

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 24 A-B

DATE: December 2, 2003

STAFF: John Stokes

SUBJECT

Items Relating to Participation in Help Preserve Open Space Revenue Sharing with Windsor and Johnstown.

RECOMMENDATION

Staff, the Natural Resources Advisory Board and Planning and Zoning Board recommend adoption of the Resolutions.

FINANCIAL IMPACT

Figures provided by Larimer County using tax revenues and population from 2001 indicate that the total amounts disbursed in 2001 to Windsor and Johnstown would have been \$11,827 and the total revenues lost to Fort Collins would have been \$8,429. The number in future years would be based on the proportion of Larimer County population and Help Preserve Open Space revenues attributable to the respective Larimer County portions of Windsor and Johnstown.

EXECUTIVE SUMMARY

- A. Resolution 2003-139 Approving and Adopting an Updated Natural Areas Policy as a Policy Element of the City's Comprehensive Plan.
- B. Resolution 2003-140 Authorizing an Intergovernmental Agreement with Larimer County and Larimer County Municipalities For Sharing County Help Preserve Open Space Tax Revenue with Windsor and Johnstown.

This Natural Areas Policy update and Intergovernmental Agreement (IGA) allow the municipalities of Loveland, Fort Collins, Estes Park, Berthoud, Timnath, and Wellington to relinquish to Windsor and Johnstown a portion of the minimum 55% and maximum 65% municipal share of revenue from the County wide sales tax for parks and open space ("Help Preserve Open Space" or "HPOS"). By entering into the IGA, Loveland, Fort Collins, Estes Park, Berthoud, Timnath and Wellington each request Larimer County to pay a portion of the HPOS revenues to Windsor and Johnstown in a proportion determined using the formula used to apportion the municipal share of those revenues.

BACKGROUND

In 1995 the voters of Larimer County approved a county wide sales tax for parks and open spaces. The Help Preserve Open Space tax was extended by the voters on November 2, 1999. The initiative requires that a minimum of 55% and a maximum of 65% of the gross revenue, less collection and distribution costs, be distributed to municipalities located wholly within Larimer County. Although the municipalities of Windsor and Johnstown are not wholly incorporated within Larimer County, they are growing into Larimer County. Through participation in the IGA, Fort Collins and other municipalities direct the County to pay a portion of their revenues to Windsor and Johnstown.

The portion of the revenue paid to Windsor and Johnstown will be based upon the population formula or the sales tax formula as specified for the land area in those municipalities that is within Larimer County.

The County agrees to create bookkeeping accounts for Johnstown and Windsor similar to the accounts required for the other municipalities, and agrees to pay the revenue directly to Windsor and Johnstown.

Paragraph 7 of the IGA reads: "The portion of the revenue so paid to Windsor and Johnstown shall be calculated as required in The Initiative [Help Preserve Open Space] for division among the municipalities and shall be based upon the population formula or the sales tax formula as specified in The Initiative for that land area only within Larimer County."

Paragraph 6 of The Initiative reads: "...that the revenue...attributable...to each municipality within Larimer County shall be determined at least annually in accordance with one of two formulas as described in (i) and (ii); whichever attributes the larger amount of revenue to that municipality; (i) Population formula: the amount deemed attributable to a municipality shall be that amount which bears the same ratio the population within said municipality bears to the total population of the municipalities of Larimer County; or (ii) Sales tax collection formula: the amount deemed attributable to a municipality shall be that amount which bears the same ratio the amount of state sales tax revenue collected within said municipality bears to the total amount of state sales tax revenue collected in the municipalities of Larimer County whichever benefits that municipality most..."

The City's Natural Areas Policy is also being amended to specifically recognize and include the use of City HPOS revenues for land conservation in the Windsor and Johnstown areas. The City is required to expend its share of HPOS funds in accordance with the Natural Areas Policy.

The Natural Resources Advisory Board considered the Policy amendment and the IGA at its meeting on November 5, 2003 and recommended approval of the related Resolutions. The Planning and Zoning Board considered the Policy update and IGA at its regular meeting on November 20, 2003, and also recommended approval.

