

REPORT OF RECOMMENDATIONS

TO THE

GALLATIN COUNTY PLANNING BOARD

FROM THE

GALLATIN COUNTY OPEN SPACE TASK FORCE

SEPTEMBER 1998

CONTENTS AND PURPOSE OF THE REPORT

This report consists of recommendations from the Open Space Task Force to the Gallatin County Planning Board for preserving open space in Gallatin County.

A year ago the commissioners of Gallatin County asked a diverse group of county residents to sit on a task force, whose purpose would be to develop a range of tools that the county could use to protect open space. This group, called the Open Space Task Force, is made up of, among others, ranchers, farmers, developers, retired people, a state fish and game employee, a lawyer, a conservationist, an architect, a retired commissioner, a planning consultant, a school administrator, and business owner. (See Appendix A.) The Open Space Task Force has met 2 to 3 times per month for a year. We have had extensive meetings with as many groups as possible, including presentations to civic groups, booths at the winter and summer county fairs, meetings in different communities, plus radio spots and guest editorials in several papers. (See Appendix B.) We have invited speakers from around the country to share with us what they have tried, what works and what does not. We have compiled a large library. From research and listening to the experiences of others we have developed a "toolkit" with mechanisms for preserving open space. (See Appendices C and D.) We have developed ideas for raising money to fund some of these tools. We have consulted with our state legislators and with the governor to assess which of our funding mechanisms have political support. In short, we have tried to cover every base in order to present our local leaders with very detailed and specific recommendations, a way to fund the ideas, and an analysis of the political feasibility of each.

The Task Force received ample and non-biased assistance from the staff of the county planning department, as well as constant encouragement and support from the commissioners. All of our meetings were open to the public and the media, and we encouraged feedback from diverse groups. Many of the ideas in the toolkit came from citizens of the county who participated in our meetings, from the vast literature on the subject, from guest speakers, from the experiences of other communities, and from members of the planning staff. We are grateful for all the help we have received.

The Task Force wishes to thank the commissioners and the planning board for inviting us to serve our communities in this meaningful way.

What do we mean by “tools?”

“Tools” are techniques that the citizens of Gallatin County can use to protect open space and agricultural lands. Many of the techniques have been used with success in other parts of the country. They consist of a combination of incentives, market mechanisms, and support for directing development in Gallatin County in a way that preserves the unique character of the county. The tools described in this report are ones that can be used to protect our area from the worst forms of unsightly sprawl while at the same time encouraging the type of growth and development that is consistent with preserving our quality of life.

TABLE OF CONTENTS

I.	A CASE FOR URGENCY	4
II.	TOOLS	6
	COUNTY MASTER PLAN	7
	CLUSTER DEVELOPMENT	9
	CONSERVATION EASEMENTS	11
	PURCHASE OF DEVELOPMENT RIGHTS	13
	PRIVATE AND PUBLIC LAND BANKING	14
	VOLUNTARY ZONING DISTRICTS	15
	COMMUNITY-GENERATED PLANNING	16
	TRANSFER OF DEVELOPMENT RIGHTS	17
	PARKS DISTRICT	19
	PARK DEDICATION THROUGH SUBDIVISION	20
	URBAN GROWTH BOUNDARY	21
	RIGHT TO FARM STATEMENT	22
	COMMUNITY SUPPORTED AGRICULTURE	23
	GOOD NEIGHBOR POLICY	24
	TECHNICAL EDUCATION/ASSISTANCE	25
	TAX RELIEF FOR AGRICULTURAL PRODUCERS	26
III.	FUNDING MECHANISMS	27
IV.	FURTHER RECOMMENDED ACTIONS	33
	TIMELINE	34
	APPENDIXES	
	A. GALLATIN COUNTY OPEN SPACE TASK FORCE LIST OF MEMBERS	40
	B. OUTREACH AND RESEARCH BY TASK FORCE	41
	C. BIBLIOGRAPHY	51
	D. PRESERVATION TOOLS	55
	E. MISSION STATEMENT	58
	F. LAND DIVISION IN GALLATIN COUNTY, MONTANA, 1993-98	59
	G. FUNDING MECHANISMS	73
	H. LEVERAGING FUNDS FOR OPEN SPACE PRESERVATION	77
	I. CRITERIA FOR IDENTIFICATION OF OPEN SPACE	80
	J. OPEN SPACE TASK FORCE GOALS	86

I. A CASE FOR URGENCY

The County must take prompt, effective action if the Task Force Mission Statement (Appendix E) is to be realized. The Mission Statement charges the Task Force to “make recommendations through the County Planning Board to the County Commission” for the preservation of open space in Gallatin County. In addition, the Task Force “shall develop a full range of options, including incentives and other non-regulatory mechanisms, to accomplish its mission.” And finally, the Task Force is required to take account of the following:

“The concerns of property owners and the agricultural community shall be addressed and incorporated in the Task Force’s recommendations to support approval of the recommended actions.”

There is very little time before development pre-empts the possibility of effectively preserving open space and with it the agricultural economy and quality of life that we have known in Gallatin County. From 1978 to 1992, 295 square miles of farm and ranch land in Gallatin County were converted to non-agricultural production¹. This equals about one-fifth of the approximately 895,000 acres of privately owned lands in Gallatin County². Since January 1993, more than 17,000 acres of the land within Gallatin County have been divided for development purposes³. Approximately 2,000 new parcels have been created for development since April 1993⁴. From 1970 to 1997, the population of Gallatin County grew by 88 percent⁵. However, since 1970, the population in the rural areas of Gallatin County has seen a 138 percent increase, while the urban population only had a 64 percent increase⁶. See also Appendix F (Land Division). Given this growth rate, if the County fails to take effective action, the Task Force estimates that in 5 to 10 years it will be too late to preserve open space to the extent needed to maintain quality of life and a significant agricultural community. Because of lead-times between the adoption of various tools and options and the actual preservation of open space, it will be necessary to take action before the end of 1998 to begin to implement as many of the various tools and options as possible. For the same reasons, it will also be necessary to continue to pursue these measures promptly and aggressively throughout 1999 and the years immediately following.

¹ U. S. Census of Agriculture

² Montana Department of Revenue

³ Land Division in Gallatin County, Montana 1993-1998

⁴ Land Division in Gallatin County, Montana 1993-1998

⁵ U. S. Census of Population, Montana Department of Commerce

⁶ U. S. Census of Population, Montana Department of Commerce

Another underlying factor which contributes to the sense of urgency is that virtually all the land which the County can hope to preserve is privately owned, most of it is in agricultural production, and thousands of acres may soon pass to the next generation subject to estate and inheritance taxes. This led to the conclusion - supported by the Mission Statement and public input - that one of the most effective ways to preserve open space in the County is to take maximum advantage of the limited ways in which the County can make it easier for agricultural producers to stay in business. This meant inclusion of tools and strategies which attempt to address the factors which may deter the continuation of agricultural production. Such an approach, however, can only achieve results gradually and over a relatively long period of time; therefore implementation must begin immediately to be effective.

The Task Force has made the decision to emphasize incentives and market-based techniques for the preservation of open space. This was based on public input, on the likelihood that such an emphasis would result in more permanent protection, and on the Mission Statement. An emphasis on incentives and market-based tools does not preclude the use of regulatory mechanisms; for one thing, in many cases the former can only be implemented with some degree of regulation. Such an emphasis does, however, have severe implications for implementation. *If the County wishes to be effective in the limited time available, it must pursue immediately multiple tools and strategies. This is because any one, or only a few, of the market and incentive based tools recommended in this report could take several years to have significant impact.*

Finally, a market and incentive based strategy relies heavily on the ability of the County to obtain funding, yet funding will be difficult to obtain and is likely to be limited. This only serves to emphasize further how critical timing is and how essential it is that the County take immediate effective action to secure funding. For example, several recommended funding options require state legislative action, and the Montana Legislature, which meets biannually, will be in session beginning in January, 1999. It will be imperative for the County to mount a broad-based and sophisticated lobbying effort immediately if there is to be any hope from this quarter.

II. TOOLS

A. Considerations applied in selecting tools:

- (1) effectiveness in preserving open space once implemented,
- (2) likelihood that the tool can be accomplished,
- (3) how quickly the tool can be implemented,
- (4) whether the tool is supported by the public
- (5) whether the tool provides some assistance to agricultural producers, and
- (6) whether the tool complies with relevant law.

