developed areas within its borders.

This project illustrates the importance of the land use planning process to achieve public goals. A publicly approved land use plan for an area should be a dynamic document. It should also be a forward looking statement reflecting an area's goals and objectives. The Ross Barnett Reservoir land use plan has evolved and been revised over the years in response to changes in technology, market opportunities and development concepts that occur.

It has been stated previously that the Ross Barnett project is unique. Not only is it unique because of the

large-scale leasing program, but also because of the lack of governmental structure which is normally required to perform such functions. The District is simply a utility which is performing functions which a municipality would ordinarily perform, primarily in the provision of urban services.

There are many similar agencies faced with similar circumstances who could conduct a study of the Ross Barnett example. For example, the newly formed Tellico Reservoir Development Agency (TRDA) with three member counties in the state of Tennessee could learn from both the negative, but mainly the positive aspects of the Ross Barnett Reservoir Project. The organizational structure of TRDA is similar to the District's as are the powers it has been granted by the state legislature. The land base is similar. However, to date is is not developed.

In examining the validity of the Ross Barnett project, several questions should be examined. First, how does an agency such as the Pearl River Valley Water Supply District ensure that it is responsive to the public, especially since the officials are appointed rather than elected? Second, are utilities or special districts exceeding the scope of their authority by raising revenue to offset their operating expenses? Finally, how does one measure the public benefit which is derived from a project of this nature? The answers to these question are subject matter for further research,

and should be answered prior to application to other projects such as Tellico.

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Lusteck, Joseph A. Lusteck and Associations, Inc. Jackson, Mississippi.

Mann, Merle. Wortman and Mann, Inc. Jackson, Mississippi.

Moak, Charles. General Manager, Pearl River Valley Water Supply District.

Mosena, David. APA, Director of Research. Chicago, Illinois.

Lane, David. Vice President, Wortman and Mann.

Townhill, James. Attorney for the Pearl River Valley Water Supply District.

APPENDICES

APPENDIX A

Questions on Ross Barnett Leasing Program

1. How was the leasing program derived?
2. Was the land base purchased for the purpose of development?
3. Why was leasing as opposed to sale in fee implemented?
4. What are the advantages of leasing?
5. Is the public purpose being met? How?
6. How were the lease rates established?
7. Are the lease rates sufficient to meet operation and operation expenses? If not, how can the project become more cost-effective?
8. How did leasing fit into the overall land use planning process?
9. What are some of the problems which have arisen with the Ross Barnett project?
   a. organizationl
   b. political
   c. financial
10. How are these problems being addressed?
11. Has the leasing program been challenged?
12. How does the theory behind leasing compare with the results of the implementation of leasing at Ross Barnett?
13. Do you think that leasing at Ross Barnett has been a success, and would you recommend it to others considering it?
14. How has the Ross Barnett project been a good investment for the Pearl River Valley Water Supply District and for the general public?
15. If you were charged with establishing a similar project elsewhere, using the Ross Barnett example, what would you do differently? The same?

APPENDIX B

PAGE_____

INVITATION FOR PROPOSALS

FOR LEASE OF REAL PROPERTY OF THE PEARL
RIVER VALLEY WATER SUPPLY DISTRICT
ROSS BARNETT RESERVOIR, MISSISSIPPI

Invitation No. _____

Pearl River Valley
Water Supply District
P.O. Box 12128
Jackson, Miss. 39211

_____,19____

The purpose of leasing of lands in the Ross Barnett Reservoir area is to obtain facilities necessary for maximum use and enjoyment of the Reservoir by the public.

Mailing Proposals. Each proposal must be enclosed in a sealed envelope which is marked and addressed as follows:

Proposal for Lease
Ross Barnett Reservoir

Invitation No._____

To be Opened: _____C.S.T.

_____,19____

To: Pearl River Valley Water
Supply District
P.O. Box 12128
Jackson, Mississippi 39211
ATTN: Wortman and Mann Realtors
Managing Broker

Page_____

Invitation No._____

Ross Barnett Reservoir

Sealed proposals, in duplicate, subject to the conditions contained herein, will be received at the office of the Pearl River Valley Water Supply District, Rice Road, Madison County, Miss.

until_____, on_____,19___, and then publicly opened, for the leasing of property of the District. If no acceptable bid, or no bid, be received by the District the District reserves the right to again accept sealed bids at the office of said District, above given, at any time within thirty (30) days from the District's determination that no acceptable bid, or no bid, has been received, upon one additional advertisement, giving at least five (5) days' notice, in a newspaper of general circulation, published in Jackson, Mississippi, specifying the date and hour at which said bids will be received and publicly opened. Said bids shall be as follows:

1. Property to be Leased.

(a) Location. The site offered for lease is located within the Ross Barnett Reservoir area, State of Mississippi, in the county of _____, designated as _____ and shown on the map attached hereto.