RESOLUTION 2003-139
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING AND ADOPTING AN UPDATED NATURAL AREAS POLICY
AS A POLICY ELEMENT OF THE CITY'S COMPREHENSIVE PLAN

WHEREAS, on April 1, 2003, the City Council adopted Resolution 2003-051, adopting an updated Natural Areas Policy as a policy element of the City's Comprehensive Plan and approving a Conservation Focus Areas Map as a general guide for the implementation of the Updated Natural Areas Policy, so as to benefit and advance the interests of the citizens of Fort Collins; and

WHEREAS, as a result of discussions amongst Larimer County and the municipalities in Larimer County regarding the sharing of County Help Preserve Open Space ("HPOS") tax revenues with Windsor and Johnstown, which have annexed into Larimer County since the adoption of the County tax measure, those entities have negotiated an Intergovernmental Agreement Concerning County Open Lands Sales Tax Distributions (the "IGA"); and

WHEREAS, City staff has recommended that the Natural Areas Policy be updated to acknowledge and endorse the use of City HPOS tax revenues in order to further land conservation in Larimer County; and

WHEREAS, in order to allow for the sharing of City HPOS tax revenues with Windsor and Johnstown, pursuant to the IGA, it is necessary for the City to modify the Natural Areas Policy to include the use of HPOS tax revenues pursuant to the IGA; and

WHEREAS, although the Conservation Focus Areas Map adopted by the City Council in conjunction with the Natural Areas Policy in April does not identify land conservation of areas in the Johnstown vicinity as of interest and concern to the City, staff believes the encouragement of land conservation in the Johnstown area advances the interests of the City and will be of benefit to the citizens of Fort Collins because it will facilitate the acquisition and conservation of community separators, will assist in the protection of the I-25 corridor viewshed, and will advance other conservation values in the Fort Collins region; and

WHEREAS, staff has developed the proposed amended Natural Areas Policy attached hereto as Exhibit "A" (the "Updated Natural Areas Policy") in order to accomplish the changes required in order to allow the sharing of HPOS tax revenues with Windsor and Johnstown, pursuant to the IGA; and

WHEREAS, the Natural Resources Advisory Board considered the IGA and proposed policy change on November 5, 2003, and voted to recommend approval of the same; and

WHEREAS, the Planning and Zoning Board considered the proposed IGA and policy change on November 20, 2003, and voted to support the IGA and related change in policy; and

WHEREAS, the City Council has determined that it is in the best interest of the City and beneficial to the citizens of Fort Collins to provide for the distribution of a portion of the City's

HPOS tax revenues to advance land conservation in the Windsor and Johnstown areas, and to approve the Updated Natural Areas Policy, and adopt it as an element of the City's Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The Updated Natural Areas Policy as shown on Exhibit "A" attached hereto and incorporated herein by this reference, is hereby approved, to be implemented together with the Conservation Focus Area Map previously approved by the City Council as a general guide for the implementation of the Updated Natural Areas Policy, so as to benefit and advance the interests of the citizens of Fort Collins.

Section 2. The Updated Natural Areas Policy as shown on Exhibit "A" attached hereto and incorporated herein by this reference, is hereby adopted as an element of the City's Comprehensive Plan to supersede the previously adopted Natural Areas Policy.

Passed and adopted at a regular meeting of the City Council held this 2nd day of December, A.D. 2003.

Mayor

ATTEST:

Chief Deputy City Clerk

Natural Areas Policy
5.0 POLICY PLAN

This chapter looks to the future of natural areas in Fort Collins. Its intent is to (1) summarize pertinent facts about the conservation of local natural areas through a statement of **Findings**, (2) establish a community vision for natural areas in a statement of **Goals and Objectives**, and (3) direct future City programs to achieve that vision with specific **Policies**.

The Goals, Objectives and Policies require adoption by the Planning and Zoning Board and approval by City Council. Once adopted, these statements form the foundation of the City's position and approach to natural areas. The Goals, Objectives, and Policies provide the official direction to the City of Fort Collins regarding natural and will be used to guide the development of master plans, work plans, City programs, budget recommendations and other implementation strategies.