B. The following pages detail the tools selected, with descriptions, reasons why selected, and recommended actions for implementation.

COUNTY MASTER PLAN

DESCRIPTION

The County master plan (see Sec. 76-1-101, MCA) is a blueprint for future patterns of land use in the County. Though not itself a regulation, the plan is a necessary foundation for regulation and other actions which the County may take regarding land use. A properly drawn plan is thus essential to the implementation of open space goals (see Appendix J).

Gallatin County already has a master plan. The Planning Board is now preparing proposed "Phase I" amendments to the plan which are limited to clarification and updating. Shortly after July, 1999, the Board intends to complete proposed "Phase II" amendments which will be substantive. The tool recommended here is amendment of the existing plan during both Phase I and Phase II so as to make the plan more effective in helping to achieve open space goals.

WHY SELECTED

Amending the County master plan is an indispensable and highly effective tool for preserving open space. Since plan amendments can be implemented by the County, they can be achieved relatively quickly. In addition, public input strongly supported this tool. A strengthened plan would afford Gallatin County residents many long-term benefits, including support for agricultural producers and preservation of the County's rural character for future generations.

RECOMMENDED ACTIONS

- County Commissioners adopt Phase I amendments to the County master plan no later than December 31, 1998.
- Planning staff offers amendments to the Planning Board specifically directed at preserving agriculture/open space no later than April 30, 1999.
- Planning Board reviews and endorses amendments no later than August 31, 1999.
- County Commissioners adopt Phase II amendments to the County master plan no later than December 31, 1999.
- Planning staff recommends ongoing mapping to Planning Board.

- Planning staff develops a strategic plan for public outreach on amendments to the County master plan, specifically targeting landowners, developers and engineers. This should include:
 - (1) examples or models of plan-compatible development,
 - (2) strong recommendations to landowners to review options with the Planning Department before site development, and
 - (3) County planning staff assistance in technical analysis for private sector engineers and planners.

CLUSTER DEVELOPMENT

DESCRIPTION

Cluster development allows landowners, who wish to develop a tract of land, to concentrate development in a portion of that tract, leaving the bulk in agricultural use or in other open space. Landowners can therefore enjoy substantial financial benefit from development and can also continue to farm or ranch on the remainder of the tract. At the same time, a substantial amount of open space can be preserved by recorded easement, covenant or deed restriction.

Clustering is already permitted under state law and encouraged in the County master plan. To make this mechanism more effective in preserving open space, incentives for landowners need to be increased or provided which may be based on the quantity or quality of the land preserved as measured by appropriate criteria. The County also needs more flexible subdivision procedures. Accordingly, the tool recommended here is (1) increased incentives to encourage landowners to take advantage of cluster development, incentives such as allowing increased density in the developed portion of the tract and providing a more expeditious and less costly subdivision process, and (2) improved flexibility in subdivision regulations which will allow County planners to work with landowners to develop appropriate clustering plans that respond to the landowner's special needs and yet allow for preservation of valuable open space.

WHY SELECTED

This tool can be highly effective, and the part required to be implemented at the County level can be implemented immediately. The Task Force also believes that there is a reasonable prospect that the legislative action required can be accomplished before the end of 1999. This tool received strong public support, and can be implemented in such a way as to provide important assistance to agricultural producers.

RECOMMENDED ACTIONS

- When a developer or landowner approaches the County Planning Department, and before the first land plat is submitted for approval, the subject of the feasibility of clustering any development must be discussed and encouraged.
- Actively enlist the help of all potential developers in the rural areas to put this valuable tool to use.
- The County Commissioners should support an amendment to state statutes dealing with this mechanism and other measures to increase flexibility and

incentives, such as additional development rights, during the 1999 session of the Legislature.

- The County's master plan and regulations should be amended so as to provide for minimum/maximum lot sizes, location with respect to natural resources, time frame for final accomplishment of the development, and any processes needed for the satisfaction of both the County and the landowner.
- Promote cooperation between adjacent landowners which results in greater incentives for those who collectively preserve larger tracts of land.

CONSERVATION EASEMENTS

DESCRIPTION

Conservation easements allow landowners to limit development on all or part of their land by selling or giving an easement to a public or private organization. There are potential income, estate and inheritance tax benefits for the landowner and heirs.

Conservation easements depend primarily on private action. At present there is a number of both large and small conservation easements in the County held by the Gallatin Valley Land Trust, the Montana Land Reliance, the Montana Department of Fish, Wildlife and Parks and other organizations. The tool recommended here is primarily that the County should take all appropriate measures to encourage landowners to make use of conservation easements. Where permitted or required by particular funding sources, the County itself could also receive or acquire conservation easements, preferably through an independent non-profit corporation established by the County.

WHY SELECTED

Conservation easements are a highly effective tool, and they are supported by public input. County action to promote use of this tool can begin to be implemented immediately. By providing a mechanism which can be tailored to particular situations and which potentially has substantial tax benefits, conservation easements can enlarge the range of financial options which agricultural producers can take advantage of.

RECOMMENDED ACTIONS

- The County Planning Department should complete GIS mapping of existing conservation easements in Gallatin County.
- The County should either form or encourage the formation of a non-profit corporation to purchase, hold and manage conservation easements and other interests in land.
- Working with the private and public agencies that are promoting and acquiring or receiving conservation easements in Gallatin County, the County should develop a joint strategic plan for promoting use of conservation easements, which would include:
 - (1) systematic education of landowners about the possible advantages of conservation easements,

- (2) identification of tracts of land which are adjacent to existing conservation easements and/or which have the highest open space values, and beginning a dialogue with the landowners of these tracts in an effort to develop appropriate conservation easements.

PURCHASE OF DEVELOPMENT RIGHTS

DESCRIPTION

Purchase of development rights would allow the County to restrict development on a particular tract of land by paying the landowner an amount equivalent to the difference between the value of the land as developed and its value if maintained as open space. At the same time, the landowner would continue to own and manage the land. In the case of land devoted to agricultural use, the landowner would be able to continue that use while receiving substantial compensation for the development rights. The restriction on development would be recorded and run with the land.

Any agreement on purchase of development rights can easily be tailored to meet the specific needs of particular landowners. The development rights purchased by the County can be held by an independent non-profit corporation established by the County. This entity could hold the development rights indefinitely, or could sell them to allow owners of land adjacent to existing development to develop more intensely, and could use the proceeds to purchase additional land interests in open space.

WHY SELECTED

This mechanism is supported by the Task Force since it would be effective, is consistent with public input, and would help to keep producers in business. Since this particular mechanism requires substantial funding, it will be advantageous to purchase rights over a period of time, and to leverage acquisition funds. It can be used to protect very valuable pieces facing imminent development.

RECOMMENDED ACTIONS

- Develop criteria for the evaluation of open space in conjunction with County Plan Phase II to be completed by July 1, 1999. See Appendix I.
- Form or encourage the formation of a non-profit corporation to purchase, hold and/or trade development rights no later than December 31, 1998.
- Beginning in 1998, pursue aggressively appropriate options for obtaining funds to purchase development rights. See Funding Mechanisms below.

PRIVATE AND PUBLIC LAND BANKING

DESCRIPTION

With Private and Public Land Banking a public body or private entity purchases land, designating some of it - such as prime agricultural land - for permanent resource use, selling or leasing it with restrictions on use, and/or selling or leasing other areas for urban development. The developer (public or private) determines the use of the land and timing of development. A portion of the land may be banked in open space until that use is no longer appropriate. This tool could provide sufficient sites for necessary urban development in locations that would be least disruptive to agriculture.

WHY SELECTED

The Task Force selected Private and Public Land Banking as a tool because with implementation of certain incentives it could be utilized in a timely manner in Gallatin County, encouraging developers to maintain their land in agricultural use for longer periods of time. It currently occurs in a casual manner in Gallatin County when private developers purchase land before they plan to develop it. Clair Daines' Westfield Park subdivisions are an example. The banked land continues to be used as a sod farm until it is subdivided. At the time of subdivision, park land may be dedicated to the public.