(b) Description.

(c) Description Approximate. The above description of the property and the maps are believed to be correct. Any error or omission in the description of the property or on the map shall not constitute any ground or reason for nonperformance of the provisions and conditions of the lease, or ground for claim by the lessee for any refund or deduction from the rental.

Page_____

Invitation No._____

Ross Barnett Reservoir

2. Purpose. The property will be leased in furtherance of the objective of the District to obtain_____ _____to meet the public need. The basic facilities and services in this proposal are more particularly described in the attachment "Facilities and Services."

3. Major Provisions of the Lease.

(a) Form of Lease. The successful offerer will be required to enter into a lease with the District substantially in accord with the form attached hereto. The lease will be subject to any existing easements for utilities, roads, or other purposes across the land included in this invitation, as shown on the map.

(b) Term. The maximum lease will be for a term of_____years,

(c) Rental.

(d) Payment of Rental

(e) Facilities and Services. Development of the premises must be commenced within_____from the date of delivery of the lease to the lessee. The lessee will be required to provide and furnish the minimum facilities and services as stated in the attachment."Facilities and Services." They are meant to state minimum requirements only. Bidders may propose additional structures, facilities and services which will develop the site to its fullest potential, and they are advised that the range of such additional services and the extent, quality of design and construction of structures beyond minimum requirements will be given substantial weight in making the award.

(f) Guaranty. No proposal will be considered unless it is accompanied by a cashier's check. (PERSONAL CHECKS ARE NOT ACCEPTABLE), payable to the order of the Pearl River Valley Water Supply District, in the amount of _____. Deposits of unsuccessful offerers will be returned immediately following the determination as to the award of the lease.

(g) Insurance. Insurance will be required in accordance with Paragraph 6 of the Lease attached, with minimum limit of $_____per person for any one claim and an aggregate limit of $_____arising from any one incident, and property damage liability of not less than $_____.

(h) Other Conditions. The offerer should carefully examine all provisions of the attached lease and other documents attached thereto or identified herein.

INVITATION TO BID — ROSS BARNETT RESERVOIR

4. Instructions To Offerers.

a. **Proposal Form.** Proposals must be submitted, in duplicate, on the proposal forms attached hereto.

b. **Statement of Qualifications of Offerer and Real Estate Broker Representation.** All questions included in this attachment to the proposal form must be answered. Additional sheets may be used to furnish complete information on any question.

c. **Proposed Facilities and Services.** The offerer must include on the Proposed Facilities and Services forms attached to the proposal forms the minimum facilities and services listed in the "Facilities and Services" attachment to this invitation and any additional facilities and services which the offerer proposes to furnish. All questions and information requested on the detailed data sheet and the master plan sheet must be furnished. The information furnished will be material in determining the extent and magnitude of the proposed development and will be given substantial weight in making the award.

d. **Execution of Proposals.** Each proposal must give the full address of the offerer and be signed with his usual signature.

e. **Submission of Proposals.** Proposals received prior to the time of opening will be securely kept, unopened, until the time for opening proposals. The person whose duty it is to open them will decide when the specified time has arrived, and no proposals received thereafter will be considered.

f. **Leasing through Brokers.** Leasing of this site will be handled exclusively through licensed Mississippi Real Estate Brokers who have registered with the District their desire to participate in helping lease the District's properties. All licensed Mississippi Real Estate Brokers have been asked to participate, but only those who have indicated their willingness to do so as of the date of this Invitation for Proposals are authorized to act in behalf of the District in leasing of the site described in this proposal. The offerer is advised to obtain the services of a Real Estate Broker of his choice who is authorized to offer this site for lease and to obtain his assistance in examination of the property and in the preparation and presentation of his proposal. Commission to the Broker representing the successful offerer will be paid by the District promptly after execution of the lease.

h. **Withdrawal of Proposals.** Proposals may be withdrawn on written or telegraphic requests received from the offerer prior to the time fixed for opening. Negligence or mistake on the part of the offerer in preparing his proposal confers no right to withdraw his proposal after it has been opened.

i. **Opening of Proposals.** At the time fixed for the opening of proposals, their contents will be made public for the information of offerers and others properly interested, who may be present either in person or by representative.