FINDINGS

The following findings regarding local natural areas are based on an inventory of natural areas, a review of existing policies and programs, research into the value of natural areas, and the comments of citizens and organizations.

1. Fort Collins, the surrounding Growth Management Area, and the broader regional area contain remarkably diverse natural areas that (1) provide habitat for the conservation of plants, animals, and their associated ecosystems, (2) aid in the management of stormwater, (3) help clean the water, and (4) provide sites for scientific research, education, art, and recreation, among other values.
2. The citizens of Fort Collins care about local and regional natural areas and expect their City government to take appropriate action to protect and preserve sensitive natural sites and ecosystems.
3. There are many opportunities and challenges that demand a multi-faceted approach to the protection and preservation of natural areas in Fort Collins and regionally.
4. Fort Collins has begun to protect, acquire, and manage land and water resource areas to protect or enhance their natural values.
5. As a home rule city, Fort Collins has the ability to regulate activities in natural areas. The City has used this authority in the past in the areas of land use, pollution prevention, and nuisance control.
6. Land use planning is being incorporated as one of the tools used in Fort Collins to protect natural habitat and features. City Plan, the City of Fort Collins comprehensive plan, communicates our values of environmental protection and

stewardship. The regulatory arm of the City Plan is the Fort Collins Land Use Code, which provides natural habitat and features protection standards along with criteria for site planning and design. The implementation of these standards provides opportunity for better integration of natural habitats and features with planned developments.

7. Several local natural areas support populations of plants and animals that are classified as endangered, threatened, or of special concern at the State or Federal level.
8. Natural areas offer outstanding opportunities for environmental education, nature interpretation, and outdoor recreation.
9. Management and maintenance programs have an important effect on both public and private natural areas. Human use, construction of facilities, landscaping, weed control, and ongoing maintenance activity may all impact the resource values of natural areas.
10. Although few local and regional natural areas are pristine, many of these areas support a high diversity of native plants and animals. Some natural areas have more severe problems with accumulated trash or debris, soil erosion, and undesirable vegetation, and could be enhanced to increase natural resource values.
11. Several species of exotic plants have invaded local and regional natural areas and threaten to out compete native plant communities and reduce wildlife habitat values.
12. Natural areas can be sources of conflict if there are negative interactions between people and wildlife, or if areas are perceived as unattractive or neglected. Acceptable solutions can be devised by involving citizens in the development of management plans, addressing potential conflicts in site design, and combining public education, habitat management, and wildlife population control.
13. In some areas, additional information is needed to assess the status and values of local and regional natural areas, and to evaluate the results of programs to protect or enhance their values.
14. Protection and preservation of natural areas is consistent with and complements other City priorities.
15. While there is opportunity to integrate natural areas conservation into existing City programs, meeting these new needs will require a broader definition of program goals, more integrated planning, and additional resources.
16. Protection and preservation of local and regional natural areas complements the activities of a variety of other governmental entities, including, Larimer County, Poudre School District, Colorado Division of Wildlife, Colorado State University,

Colorado Department of Parks and Outdoor Recreation, U.S. Fish and Wildlife Service, U.S. Forest Service, Environmental Protection Agency, and others.

17. Citizens, landowners, and private organizations want to be actively involved in decisions and programs that shape the future of Fort Collins natural areas. They become involved in natural areas protection in a variety of ways: by protecting natural areas on private lands; by donating land, water, time, or expertise; and by participating in public decisionmaking. The interest and involvement of the community is a necessary resource for the protection of natural areas.

GOALS AND OBJECTIVES

Based on the findings above, the following Goals and Objectives are recommended to capture a community vision for natural areas in Fort Collins.

Goal

Preserve and protect natural areas within Fort Collins, the Growth Management Area, and regionally, to provide habitat essential to the conservation of plants, animals, and their associated ecosystems and to benefit the citizens of Fort Collins by providing opportunities for education, scientific research, nature interpretation, art, fishing, wildlife observation, hiking, and other appropriate recreational activities.