RECOMMENDED ACTIONS

- County Commissioners direct staff to examine whether there are circumstances in which the current agricultural exemption would not be available for land bankers and to recommend legislation to preserve the exemption for them.
- County Commissioners and City Commissioners consider legislative action to adopt tax deferral for land bankers willing to set aside development of productive land for a stated period of time (i.e. 15, 25, 30 years). A review should include a county/landowner sample contract that assures financial incentives (tax reduction) are received by the landowner while maintaining open space/agriculture, with provision to tax retroactively if the contract is broken.

VOLUNTARY ZONING DISTRICTS

DESCRIPTION

Voluntary zoning districts (also known as citizen-petitioned zoning districts -- see Secs. 76-2-201, et seq., MCA) allow the County to enact land use controls in communities other than municipalities, if initiated by a substantial majority of landowners. The landowners can have significant input on the zoning district's boundaries and regulations, which can be tailored to meet local needs, desires and circumstances. Land use controls so enacted can provide directly for the preservation of open space yet allow limited development.

Fifteen voluntary zoning districts, covering substantial and often crucially located areas, already exist in Gallatin County. All but one of these districts were established before adoption of the County master plan (see Secs. 76-1-101, et seq., MCA) and need not comply with that plan.

WHY SELECTED

Voluntary zoning districts can be a highly effective tool for the preservation of open space and they are consistent with public input. Since the process is under local control, voluntary zoning districts are highly achievable. Some recommended actions can be taken immediately, but this tool is likely to take more than two years before final implementation in any given community. This tool facilitates public involvement in major community changes. It can also provide assistance to agricultural producers by insulating their operations from the negative impacts of development.

RECOMMENDED ACTIONS

- Before December 31, 1998, initiate a process, using all appropriate means, to educate landowners about the possible advantages of voluntary zoning districts.
- Begin immediately to identify communities where development pressure threatens open space values.
- Initiate a dialogue with threatened communities and others interested, and work with them to identify key open space areas and to assist them in realizing their goals by providing information, expertise and other assistance.
- Encourage landowners in the pre-Plan zoning districts to consider the feasibility and desirability of bringing their zoning schemes in line with County open space goals and the amended County Master plan.

COMMUNITY-GENERATED PLANNING

DESCRIPTION

This tool consists of a special form of cooperation between local communities and the County. The members of a local community (other than a municipality) may desire that there be some sort of planning within their community. The County can provide the information and expertise which are necessary to the realization of community planning, and can monitor the process to ensure that County planning and open space goals are met. The County can also assist in the creation of a local advisory committee which can carry the process forward, especially if County approval is required for any actions which the community believes should be taken. This tool is already in use in the Four Corners area.

WHY SELECTED

This tool has the following advantages: (1) based on the Four Corners experience, it would appear to have the potential to be highly effective; (2) if properly applied, it avoids the stigma of centralized authoritarian planning; (3) it requires no new funding sources; and (4) it can be implemented immediately and relatively easily by the County and local communities without the need for state legislative action.

RECOMMENDED ACTIONS

- The County should undertake immediately, through the media and local meetings, to let communities and landowners know about this tool.
- When communities agree to begin planning, the process described above can commence.

TRANSFER OF DEVELOPMENT RIGHTS

DESCRIPTION

Transfer of development rights permits limiting development on one tract of land, in exchange for more intense development on another tract than would otherwise be allowed. The tract where development is limited is often called the "sending district," and the tract to be more intensely developed is often called the "receiving district." Thus, it can be said that development rights from the sending district are being transferred to the receiving district. In the current application, the sending district would contain the open space to be preserved, and the receiving district would presumably be located where the county wishes to see development occur. At present in Gallatin County, there are transfer of development rights provisions in the regulations of three of the citizen-petitioned zoning districts.

Transfer of development rights is essentially a market mechanism made possible by the creation of sending and receiving districts. The landowners of the sending and receiving districts become, respectively, buyers and sellers of development rights. The price of the rights is determined by the market. Typically, the county helps to create the market by limiting density in the receiving district and providing that the limitation will be waived to the extent that development rights have been purchased. The county ensures preservation of open space by recording the development limitations in the sending district. The county can also seek to create receiving districts within municipal boundaries by entering into agreements with municipalities.

WHY SELECTED

Transfer of development rights could be a very effective tool for preservation of open space and is consistent with public input. This tool can be implemented at the county level; no state authorization or funding are required. Depending on the market, transfer of development rights could provide substantial compensation to agricultural producers while allowing them to continue operations within the sending district. The main drawbacks are that this tool will be difficult to accomplish and cannot be implemented quickly. The Task Force recommends this tool despite these drawbacks.

RECOMMENDED ACTIONS

- Beginning in 1998 and continuing through 1999, in cooperation with landowners, develop criteria for evaluation of open space and apply them to identify key open space areas that could become sending districts.
- Before December 31, 1999, provide information to landowners in key open space areas about the possibilities and advantages of transferring development rights and begin to work with them to effect transfers.

- Begin immediately to identify suitable receiving districts outside municipal boundaries, and work with local landowners to enact regulations in those districts which would help to create markets for development rights.
- Initiate immediately negotiations with municipalities looking toward the establishment of suitable receiving districts within municipal boundaries.

PARKS DISTRICT

DESCRIPTION

A park district is established to operate, maintain and improve park and recreation lands within the designated territory. Park and recreation lands within a district may include publicly or privately owned land designated for park or recreational purposes. The designated territory of a district may contain the entire county, a part of a county, or territory in more than one county, and may include municipalities. A park district is created through a petition and election process.

The financing of the park district is done by a mill levy on properties within the district, determined at the time of the election on the creation of the district and which cannot be changed without another election. Park districts can also be financed as noted under Funding Mechanisms.

WHY SELECTED

This mechanism is allowed by state statute, and was chosen by the Task Force for that very reason: It is immediately effective. However, there was some reluctance, because of the added burden on the larger landowners, since they are already providing de facto "open space".

RECOMMENDED ACTIONS

- The County Commissioners should pursue legislative action that would amend the legislation authorizing the creation of park districts to specifically eliminate taxation of the agricultural producers.
- When such a change has been made, the Commissioners will openly encourage the use of this tool in places where it is most appropriate.

PARK DEDICATION THROUGH SUBDIVISION

DESCRIPTION

An amendment to the park dedication requirements in the Montana Subdivision and Platting Act would allow the governing body in a jurisdiction with a master plan or zoning regulations to establish a local dedication requirement which exceeds the amount in current Montana statutes. The current statutes allow the governing body to adopt local park dedication requirements in certain instances. However, local requirements are limited to approximately three-quarters of the dedication amount required by current state statutes. The park dedication requirements were amended in 1995 to decrease the dedication requirements and increase the number of exemptions.

WHY SELECTED

The Task Force selected this tool because it offers the local governing body flexibility in determining the suitability of proposed parks, and the option of dedication of land, cash donation or a combination of both. The local governing body uses the money or land for development, acquisition, or maintenance of parks. This includes the purchase of public open space or conservation easements. Upon state and local passage, this amendment would be immediately available in Gallatin County as an effective method to preserve open lands.

RECOMMENDED ACTIONS

- County Commissioners take proposed legislation to interested legislator(s) before December 31, 1998. Legislator(s) present proposed legislation.
- Before March 31, 1999, County Commissioners direct county lobbyist to work towards passage of legislation, at the same time building a coalition of similarly situated counties and other interested groups.
- Upon passage of legislation, local options are presented to the public through media and PR campaign. Local options are presented to the voters at the next available election.
- Upon local passage of legislation, planning staff revises subdivision regulations and forwards proposed amendments to County Commissioners.

URBAN GROWTH BOUNDARY

DESCRIPTION

An Urban Growth Boundary is intended to establish the importance of agricultural lands/open space land by defining the geographic limit of growth. It is a technique used to discourage sprawl by directing the amount, location, and type of development into areas with services already available, or within easy access. It promotes more compact development that is cost-effective to service.

WHY SELECTED

The Task Force selected Urban Growth Boundary as a tool because it gives the county the ability to channel most developments away from key agricultural/open land. This tool is being used successfully in Boulder, Colorado and throughout the state of Oregon.

RECOMMENDED ACTIONS

- Using this tool in conjunction with the Transfer of Development Rights, and in cooperation with the governments of the municipalities in the County, develop criteria for its application.
- With these criteria in place, provide information to landowners in areas immediately inside and outside municipal boundaries discussing the advantages of applying growth boundaries and accepting development rights transferred from prime agricultural lands.