j. **Procedure for Awarding Lease.**

(1) Following the public opening, the District will analyze the proposals received. The District may require any offerer to furnish additional evidence of his financial condition and, in appropriate cases, of his ability to assume the obligations and responsibilities imposed by the terms and conditions of the bid proposal, and such other information as may be considered desirable by the District. No offerer will be permitted, in connection with submission of the above information, to alter any pertinent factors contained in his original proposal. Failure of an offerer to submit any of the above information within such reasonable time as may be prescribed by the District may be the basis for rejection of his proposal.

k. **Rejection of Proposals.** The District reserves the right to reject any and all proposals and to waive any informality in proposals received. All proposals will remain open for acceptance or review for a period of forty-five (45) days from the date of opening. Notice of Award will be given to successful offerer as soon after the date of opening of proposals as practicable. Notice by the District of the acceptance of a proposal, if not given to the offerer personally or to the duly authorized representative of such offerer, will be deemed to have been sufficiently given when mailed in a postpaid envelope to the offerer to the address indicated in his proposal.

l. **Default.** In the event of failure on the part of the successful offerer or offerers to enter into a lease within ten (10) days after the presentation to him or a draft of lease for execution, or upon the failure of the successful offerer to otherwise comply with the terms of this Invitation for Proposals, the District may declare the offerer in default and retain his deposit as liquidated damages.

m. **Warranty.** The property described herein will be leased subject to the provisions and conditions of this Invitation for Proposals. Therefore, offerers are expected to examine the property and to form their own conclusions as to its suitability for the purposes stated.

n. **Inspection of Property.** The property involved is available for inspection by prospective offerers. Arrangements for such inspections can be made through any Mississippi Real Estate Broker authorized by the District to show the property.

o. **Proposals subject to these Terms.** All proposals submitted shall be deemed to have been made with full knowledge of all the terms and conditions and requirements contained in this invitation and inclosures thereto.

PROPOSAL

(Proposal to be submitted in duplicate.)

PROPOSAL FOR LEASE OF _____ FOR CONCESSION PURPOSES.

TO: **Pearl River Valley Water Supply District**
P. O. Box 1085
Jackson, Mississippi

Sir:

In accordance with your Invitation for Proposals No. _____ dated _____, 19_____, for the lease of a site for _____ concession purposes in the Ross Barnett Reservoir area, Mississippi, and subject to all the conditions and requirements thereof, which, insofar as they relate to this proposal, are by this reference made a part of it, I (we) submit this proposal and hereby agree:

1. To pay a fixed annual minimum net ground rental of _____ Dollars ($_____), plus percentage or other inducements as follows:

A deposit in the amount of _____ Dollars ($_____) is enclosed herewith.

2. To pay as provided in the lease the sum of _____ Dollars ($_____) in full payment of my (our) portion of the amount assessed against the property by the District for its basic costs of developing the property for lease.

3. To pay, in addition, a reasonable charge for maintenance of roads, police protection, etc., to be agreed upon in the lease.

4. To provide and furnish all of the facilities and services listed on the proposed Facilities and Services form as described in the Detailed Data Sheet and the Master Plan for Development, all of which are attached hereto and by this reference made a part hereof.

5. To execute a lease substantially containing the terms and conditions included in the lease form attached to the said Invitation for Proposals within ten (10) days after it is presented to me (us) by the District for execution.

6. To furnish such additional information and data pertaining to my (our) qualifications and/or financial position as the District may request.

I (we) am (are) submitting herewith the Statement of Qualifications of Offerer and Real Estate Broker Representation, list of Proposed Facilities and Services, Detailed Data Sheet, and Master Plan for Development, which by this reference are made a part hereof.

_____

WITNESS: By: _____

_____ _____

Business Address

INVITATION No._____
Ross Barnett Reservoir

Statement Of Qualifications Of Offerer And Real Estate Broker Representation

Applicants are required to reply to all questions.
Use additional sheets if necessary.

The following information is submitted for attachment to and for consideration with proposal for lease of a site at the Ross Barnett Reservoir, Mississippi, as designated in and pursuant to Invitation for Proposals No._____.

1. Name and address of applicant.
2. If a partnership, give names and addresses of all partners; if a corporation, give names and addresses of all officers and the state of incorporation.
3. Have you examined the site of the proposed facility?_____.
4. Have you examined the lease form which you will be required to sign?_____.
5. Are you familiar with state and local laws covering this type of operation?_____.
6. Are you familiar with the business of operating such facilities?_____.
7. State briefly your experience with this, or similar types of operation.
8. Give names and addresses of three references to your experience in this type of operation.