Objectives

1. Establish a system of publicly-owned natural areas to protect the integrity of critical conservation sites, protect corridors between natural areas, preserve outstanding examples of Fort Collins' diverse natural heritage, and provide a broad range of opportunities for educational, interpretive, and recreational programs to meet community needs.
2. Integrate natural areas into the developed landscape by directing development away from sensitive areas and using innovative planning, design, and management practices.
3. Provide diverse educational, interpretive, and recreational programs to promote understanding and enjoyment of natural areas by the Fort Collins community.
4. Develop effective partnerships between the City, other governmental and non-governmental organizations, and the private sector for the protection and preservation of natural areas.
5. Develop and maintain a data inventory on local and regional natural areas to aid the City and the public in decisions about these areas, and management of publicly-owned lands.

POLICIES

The following policy statements will guide actions by the City of Fort Collins to achieve the recommended goals and objectives for natural areas. Once adopted by the Planning and Zoning Board and approved by City Council, the policy statements are official statements of intent that set a future course of action for the City. As such, the policies give direction for land use and conservation decisions, and for the development of master plans, work plans, City programs, budget recommendations, and other implementation strategies. Due to budget limitations, City Council priorities, and other factors, not all policies will be implemented at the same time.

Definition

Natural areas are defined as areas of land or water that contain or support the continued existence of geological, paleontological, ecological, or other natural features that are (1) important to the conservation of natural resources that are classified as endangered or threatened, sensitive to impact from human activity, or otherwise in need of protection; (2) important to the conservation of natural resources that provide environmental protection, recreational, educational, scientific, aesthetic, or economic benefits; and (3) unique or rare examples of our natural heritage.

Public Land Management

PL-1 Acquire and manage land and water to preserve, protect, and enhance natural areas.

PL-2 Implement a system of land conservation acquisition considerations by examining the following factors (listed in no priority order).

- ◆ Willingness of current property owner to sell
- ◆ Ecological value and importance
- ◆ Appropriate recreation opportunities
- ◆ Costs of acquisition
- ◆ Long-term stewardship costs
- ◆ Expected threat to the integrity of the natural resource values of a property (development, agricultural conversion, etc.)
- ◆ Geographic proximity to Fort Collins

PL-3 Coordinate natural areas and other open land programs within the City and region, *including coordination and partnerships with municipalities who participate in Larimer County's Help Preserve Open Space tax and who are signatories to the Intergovernmental Agreement Concerning County Open Lands Sales Tax Distribution*, to maximize public benefit and explore ways of integrating natural areas protection into ongoing City programs.

PL-4 Manage, maintain, and enhance public natural areas to ensure the ongoing conservation of plants and animals that are in need of protection and their associated ecosystems; control the invasion and spread of undesirable nonnative plants and animals; improve aesthetics; and provide opportunities for public use.

PL-5 Manage conflicts between people and natural areas through site design, public information and education, habitat manipulation, and plant and animal population management techniques.

PL-6 Involve citizens in planning the management of public natural areas.

Private Land Management

PR-1 Use the City's regulatory powers to (1) direct growth away from sensitive natural features, (2) encourage the integration of natural areas into the developed landscape, and (3) preserve and protect the resources and values of natural areas.

PR-2 Encourage and assist efforts by private landowners and organizations to integrate natural areas into new development and to protect, restore, or enhance privately-owned natural areas.

Recreation, Interpretation, and Education

RE-1 Provide opportunities for outdoor recreation, formal and informal education, and interpretive programs on local natural features to the community.

Cooperation With Others

CO-1 Seek the cooperation and assistance of citizens, businesses, community groups, conservation organizations, and governmental agencies in the development and implementation of programs to protect and preserve local natural areas.

Public Information

PI-1 Collect, maintain, and distribute up-to-date information on the location, values, status, and management needs of local and regional natural areas.

Program Funding

PF-1 Seek alternative funding sources to implement natural area policies and programs, including private, State, and Federal grants, and donations of money, property, and in-kind services.

Program Evaluation

PE-1 Report periodically on the status of natural areas in the community.