RIGHT TO FARM STATEMENT

DESCRIPTION

These laws forbid the enactment of local ordinances that restrict normal agricultural practices, unless they endanger public health or safety. They seek to protect producers from nuisance complaints for standard practices, and are currently in force in the State of Montana.

WHY SELECTED

This tool has been recommended because it is consistent with public input, would be extremely effective in this county, can be implemented in a timely fashion, and are easily attainable.

RECOMMENDED ACTIONS

- Expand the Gallatin County subdivision covenant statement to include a provision that discusses the following: As a resident of rural Gallatin County, landowners must be prepared to accept the responsibility of additional weed control and fence maintenance, as well as understanding that farm property is private land owned and maintained by another. Water ditches, and the water in them, are also private property.
- Designate the proper entity to ensure this information, where feasible, becomes part of each land transaction, and is readily available to inquiries at the Planning Department.

COMMUNITY SUPPORTED AGRICULTURE

DESCRIPTION

Community Supported Agriculture develops means of enhancing the marketability of county-grown agricultural products. Community Supported Agriculture may be a variety of mechanisms including regulations controlling diseases, value added agricultural products, and markets for agricultural products. Currently used in Gallatin County by Wheat Montana Bread, the Farmers Market, "Made in Montana", and regulations controlling seed potatoes and mint seedlings.

WHY SELECTED

The Task Force selected Community Supported Agriculture as a tool because of its emphasis on keeping agriculture producers in business. Supported by public input and easily accomplished in a reasonable time frame, the directives for Community Supported Agriculture send a clear message to the agricultural community as to their importance in the valley.

RECOMMENDED ACTIONS

- Media and public relations campaign (two year campaign) is finalized by staff for the county-wide introduction of "AG DAY". Campaign includes introduction of proposal, resolution adoption, follow-up on effect, etc.
- County Commissioners declare Saturdays to be "AG DAY" in Gallatin County, and encourage public participation in "AG DAY" by supporting local growers and the distributors of locally grown products at places like the Farmers Markets, the grocery store, etc.
- County Commissioners identify a local agricultural producer willing to use his or her operation as part of a hands-on experience for school children. Initiate discussions with the school boards to make hands-on experience on farms and ranches in the Gallatin County part of the school curriculum.

GOOD NEIGHBOR POLICY

DESCRIPTION

A Good Neighbor Policy, presented in the form of a written publication, is intended to educate the public about the expectations of life in the rural agricultural areas of Gallatin County. A Good Neighbor publication would discuss the provisions of services, agricultural practices, access, property ownership, nature, etc. In addition, it could include information on a county-supported, non-binding, non-professional neighbor dispute resolution service.

WHY SELECTED

The Task Force chose this tool because it is an effective and inexpensive way to educate the public about agriculture, privately-owned open space and rural expectations. Input from the public indicates that there is a level of frustration to which this sort of tool could be addressed. It is also a simple tool that could be put into immediate service.

RECOMMENDED ACTIONS

- The Commissioners delegate the writing of a Good Neighbor Policy. This publication should contain the amended 'Right to Farm Statement.
- The County Commissioners distribute the Good Neighbor Policy publication to the public.
- The Commissioners appoint a non-binding, non-professional neighbor dispute committee to support this publication.

TECHNICAL EDUCATION/ASSISTANCE PROGRAM

DESCRIPTION

A Technical Education/Assistance Program provides landowners with an understanding of techniques available to landowners to protect open space, keep land in agriculture, and achieve economic and family objectives.

WHY SELECTED

The Task Force selected a Technical Education/Assistance Program as a tool because this type of public outreach/education is targeted directly to landowners. Further, creation of the program can be accomplished in a reasonable time frame, with results easily monitored and reported.

A Technical Education/Assistance publication would reference technical experts who offer landowners a free or limited-cost initial consultation. The advantage of this tool is that it is a public/private collaboration, which does not create a new government program, and it provides guidance directly from the experts.

Examples of Technical Experts:

Zoning: Gallatin County Planning Department
Bozeman City-County Planning Department
Conservation Easements: Gallatin Valley Land Trust
Montana Land Reliance
Nature Conservancy
Cluster Land Use: Gallatin County Planning Department
Wetland Reserve Program: Natural Resources Conservation Service

RECOMMENDED ACTIONS

- County Commissioners delegate the writing of the Technical Education/Assistance publication. The publication would describe the variety of preservation techniques, including tax, financial and legal aspects.
- Commissioners distribute the Technical Education/Assistance publication.

TAX RELIEF FOR AGRICULTURAL PRODUCERS

DESCRIPTION

Tax Relief for Agricultural Producers is a reduction of taxes, such as inheritance taxes and personal property taxes on farm machinery.

WHY SELECTED

The Task Force selected Tax Relief for Agricultural Producers as a tool because tax relief would help provide agricultural producers with a financial incentive to stay in business and maintain the land in agricultural use. Input from farmers and ranchers at several outreach meetings suggested that agriculture owners felt burdened with county personal property taxes, state taxes and federal taxes. Analysis and implementation of tax reductions at the county and state levels is capable of being accomplished in a reasonable time frame.

RECOMMENDED ACTIONS

- County Commissioners, in conjunction with the Superintendents of Schools, review the fiscal impact on schools systems and alternative methods of financing.
- County Commissioners draft proposed state legislation. For example, legislation could be proposed that reduces property taxes on private lands that hold qualified conservation easements, release development rights, or make appropriate deed restrictions.
- County Commissioners delegate the writing of a proposal to reduce or eliminate personal property taxes on agricultural producers in exchange for development rights, and include in this proposal exemption for all ag-related buildings.
- County Commissioners take proposed legislation to interested legislator(s) for presentation to the Legislature, and direct county lobbyist to work toward the passage of such legislation.
- County Commissioners direct a study/report to determine the fiscal impact on reducing county personal property taxes to farmers and ranchers who agree to stay in the agriculture business for a stated time period (15, 25, 35 years). The report should include a county/landowner sample contract that assures financial incentives (tax reduction) received by the landowner while maintaining open space/agriculture, with provision to tax retroactively if the contract is broken.

III. FUNDING MECHANISMS

Some of the tools identified by the Task Force for the protection of open space and agriculture in Gallatin County require funding (for example, the purchase of development rights from willing sellers). Listed below are some ideas on how to generate funds. These ideas come from a variety of sources, including members of the Task Force, public comments to the Task Force, and a review of what other states have done. Where possible, the descriptions indicate the amount of money that could be generated as well as the political feasibility of each. Some of the tools require further research.

Of all the mechanisms identified, those listed below show the most promise. While the first six can be implemented immediately, the last five will require state legislative action. There are others, such as accepting donations of land or the use of Habitat Montana which can be applied immediately and require no state legislative action. These and other ideas, listed in Appendix G, may become useful tools in the future (e.g. use of a local sales tax, a tobacco tax, or a gambling tax). There are also some existing taxes which were discussed repeatedly by the Task Force, but that are beyond the influence of local government. For example, one member of the Task Force who is a local farmer and rancher pointed out that the federal inheritance tax is a disincentive to managing land for agriculture and an incentive to sell land for development (which is sometimes necessary to pay inheritance taxes).

The funding mechanisms selected should be closely tied to activities that benefit from open space. Proceeds gained from these mechanisms should be applied so as to minimize administrative costs and maximize acquisition.

A word of caution: It is unlikely that any one funding mechanism by itself will generate enough funds to cover all the open space tools that require capital. Several mechanisms will have to be used together.

Funding tools that can be applied immediately but require local action

1. Parks district
2. Bonds
3. Raising money from private foundations
4. Open Space District
5. Revolving Loan Fund
6. Leveraging Acquisition Funds

Funding tools that require state-wide legislation

1. Bed tax
2. Real estate transfer tax
3. General Fund Appropriation
4. Rental car tax
5. Open Space Impact fees

Funding Tools that Can be Applied Immediately

1. Parks District

Established by a petition and election process, with all funds administered by an elected park district commission. Revenue can be generated in a variety of ways, including resort taxes, mill levy, donations, impact fees, the coal trust fund, the sale of bonds, etc. This is discussed further in the “Tools” section. This tool should be applied only if an exemption can be made for agricultural producers.

2. Bonds

The county borrows money and repays the loan through the sale of bonds, and it uses the funds for open space purpose.