_____
(Name) (Address)

_____
(Name) (Address)

_____
(Name) (Address)

9. Furnish latest financial statement available.
10. Give names and addresses of three references as to your financial responsibility.

_____
(Name) (Address)

_____
(Name) (Address)

_____
(Name) (Address)

11. Do you plan to personally supervise this operation?_____.
12. If you plan to place operation under a local representative, give his name, address and previous experience in this type of operation.
13. Do you own land adjacent to or in the vicinity of the site?_____. (If "yes," describe.)
14. Are you a party to any other lease, concession, or contractural agreement with the Pearl River Valley Water Supply District?_____. (If "yes," give sufficient information to identify such agreement.)

STATEMENT OF REAL ESTATE BROKER REPRESENTATION

15. The licensed Mississippi Real Estate Broker whose name, address and signature appears below has represented me (us) in the showing of this site and in the preparation of this proposal. He (she) has advised the District's Managing Broker, in writing and prior to the date of this Invitation for Proposals of his (her) desire to participate in leasing of the District's properties.

Broker's Name _____ Broker's Signature _____

Address_____

Miss. Real Estate Brokers License No._____

16. Give any additional information considered pertinent.

I (we) hereby certify that the above information is true to the best of my (our) knowledge and belief.

_____

_____

_____

Date_____

INVITATION No._____
Ross Barnett Reservoir

PROPOSED FACILITIES AND SERVICES

NOTE: The offerer must agree to furnish all of the facilities and services listed in the attachment "Facilities and Services" in the invitation for bids and list them below. The offerer must also include the facilities and services which he will furnish in addition to the items listed as the minimum required. (Use additional sheets if necessary.)

1. Proposed facilities and services to be offered:

DETAILED DATA

Details of main structures, facilities and services.

Offerers must provide details of the principal structures, facilities and services proposed and must attach such information either in the form of a sketch plan with supplementary detailed written description or in the form of a detailed sketch plan which may incorporate on the plan itself the necessary information.

Plans must carry certification by a registered engineer as to structural safety.

All exposed metal or wooden surfaces must be painted or coated.

NO CREOSOTED LUMBER OR TIMBERS WILL BE ALLOWED IN ANY CONSTRUCTION WHERE SUCH MEMBERS COME IN OCCASIONAL OR CONSTANT CONTACT WITH THE WATER OF THE RESERVOIR OR WHERE SUCH MEMBERS ARE POSITIONED SO THAT RAIN OR OTHER WATER MIGHT FLOW FROM THEM INTO THE RESERVOIR UNLESS SUCH MEMBERS HAVE BEEN VACUUM - TREATED.

MASTER PLAN FOR DEVELOPMENT

1. The offerer must submit as an attachment a master plan showing the location of all items of proposed construction and improvements in onshore and offshore areas, such as roads, sewage and water systems and utility services, buildings, slips, and the extent and location of any proposed dredging and disposal areas.

2. State the approximate date, following delivery of the lease, when you expect to open to use the various minimum services and facilities required:

_____

3. State the approximate date or dates when you expect to have available for use any additional facilities and services which are proposed. (Use separate sheet if necessary.)

NOTE: Generally, the District expects that minimum facilities and services will be made available as soon as practicable. Reasonable variation in the time schedules for facilities and services will be allowed.

Figure B-1. Leases.

VITA

Katalin S. Menendez was born on June 6, 1951, to Kamillo and Edith Szathmary in Knoxville, Tennessee. She is a first generation American whose parents immigrated to Knoxville in April 1951. She graduated from South High School in June 1969. In September 1969 she entered The University of Tennessee, Knoxville, and was awarded a Bachelor of Arts degree in Political Science in December 1976.

In June 1977, the author entered the Graduate School of Planning at The University of Tennessee. During her enrollment in graduate school she was a member of the American Planning Association and the Collegiate Institute of Planners. From April 1978 to October 1978, she was employed at the Blount County Planning Department as a county planner. In February 1979, she was employed by the Tennessee Valley Authority where she is currently employed.

She joined TVA as a transportation planner for the largest ridesharing program in the nation. During this time, she was program administrator for the gasohol demonstration project. She became Tellico Program Manager in June 1981. Currently she is a regional planner serving on the Regional Studies and Mitigation staff.

Ms. Menendez has two daughters, Shannon, born January 28, 1973, and Katherine, born January 22, 1979.