RESOLUTION 2003-140
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING AN INTERGOVERNMENTAL
AGREEMENT WITH LARIMER COUNTY AND
LARIMER COUNTY MUNICIPALITIES
FOR SHARING COUNTY HELP PRESERVE OPEN SPACE
TAX REVENUE WITH WINDSOR AND JOHNSTOWN

WHEREAS, on April 1, 2003, the City Council adopted Resolution 2003-051, adopting an updated Natural Areas Policy as a policy element of the City's Comprehensive Plan and approving a Conservation Focus Areas Map as a general guide for the implementation of the Updated Natural Areas Policy, so as to benefit and advance the interests of the citizens of Fort Collins; and

WHEREAS, as a result of discussions among Larimer County and the municipalities in Larimer County regarding the sharing of County Help Preserve Open Space ("HPOS") tax revenues with Windsor and Johnstown, which have annexed into Larimer County since the adoption of the County tax measure, those entities have negotiated an Intergovernmental Agreement Concerning County Open Lands Sales Tax Distributions (the "IGA"); and

WHEREAS, the IGA calls for Windsor and Johnstown to receive a proportional share of the HPOS tax revenues, based on their respective populations and tax revenues from within Larimer County, which shares shall be paid from the total non-County share of the HPOS revenues that would otherwise be shared amongst Fort Collins, Loveland, Estes Park, Berthoud, Timnath and Wellington; and

WHEREAS, the City Council has approved, through its adoption of Resolution 2003-141, an amendment to the Natural Areas Policy referenced above, in order to acknowledge and endorse the use of City HPOS tax revenues in order to further land conservation in Larimer County; and

WHEREAS, the encouragement of land conservation in the Windsor and Johnstown areas would advance the interests of the City and of benefit to the citizens of Fort Collins because it will facilitate the acquisition and conservation of community separators, will assist in the protection of the I-25 corridor viewshed, and will advance other conservation values in the Fort Collins region; and

WHEREAS, the form of the IGA, which has been approved and executed by several of the participating entities, is attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the Natural Resources Advisory Board considered the IGA and proposed policy change on November 5, 2003, and voted to recommend approval of the same; and

WHEREAS, the Planning and Zoning Board considered the proposed IGA and policy change on November 20, 2003, and voted to support the IGA and related change in policy; and

WHEREAS, the City Council has determined that it is in the best interest of the City and beneficial to the citizens of Fort Collins to provide for the distribution of a portion of the City's HPOS tax revenues to advance land conservation in the Windsor and Johnstown areas, by entering into the IGA.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The Council hereby finds that the IGA, as shown on Exhibit "A" attached hereto and incorporated herein by this reference, will advance the interests of the City and be of benefit to the citizens of Fort Collins because it will facilitate the acquisition and conservation of community separators, will assist in the protection of the I-25 corridor viewshed, and will advance other conservation values in the Fort Collins region.

Section 2. The Mayor is hereby authorized to enter into the IGA, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney determines to be necessary or appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Passed and adopted at a regular meeting of the City Council held this 2nd day of December, A.D. 2003.

Mayor

ATTEST:

Chief Deputy City Clerk

**INTERGOVERNMENTAL AGREEMENT CONCERNING COUNTY OPEN LANDS
SALES TAX DISTRIBUTION**

This Agreement made this _____ day of _____, 2002, by and among The Municipalities of Loveland, Fort Collins, Estes Park, Berthoud, Timnath, Wellington Windsor and Johnstown and Larimer County, Colorado as follows:

Recitals

1. The voters of Larimer County, on November 7, 1995 approved a county wide sales tax for parks and open space, and such tax was extended by the voters on November 2, 1999; (The Initiative) and
2. The Initiative for the county wide tax required among other things that a minimum of 55% of the gross revenue, less collection and distribution costs, be distributed to the municipalities located entirely within Larimer County including, Loveland, Fort Collins, Estes Park, Berthoud, Timnath, Wellington; and
3. The Municipalities of Windsor and Johnstown now have Larimer County land area within their municipal boundaries; and,
4. The Municipalities of Loveland, Fort Collins, Estes Park, Berthoud, Timnath, and Wellington wish to relinquish a portion of the share of the revenue they receive from The Initiative to Johnstown and Windsor, based upon the allocation formulas contained in The Initiative for that portion of Johnstown and Windsor located within Larimer County; and
5. Loveland, Fort Collins, Estes Park, Berthoud, Timnath, and Wellington request Larimer County to pay the funds to Windsor and Johnstown under the terms of The Initiative in the same manner as payments are made to the other municipalities.