The county government can issue tax-exempt, long-term bonds, called general obligation bonds, on which it pledges to pay principal and interest and which it will retire over many years. In essence, the county is borrowing money to purchase open space, development rights, etc. It pays for the loan through the sale of bonds. The advantage of this system is that it is useful in areas with fast growth, like Gallatin County. This systems allows the county to purchase development rights on land that might not be available in five to ten years. A bond is normally approved through a referendum on a local or state wide basis. It has to be voted on by general public.

Examples: Florida issued \$200 million in bonds for acquisition of oceanfront and beach front lands. In California open space bonds are financed through fees for personalized license plates, income tax check-offs and a tax of the sale of tobacco. In Nevada 65 percent of the voters approved \$47.2 million in bonds for parks, wildlife, and land protection. In New Mexico, a constitutional amendment allows counties to issue bonds for open space acquisition, parks and trails. The first bonds were proposed in 1998. In King County, Washington, voters approved a \$50 million bond issue to protect 15,000 acres of agricultural land.

3. Raise Money from Private Foundations

A number of private foundations across the country support communities interested in protecting open space, trails, and agricultural lands. Typically, funding is provided to non-profit organizations, like local land trusts, or chambers of commerce, for specific projects. Raising funds from foundations requires careful planning and research. There is a lot of competition, and most requests are turned down. However, the rewards can be significant.

One option is for the Gallatin Valley Land Trust (GVLT) to expand the tools it uses for protecting open space. Currently GVLT accepts donations from individuals who voluntarily want to place their lands under conservation easements. GVLT could also raise funds, or be the conduit for funds raised by the county, that are used for the purchase of development rights from willing sellers. Alternatively, an separate non-profit organization can be created for Gallatin County, whose purpose it is to raise funds from foundations and to use these funds to purchase development rights.

4. Open Space District

Levy a \$25 dollar fee per year on every home in Gallatin County (the cost of two pizzas) and earmark for open space purposes. According to calculations by the planning department this could generate \$400,000 per year. This would operate in a way similar to the existing Water Quality District.

5. Revolving Loan Fund with Deed Restrictions

A revolving fund can be used when a public or private organization makes grants to localities or non-profits for land acquisition based on a project's revenue generating potential. The money can be used to purchase properties which are then sold to buyers who agree to manage, develop, or restore the properties in accordance with deed restrictions. Deed restrictions are a legal document by which property ownership is transferred from one party to another, wherein a landowner or developer can place certain restrictions or prohibitions on activities on the land. Deed restrictions can be versatile and flexible. They can be used to encourage or mandate standards within a development, such a siting location, building and landscaping materials, and architectural guidelines. They are especially useful in preserving open space, wildlife habitat, unspoiled views, and solitude--features for which home buyers are increasingly willing to pay more.

It is possible for deed restrictions to increase the value of a property. Because of this, deed restrictions have been used in some areas of the country to increase the profitability of a development, thereby generating funds to repay the loan.

Enforcing deed restrictions can be difficult over the long term, as they are only enforceable by the prior owner or a third party to the original transaction, such as the

owner of abutting property. One way to ensure continued enforcement is to include a third-party entity like a land trust or other corporation, in the transaction.

The Revolving Loan Fund can be created through a variety of funding tools, including the sale of bonds, the state general fund, donations from private foundations, and others. In addition to deed restrictions, this fund could also be used to purchase development rights (e.g. through conservation easements).

6. Leveraging Acquisition Funds

The likelihood that funding will be limited and available only in relatively small increments over a period of several years makes it highly desirable for the County to adopt techniques which would permit the “leveraging” of available funds. Leveraging would allow the County to get a much bigger and quicker bang for its buck when it is purchasing land, easements, or development rights. Basically, leveraging allows the County to preserve immediately open space that might otherwise be developed by initially paying only a fraction of the total market price, and delaying full payment until later years. Some idea of how powerful a tool this can be is indicated in the example of Howard County, Maryland, in Appendix H: With an initial expenditure of only \$9 million, the County was able to preserve open space valued at about \$55 million.

Leveraging can be accomplished in a variety of ways. The Howard County example is one. Another would be to acquire an option to purchase an interest in land. This could immediately prevent development of desirable open space, until the County could raise funds to pay the full purchase price, by paying for the option at only a fraction of the full market value of the land interest.

Leveraging is a relatively sophisticated tool and requires financial expertise and an ability to conduct effective negotiations with property owners. It is a tool that will require the hiring of a coordinator recommended elsewhere in this report. Given the realities of limited funding, however, it is a tool that should be implemented as promptly as possible.

Funding Tools that Require Legislation

1. Bed Tax

Currently Montana has a 4% tax on hotel and motel occupancy. Raising this tax by 1% could generate approximately \$2 million state-wide, which could be allocated locally for open space purposes, such as purchasing development rights from willing sellers.

For example, voters in Monroe County (Florida Keys) approved a "tourist impact tax" in 1988. One-half of the 1 percent increase in hotel and motel room taxes are spent on land acquisition.

Senator Hargrove has met with Governor Racicot and the idea has met with his support. He also met with the Bed Tax Future Task Force, who expressed support if the tax was used to purchase development rights from volunteer farmers and ranchers. A lobbyist in Helena has pointed out that there is some pressure to eliminate the bed tax. It makes sense for hotel owners to embrace open space as a use of the bed tax for a couple of reasons: (1) by joining forces with agricultural and open space advocates, hotel and motel owners broaden their base of support for keeping the bed tax, and (2) protecting open space and agriculture protects the basis of Montana's tourism trade.

2. Real Estate Transfer Tax

Real estate transfer taxes are levied on real estate transactions, often using a graduated scale on the value of the property being sold. The revenue generated by the tax (or a portion thereof) is then used to purchase properties, development rights, or to fund any other open space mechanism that requires capital. A real estate transfer tax can have some exemptions, such as a waiver for first time home buyers or for homes under a certain price range. It is unknown how much this tax could generate state-wide, which will depend largely how the tax is implemented.

Examples: In Vermont the state legislature created the Housing and Land Conservation Board to manage funds generated by the real estate tax. These funds are used to create affordable housing and to protect agricultural lands and open spaces through the purchase of development rights from willing sellers. The towns of Little Compton and New Shoreham in Rhode Island collect a real estate transfer tax to fund land acquisition. In Massachusetts, a local ballot authorizing a real-estate transfer tax is used to finance acquisition of open space and trails. Between 1983 and 1986 Nantucket used a 2 percent transfer tax to generate over \$6 million. In addition, Florida, Maryland, Tennessee and Rhode Island all have successful real estate transfer programs.

The initial reaction to a real estate transfer tax from a lobbyist for the Montana Association of Realtors was to oppose any such measure of a state-wide basis. However, when it was proposed that there could be an exemption for first-time home buyers, he agreed that there is some merit in the idea. Local realtors in the Gallatin Valley who responded to inquiries from the Open Space Task Force agreed that a real estate transfer tax would be acceptable if its made clear where money is being spent. In the long run a tax spent on preserving the qualities of Gallatin County is also good for the real estate market.

3. General Fund Appropriation

Compete for state-wide appropriations from the general fund, earmarking some for open space.

Senator Hargrove has suggested to the Task Force that some of the funding for open space could come directly from the General Fund. The Senator met with Ralph Peck, Director of the Department of Agriculture, who agreed to include \$1.5 million in the Department of Agriculture budget request to the Budget Office to support open space, particularly the purchase of conservation easements.

4. Rental Car Tax

A new tax on rental cars, with proceeds earmarked for open space purposes.

A 6 percent tax would raise \$1.5 million for open space, with \$800,000 going toward the rental car companies to pay licensing fees. According to a meeting attended by the Task Force with several legislators and lobbyists in Helena the car rental industry would support a tax provided that they get a percentage (or credit). Senator Mahlum sponsored a bill in the last legislative session that would have created a new tax on rental cars, with the purpose of purchasing historic properties. He indicated that he would reintroduce the bill in the next session, and that some of the money could be used for open space protection purposes.

5. Open Space Impact Fees

An impact fee on the conversion of open space and agricultural land to residential or commercial uses, with the fee earmarked toward open space protection programs. This fee could also be called an Open Space Depletion Tax.