Agreement

6. The municipalities of Loveland, Fort Collins, Estes Park, Berthoud, Timnath, Wellington agree to relinquish to Windsor and Johnstown a portion of their minimum 55% municipal share of revenue under The Initiative upon condition that Windsor and Johnstown shall use the funds for the purposes specified in The Initiative.
7. The portion of the revenue so paid to Windsor and Johnstown shall be calculated as required in The Initiative for division among the municipalities and shall be based upon the population formula or the sales tax formula as specified in The Initiative for that land area only within Larimer County.
8. The County agrees to create bookkeeping accounts for Johnstown and Windsor similar to the accounts required for the other municipalities by The Initiative and to pay directly to Windsor and Johnstown the revenue called for by this Agreement, with the understanding that

the total revenue to be paid to all municipalities shall remain as the amount would be without this Agreement.

9. All parties agree and understand that they are bound by all applicable provisions of The Initiative.

LARIMER COUNTY, COLORADO

DATED: _____

By: _____
Chair

ATTEST:

Deputy Clerk

DATE: _____

APPROVED AS TO FORM:

County Attorney

CITY OF LOVELAND

DATED: _____

By: _____
Mayor

ATTEST: _____

City Clerk

DATE: _____

APPROVED AS TO FORM:

City of Loveland Attorney

CITY OF FORT COLLINS

DATED: _____

By: _____
Mayor

ATTEST: _____

City Clerk

DATE: _____

APPROVED AS TO FORM:

City of Fort Collins Attorney

TOWN OF ESTES PARK

DATED: _____

By: _____
Mayor

ATTEST: _____

Town Clerk

DATE: _____

APPROVED AS TO FORM: _____

Town of Estes Park Attorney

TOWN OF BERTHOUD

DATED: _____

By: _____
Mayor

ATTEST:

Town Clerk

DATE: _____

APPROVED AS TO FORM:

Town of Berthoud Attorney

TOWN OF TIMNATH

DATED: _____

By: _____
Mayor

ATTEST:

Town Clerk

DATE: _____

APPROVED AS TO FORM:

Town of Timnath Attorney

TOWN OF WELLINGTON

DATED: _____

By: _____
Mayor

ATTEST: _____

Town Clerk

DATE: _____

APPROVED AS TO FORM: _____

Town of Wellington Attorney

TOWN OF WINDSOR

DATED: _____

By: _____
Mayor

ATTEST: _____

Town Clerk

DATE: _____

APPROVED AS TO FORM:

Town of Windsor Attorney

TOWN OF JOHNSTOWN

DATED: _____

By: _____
Mayor

ATTEST:

Town Clerk

DATE: _____

APPROVED AS TO FORM:

Town of Johnstown Attorney

2001

	<u>Actual</u>	<u>Mock Distribute</u>	<u>Difference</u>
Fort			
Collins	3,323,372.21	3,314,942.77	8,429.44
Loveland	1,321,205.34	1,318,056.29	3,149.05
Estes			
Park	229,885.73	229,234.20	651.53
Berthoud	122,889.23	122,592.05	297.18
Wellington	64,589.06	64,531.68	57.38
Windsor	0.00	6,644.28	-6,644.28
Johnstown	0.00	5,945.42	-5,945.42
Timnath	5,887.12	5,882.00	5.12
	<u>5,067,828.69</u>	<u>5,067,828.69</u>	0.00
County	<u>3,565,145.58</u>	<u>3,565,145.58</u>	0.00
Total			0.00
Distributed	<u><u>8,632,974.27</u></u>	<u><u>8,632,974.27</u></u>	<u><u>0.00</u></u>
Percentage Breakdown			
Cities	58.70%	58.70%	0.00%
County	41.30%	41.30%	0.00%