In order to encourage development within city boundaries, and to discourage sprawl in rural areas, an impact fee could be applied to new development in areas that citizens of the county want to preserve for their open space qualities. A waiver or lowering of the impact fee could be applied if the developer agrees to cluster homes, thereby protecting a portion of the property in open space. Normally impact fees are assessed to cover the costs of infrastructure maintenance and development (e.g. roads, sewers). An Open Space Impact Fee is assessed specifically to account for the loss of open space by development. It could be added to an existing impact fee, or it could be assessed as a separate fee. This topic was not discussed in detail by the Task Force and further research is required to access how much money could be generated and to test whether this idea is politically feasible in Gallatin County.

IV. FURTHER RECOMMENDED ACTIONS

The difficulties which the County will face in implementing an effective strategy for the preservation of open space will be substantial, as explained above. Add to this the fact that relevant county staff appear to be overextended now and would be completely unable to undertake a new, massive, and complex program such as that recommended in this report.

A. Hiring a Coordinator

Accordingly, if that program is to have any chance of success, the County must hire immediately an experienced "coordinator", with good management skills and a high level of political sophistication, who can promote the program on a full-time basis. This position will have to be paid for, at least initially, from County funds. The Task Force urges the County to set this person's salary at a level which will insure hiring someone with the required skill, expertise, experience and commitment.

Specific Duties:

- survey
- legal research
- lobbyist
- maps
- public outreach

B. Open Lands Advisory Committee

County Planning Board appoint a group of citizens to follow through with the recommendations of this report.

TIMELINE

(following)

f:\plan\cnty\openspac\OSTF rewrite.doc

Open Space Tools	Recommended Actions	Timeline
County (master) Plan	<p>Commissioners adopt Phase I amendments to the county master plan.</p> <p>Planning staff offers amendments to the Planning Board specifically directed at preserving agriculture/open space.</p> <p>Planning Board reviews and endorses amendments.</p> <p>County Commissioners adopt Phase II amendments to the county master plan.</p> <p>Planning staff recommends ongoing mapping to Planning Board.</p> <p>Planning staff develops a strategic plan for public outreach on amendments to the county master plan.</p>	<p>12/31/98</p> <p>4/30/99</p> <p>8/31/99</p> <p>12/31/99</p> <p>immediate</p> <p>immediate</p>
Cluster Development	<p>Planning Department discusses with developer feasibility of cluster development before approval of plan.</p> <p>Enlist help of developers to put this tool to use.</p> <p>Commissioners support an amendment to state statutes dealing with clustering to increase flexibility and incentives, during the 1999 session of the Legislature.</p> <p>Amend master plan and regulations to facilitate clustering.</p> <p>Promote cooperation between adjacent landowners to cluster develop as a group.</p>	<p>immediate</p> <p>immediate</p> <p>ongoing</p> <p>immediate</p> <p>immediate</p>
Conservation Easements	<p>Planning Dept. completes GIS mapping of existing conservation easements in Gallatin County.</p> <p>Form or encourage the formation of a non-profit corporation to purchase, hold and manage conservation easements.</p> <p>County develops strategic plan for promoting use of conservation easements (see Tools description for details)</p>	<p>12/31/98</p> <p>12/31/98</p> <p>4/1/99</p>
Purchase of Development Rights	<p>Develop criteria for the evaluation of open space (see Appendix I).</p> <p>Form or encourage to form a non-profit corporation to purchase, hold and/or trade development rights.</p> <p>Aggressively pursue options for obtaining funds to purchase development rights (see Funding Mechanisms section).</p>	<p>7/01/99</p> <p>12/31/98</p> <p>immediate</p>
Private and Public Land Banking	<p>County Commissioners direct staff to examine whether there are circumstances in which current agricultural exemption would not be available for land bankers, and to recommend legislation to preserve exemption..</p> <p>Produce a sample contract to be shared with landowners for review.</p>	<p>immediate</p> <p>12/31/98</p>

Open Space Tools	Recommended Actions	Timeline
County (master) Plan	<p>Commissioners adopt Phase I amendments to the county master plan. Planning staff offers amendments to the Planning Board specifically directed at preserving agriculture/open space. Planning Board reviews and endorses amendments. County Commissioners adopt Phase II amendments to the county master plan. Planning staff recommends ongoing mapping to Planning Board. Planning staff develops a strategic plan for public outreach on amendments to the county master plan.</p>	<p>12/31/98 4/30/99 8/31/99 12/31/99 Immediate Immediate</p>
Cluster Development	<p>Planning Department discusses with developer feasibility of cluster development before approval of plan. Enlist help of developers to put this tool to use. Commissioners support an amendment to state statutes dealing with clustering to increase flexibility and incentives, during the 1999 session of the Legislature. Amend master plan and regulations to facilitate clustering. Promote cooperation between adjacent landowners to cluster develop as a group.</p>	<p>Immediate Immediate Ongoing Immediate Immediate</p>
Conservation Easements	<p>Planning Dept. completes GIS mapping of existing conservation easements in Gallatin County. Form or encourage the formation of a non-profit corporation to purchase, hold and manage conservation easements. County develops strategic plan for promoting use of conservation easements (see Tools description for details)</p>	<p>12/31/98 12/31/98 4/1/99</p>
Purchase of Development Rights	<p>Develop criteria for the evaluation of open space (see Appendix I). Form or encourage to form a non-profit corporation to purchase, hold and/or trade development rights. Aggressively pursue options for obtaining funds to purchase development rights (see Funding Mechanisms section).</p>	<p>7/01/99 12/31/98 Immediate</p>
Private and Public Land Banking	<p>County Commissioners direct staff to examine whether there are circumstances in which current agricultural exemption would not be available for land bankers, and to recommend legislation to preserve exemption.. Produce a sample contract to be shared with landowners for review.</p>	<p>Immediate 12/31/98</p>

Open Space Tools	Recommended Actions	Timeline
Voluntary Zoning Districts	<p>County Planning staff initiates education campaign about advantages of voluntary zoning districts. Identify communities where development pressure threatens open space values. Identify key open space areas and help threatened communities with zoning options. Research feasibility and desirability of "201" zoning districts bringing their zoning schemes in line with County open space goals and the amended County Plan.</p>	<p>12/31/98 Immediate Ongoing Immediate</p>
Community-Generated Planning	<p>The county educates public on this option and continues citizen involvement in planning. When a community approaches County for planning help, the Planning Department provides assistance.</p>	<p>12/31/98 Immediate</p>
Transfer of Development Rights	<p>In cooperation with landowners, develop criteria for evaluation of open space and apply them to identify key open space areas that could become sending districts. Identify suitable receiving districts outside municipal boundaries, and work with local landowners to enact regulations in those districts which would help to create markets for development rights. Provide information to landowners in key open space areas about the possibilities and advantages of transferring development rights and begin to work with them to effect transfers. Initiate immediately negotiations with municipalities looking toward the establishment of suitable receiving districts within municipal boundaries.</p>	<p>Immediate Immediate 12/31/99 Ongoing</p>
Park District	<p>Research the possibility of amending state legislation authorizing parks district to specifically eliminate taxation of agricultural producers. Encourage application of this tool only if agricultural producers not taxed.</p>	<p>Immediate Unknown</p>
Park Dedication Through Subdivision Process	<p>Requires legislative action. Commissioners draft legislation and work with legislators to act as sponsors. Direct county-hired lobbyist to work on this issue. If legislation passes, develop and implement public outreach plan. If legislation passes, revise subdivisions regulations.</p>	<p>Ongoing Immediate Unknown Unknown</p>

Open Space Tools	Recommended Actions	Timeline
Urban Growth Boundary	Same actions needed as in Transfer of Development Rights.	
Right to Farm Statement	Expand Gallatin County subdivision covenant statement. Where feasible, make Statement available as part of each land transaction.	12/31/98 4/1/99
Community Supported Agriculture	Begin 2-year public relations campaign, culminating in the creation of "AG DAY." Begin to explore idea to having hands-on practice in agriculture as part of school curriculum for county schools.	Immediate Immediate
Good Neighbor Policy	Draft Good Neighbor Policy. Distribute Good Neighbor Policy. Commission appoints a neighborhood dispute committee.	Immediate Immediate 12/31/98
Technical Assistance & Education	Research costs of developing education materials. Write technical assistance materials. Develop list of technical experts willing to consult with county and landowners.	Immediate 6/1/99 6/1/99
Tax Relief For Agricultural Producers	Commissioners work with lobbyist and legislators to draft a bill. Commissioners, in conjunction with school districts, study fiscal impacts of proposal.	Immediate 12/31/98

Funding Mechanisms	Recommended Actions	Timeline
<ul style="list-style-type: none"> • Parks district • Bonds • Raising money from private foundations • Open Space District • Revolving Loan Fund • Leveraging Acquisition Funds 	<p>Funding tools that can be applied immediately but require local action</p> <p>Commission appoints research on legalities of waiver for agricultural producers in a parks district Commissioners ask for study of public acceptance of different funding mechanism. Commission forms or encourages to form a non-profit corporation to raise funds from private foundations (see recommended actions under Transfer of Development Rights). Planning Board researches idea of Leveraging Funds and presents recommendation to Planning Board and Commission to initiate a pilot project in county.</p>	<p>4/1/99 4/1/99 12/31/98 4/1/99</p>
<ul style="list-style-type: none"> • Bed Tax • Real Estate Transfer Tax • General Fund • Rental Car Tax • Open Space Impact fees 	<p>Funding tools requiring legislative action:</p> <p>Commissioners and county-hired lobbyist support specific legislation Commissioners ask for study of public acceptance of different funding mechanism. Study legality of implementing at the local level, or whether state-wide legislation required..</p>	<p>Immediate 4/1/99 4/1/99</p>
<ul style="list-style-type: none"> • Habitat Montana • Open Space District • Land Donations • Revolving Loan Fund with Deed Restrictions • Farmland Protection Program • Coal Trust Fund 	<p>Other funding mechanisms that could benefit from actions listed above (see Funding Mechanisms section for more details):</p> <p>(other funding mechanisms are listed in Appendix G)</p>	

Other Ideas	Recommended Actions	Timeline
Coordinator	Commission to hire Open Space Coordinator for County	Immediate
Survey	Poll Gallatin County residents on acceptance of different tools and funding mechanisms	4/1/99
Legal Research	Research which tools and funding mechanisms can legally be applied in the county, and which require legislative action at the state level.	4/1/99
Lobbyist	Commission hire a lobbyist who can help draft legislation and lobby for open space at the state level.	Immediate
Maps	Produce a series of maps showing build-out scenarios that depict potential growth patterns with and without the implementation of open space preservation tools. Use maps to develop and implement public outreach campaign to encourage citizen participation in planning.	8/1/99 9/1/99
Open Lands Advisory Committee	Planning Board appoints a committee of Gallatin County citizens to follow-through with recommendations of this report.	Immediate

APPENDIX A

GALLATIN COUNTY OPEN SPACE TASK FORCE LIST OF MEMBERS
--

<u>Name</u>	<u>Location</u>	<u>Field</u>
Nick Salmon, Coordinator	Bozeman	Architecture
Archie Alexander	Sypes Canyon	Law/GCPB*
Terry Baldus	Bozeman	Parks/Recreation
Bill Brewster	Belgrade	Publishing/Journalism
Gene Cook	Bozeman	Real estate development
Dick Flikkema	Churchill	Agricultural production/GCPB*
Mike Lane	Three Forks	Agricultural production
Robert Lee	Bozeman	Planning
Terry Lonner	Bozeman	Wildlife biology/Video production
Carmen McSpadden	Bozeman	Homemaker/GCPB*
Tom Milesnick	Dry Creek	Agricultural production
Grace Morgan	Springhill	Fiber Arts/Weaving
Fred Norman	Three Forks	Retail
Dennis Phillippi	Bozeman	Facilitation
Ray Rasker	Bozeman	Economics
Ramon White	Gallatin Gateway	Agricultural production

*Gallatin County Planning Board member.

Technical assistance provided by:

R. Dale Beland AIA, AICP Gallatin County Planning Director
Lanette Windemaker, AICP Gallatin County Manager-Long Range Planning

APPENDIX B

OUTREACH AND RESEARCH BY TASK FORCE

Throughout the one-year effort, the Task Force maintained a high level of outreach to the citizens of Gallatin County. The outreach included a specific emphasis on the agricultural community and landowners with direct mailings to members of agricultural groups, and public meetings being held at various rural locations throughout Gallatin County. This outreach gave the Task Force specific feedback about concerns, ideas, and support. This planning process enabled the Task Force to reach conclusions about options for the definition, identification, protection, acquisition and/or preservation of open space and its attendant uses.

The review of open space preservation techniques included an extensive review of literature (see Appendix C) and an exhaustive search throughout the country for working preservation programs (see Appendix D). Outreach to obtain feedback from a variety of community members was accomplished through public meetings, presentations, information brochures, mailings, surveys, information booths, and one-on-one discussions (see following pages in this Appendix). Completion and submission of the Task Force recommendations to the Gallatin County Planning Board, as reflected by this report, will complete the last phase in the planning process with public hearings.

Outreach Contacts

Agricultural Preservation Association	Gallatin County Planning Roundtable
Belgrade City Commission	Gallatin County Winter Fair
Belgrade City-County Planning Board	Gallatin Farm Bureau
Bozeman City Commission	Gallatin Pork Producers
Bozeman City-County Planning Board	Gallatin Sheep Producers
Chamber of Commerce Lead Group	Gallatin Valley Engineers and Architects
Dairy Herd Improvement Association	Gallatin Valley Land Trust
Gallatin Beef Producers	Gallatin Valley Potato Producers
Gallatin County Bar Association	Manhattan Town Council
Gallatin County Fair	Southwest Building Industry Association

CITIZEN FEEDBACK FORM

GALLATIN COUNTY OPEN SPACE TASK FORCE PUBLIC PARTICIPATION SUBGROUP

The Open Space Task Force has drafted a working definition of open space that indicates uses and values. Please indicate what values you assign to each, and add any other uses we might have missed.

	Low					High
Open Space is land used or valued (in random order):						
for renewable and non renewable resource production farming, ranching, timber harvest, etc.	0	1	2	3	4	5
for environmental resource management wildlife habitat, wetlands, flood plains, stream corridors hunting, fishing, soil conservation, significant natural features, geologic hazard areas, etc.	0	1	2	3	4	5
for recreation trails, lakes, rivers, parks, etc.	0	1	2	3	4	5
for reserved areas for future development	0	1	2	3	4	5
for visual aspects and view shed values	0	1	2	3	4	5
for it's historical, cultural, and/or archeological significance historic sites, cultural heritage, archeological significance, etc.	0	1	2	3	4	5

What is open space to you?

The Task Force has also prepared a series of goals for addressing open space issues in our community. Please indicate what values you assign to each.

	Low					High
Open Space Goals (in random order):						
Support the continuation of productive and profitable agriculture to include the right to farm/ranch, manage timber and wildlife, protection of surface and subsurface water rights, and the use of incentives to protect agricultural lands.	0	1	2	3	4	5
Limit suburban sprawl and minimize government costs by recognizing the uniqueness of each of our present communities and using their services to the best advantage.	0	1	2	3	4	5
Support options for the maintenance and management of natural resources; including viewsheds, water quality and quantity, forests, grasslands, and fish and wildlife habitats.	0	1	2	3	4	5
Maximize recreational potential that is compatible with private property rights.	0	1	2	3	4	5

What goals do you have for addressing open space issues in our community?

The Task Force is developing an implementation strategy for a number of tools which address open space issues in our community. Please indicate the values you assign to each.

	Low					High
Open Space Tools (in random order):						
1. Strengthen Existing Right to Farm laws	0	1	2	3	4	5
2. Create a Good Neighbor Policy for Conflict Resolution	0	1	2	3	4	5
3. Promote Conservation Easements	0	1	2	3	4	5
4. Amend the Existing County (master) Plan	0	1	2	3	4	5
5. Encourage Cluster Land Use	0	1	2	3	4	5
6. Create a Technical Education, Assistance & Resource Team	0	1	2	3	4	5
7. Voluntary Zoning Districts, including Agricultural Districts	0	1	2	3	4	5
8. Transfer of Development Rights	0	1	2	3	4	5
9. Examine the Subdivision Process	0	1	2	3	4	5
10. Tax Relief for Agricultural Producers	0	1	2	3	4	5
11. Urban Growth Boundary	0	1	2	3	4	5
12. Purchase of Development Rights & Land	0	1	2	3	4	5
13. Public & Private Land Banking	0	1	2	3	4	5
14. Community Supported & Value Added Agriculture	0	1	2	3	4	5
15. Open Space Funding Mechanisms	0	1	2	3	4	5

What other tools do you feel we should be investigating?

How would you fund these open space tools?

Please indicate any other issues regarding open space concerns in Gallatin County that we should be addressing:

Gallatin County Open Space Task Force

Funding Mechanisms

Some of the tools identified by the Task Force for the protection of open space and agriculture in Gallatin County require funding (for example, the purchase of development rights from willing sellers). Listed below, in no particular order of importance, are some ideas on how to generate funds. These ideas come from a variety of sources, including members of the Task Force, public comments to the Task Force, and a review of what other states have done. Some of these mechanisms may work for us, and some may not.

Instructions: Please review this list, mark with an the ones you like. If you have ideas that we've missed, or resources we should know about, please send this sheet and your comments to:

Open Space Task Force
Gallatin County Planning Department
311 West Main, #200
Bozeman, Montana 58715
Phone: 582-3130

THANK YOU -- Your Comments are Extremely Important!

Funding ideas that can be applied immediately

real estate transfer tax -- on a graduated scale, based on the value of the property being sold

automobile license plate -- tax the sale of license purchases and earmark tax for open space

general fund -- compete for state-wide appropriations (general fund), earmarking some for open space

bonds -- sale of open space bonds (in California, bonds are financed through fees for personalized license plates, income tax check-offs and a tax of the sale of tobacco)

land donations -- allow county to accept donation of private property

Habitat Montana -- a state-wide program established by the legislature (HB 526) mandates that a portion of fees collected from state hunting licenses be earmarked for conserving habitat on private lands through easements, leasing, or purchase. This program generates about \$2.8 million per year and is aimed at "important habitat that is seriously threatened" and emphasizes riparian areas, intermountain grasslands, and sagebrush grasslands.

revolving loan fund – used to purchase properties which are then sold to buyers who agree to manage, develop, or restore the properties in accordance with deed restrictions.

differential mill levy – depending on the use of the land (a “use value” tax).

parks district – initially approved by the county commission, with all funds administered by an elected parks commission. Revenue can be generated in a variety of ways, including resort taxes, mill levy, donations, impact fees, the coal trust fund, etc.

Farmland Protection Program of the 1996 Farm Bill – provides funding to state and local government for the purchase of conservation easements if landowners keep their land in agriculture.

Tax relief ideas

reduced property tax in exchange for giving up development rights (and, if landowner converts from open space/agricultural use to development, then tax retroactively)

stop taxing 20-acre parcels as agriculture (problem: might encourage people to sell these properties for development)

property tax -- reduce or eliminate personal property tax for agricultural producers

exempt agricultural related buildings (e.g. equipment shed) from taxation

Ideas that most likely require legislation

bed tax – options: (1) using part of the locally collected bed tax, or (2) increasing the bed tax above the current 4% and using the extra amount.

impact fees – use portion of impact on new development for open space

tobacco lawsuit settlement -- use funds from tobacco lawsuit settlement for open space funding

differential property tax -- on second home owners, for example

coal tax trust fund -- use the state-wide coal tax trust fund for purchase of open space and development rights

gambling tax – including lottery

sale of ‘open space’ vanity plates (or, tax all vanity plates and earmark tax for open space protection)

voluntary income tax check-off

tobacco tax -- (in Texas a tax of one cent per package produces \$30 million per year for open space)

county-wide tax on the construction of new roads and earmark for open space

Additional ideas/comments:

SUMMARY OF PUBLIC COMMENTS AND SURVEYS

County (master) Plan

- Need a solid land use plan
- Plan responsible development before we lose agriculture, habitat, and degrade streams and rivers by inappropriate development
- Master Plan has no teeth or weight
- Master Plan needs real implementation tools
- Respect and value needed for continuity and interaction of special features
- Encourage long-range plans
- Need a working master plan

Sprawl/Costs of Development

- Transfer development rights to location near services
- Large developments should pay for impacts and have city services
- Increased density is better than sprawl
- Give incentives for cluster
- Require clustering
- Development should be close to towns
- Need Urban Growth Boundary
- Sprawl is not cheaper for governments or property owners
- Moratorium on rural subdivisions until this issue is addressed

Identification

- Identify land for preservation and protection
- Prioritize land for purchase
- Don't give incentives to land already protected

Agricultural Economics

- Personal property tax relief
- Property tax relief
- Subsidize agricultural production
- Spend county/state money on agricultural land
- Agricultural economic development
- Business community needs to understand community value of agricultural land
- Keep agriculture as viable industry
- Agricultural producers need to market locally
- Change inheritance tax laws

Agricultural Conflicts

- Roads to residential development adversely impact agricultural producers and land
- Development impacts on irrigation ditches and water rights.

Funding

Willing to pay
Needs to be fair and equitable
Realtor – if the real estate tax was earmarked for Open Space I think the realtors would support it
Real estate transfer tax needs to not penalize first time or low income; but it is not equal because not everybody pays
Support for a bond based on dwelling units, \$25 a year/dwelling unit
Matching funds
Tax relief to farmers
Paying too much tax already
Impact fees would be effective way of offsetting development impacts.
Funding from government
Buy fishing or hunting license

Techniques

Everything is a great idea, move forward
“Good neighbor” a long-term educational project
Conservation easements need state benefit for donation to further the promotion of voluntary donations
Technical Assistance would be a waste of time and money, user should pay for it
Volunteer zoning districts are unlikely to happen and have problems
Right to Farm Laws are important, water rights and weeds
Clustering useful but it depends on how it would work

Private property rights

Protect private property rights
Land is money, pay for development rights

Land ownership

Retain land in private ownership
Government should not buy land, would remove it from the tax rolls

Quick Survey (106):

What are your three favorite types of open space in Gallatin County?

River corridors	62
Wildlife habitat	58
Cultivated lands	39
Wetlands	35
Grazing areas	32
Timber lands	27
Park lands	23
Recreation areas	20

Historic sites	17
Specific views	7
Other (trails)	1

Are you willing to help pay to protect open space?

Yes	56
Maybe	35
No	9

Citizen Feedback Form (31):

Open Space is land used or valued (*highest ranking - 5*)

- 28 for environmental resource management,
- 20 for renewable and non renewable resource production,
- 15 for recreation,
- 9 for it's historical, cultural, and/or archeological significance,
- 8 for visual aspects and viewshed values, and
- 2 for reserved areas for future development.

Goals (*highest ranking - 5*)

- 24 Support options for the maintenance and management of natural resources; including viewsheds, water quality and quantity, forests, grasslands, and fish and wildlife habitats.
- 21 Support the continuation of productive and profitable agriculture to include the right to farm/ranch, manage timber and wildlife; protection of surface and subsurface water rights, and the use of incentives to protect agricultural lands.
- 20 Limit suburban sprawl and minimize government costs by recognizing the uniqueness of each of our present communities and using their services to the best advantage.
- 14 Maximize recreational potential that is compatible with private property rights.

Techniques (*highest ranking - 5*)

- 17 Tax Relief for Agricultural Producers
- 16 Conservation Easements
- 16 County (master) Plan
- 16 Voluntary Zoning Districts
- 16 Subdivision Process
- 15 Right to Farm Statement
- 13 Cluster Development
- 12 Urban Growth Boundary
- 12 Purchase of Development Rights or Land
- 10 Community Supported Agriculture

- 10 Technical Education/Assistance Program
- 10 Transfer of Development Rights
- 10 Good Neighbor Policy
- 6 Private and Public Land Banking

Funding Mechanisms Survey (28):

- 21 Land donations
- 18 Habitat Montana
- 16 Bonds
- 12 Real estate transfer tax
- 11 Parks district
- 11 Farmland Protection Program
- 9 Automobile license plates
- 9 Revolving loan fund
- 8 General fund
- 4 Differential mill levy

- 13 Property tax relief
- 13 Personal property tax relief
- 8 Stop taxing 20-acres parcels as agriculture
- 8 Exempt agricultural related buildings

- 17 Income tax check-off
- 16 Coal tax trust fund
- 13 Tobacco tax
- 13 Automobile vanity plates
- 12 Gambling tax
- 11 Impact fees
- 9 Bed tax
- 7 Tobacco lawsuit settlement
- 6 Tax on construction of new roads
- 2 Differential property tax

*As of 7/9/98

