



Commissioner *Marioni* moved adoption
of the following Resolution:

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EAGLE, STATE OF COLORADO

RESOLUTION NO. 2004-025

RESOLUTION APPROVING THE AMENDMENT AND RESTATEMENT OF
RESOLUTION NO. 2003-97
RESOLUTION PROVIDING FOR THE ESTABLISHMENT OF THE EAGLE COUNTY
OPEN SPACE PROGRAM, ~~CITIZENS' OPEN SPACE~~ ADVISORY COMMITTEE AND
EAGLE COUNTY OPEN SPACE FUND

g/nc

WHEREAS, on August 19, 2003, a resolution (Resolution No. 2003-97) providing for the establishment of the Eagle County Open Space Program, ~~Citizens' Open Space~~ Advisory Committee and Eagle County Open Space Fund was previously adopted by the Board of County Commissioners, County of Eagle, State of Colorado; and

WHEREAS, it was discovered that the previously adopted Resolution did not reflect the correct number of Committee members to constitute a quorum necessary to take action and transact business; and

WHEREAS, it has been discovered that certain paragraphs in the previously adopted Resolution are poorly drafted and said paragraphs should be re-written for clarification so as not to be ambiguous or confusing to the reader; and

WHEREAS, amending and restating Resolution 2003-97 is necessary for the public health, safety and welfare of the citizens of Eagle County, State of Colorado; and

WHEREAS, this Amended and Restated Resolution is intended to, and shall, supersede and replace in its entirety Resolution 2003-97; and

WHEREAS, on November 5, 2002, the voters of Eagle County approved County Ballot Referendum 1H which provides for an increase in county taxes (herein referred to as the "Open Space Tax") to establish earmarked funding for the purpose of acquiring, maintaining, or permanently preserving Open Space in Eagle County; and

WHEREAS, the purpose of Referendum 1H includes goals such as preserving wildlife habitat, protecting working farms and ranches, conserving scenic landscapes and vistas, protecting wetlands and floodplains, and providing public access points to rivers and streams and servicing future voter approved debt for the above stated purpose; and

WHEREAS, Referendum 1H provides that all proceeds of the Open Space Tax and investment income thereon shall be expended by the Eagle County Commissioners (hereinafter referred to as the "Board") for open space preservation purposes after considering the recommendations of a Citizens' Advisory Committee; and

WHEREAS, in addition to the Open Space Program authorized directly by Referendum 1H, Eagle County may, through direct county action, or in partnership with land trusts, state or federal agencies or other qualified land conservation organizations or entities, acquire and maintain open space through donation, bequest, devise, dedication, or purchase, using funding sources other than Referendum 1H, pursuant to Colorado Revised Statute 30-11-101, or by other means available to the county; and

WHEREAS, in furtherance of the purposes of Referendum 1H, and to provide for an orderly program and process for the implementation of Referendum 1H and management and protection of other open space in Eagle County for the benefit of present and future generations, it is hereby determined appropriate and in the public interest to establish: (1) an Eagle County Open Space program; (2) an Eagle County Citizens' Open Space Advisory Committee and (3) an Eagle County Open Space Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF EAGLE, STATE OF COLORADO:

THAT, as set forth and described below, there is hereby established:

1. An Eagle County Open Space Program.
2. An Eagle County Citizens' Open Space Advisory Committee.
3. An Eagle County Open Space Fund.

Section 1. Eagle County Open Space Program.

A. Implementation of program: In order to provide an administrative structure for acquiring, maintaining or permanently preserving Open Space in Eagle County, and the implementation of Referendum 1H, there is hereby established the Eagle County Open Space Program (hereinafter referred to as the "Program"). The purposes of the Program shall include, but are not limited to:

1. The acquisition and/or permanent preservation of Open Space by Eagle County or the County in partnership with other public or private entities, for inclusion in the Open Space Program, utilizing funding sources or authorities other than Referendum 1H including acquisitions by donations, bequests, devise, dedication, or purchase, pursuant to Colorado Revised Statute 30-11-101.

2. The management, maintenance, or preservation of Open Space and associated natural, pastoral, wildlife, conservation or public access values of lands, conservation easements or other interests in lands acquired by the county, alone or in association with other entities.

3. The monitoring of any lands, conservation easement, or other interests in land acquired and held by the county, alone or in association with other entities, and the enforcement of any terms, conditions, covenants, easements or other provisions pertaining to the Open Space preservation of any lands, conservation easements or interests in lands so acquired and held.

B. Administration of Open Space:

1. Lands, conservation easements or other interest in land acquired by Eagle County pursuant to the authority of Referendum 1H, or other federal or state authority, shall be managed to maintain or permanently preserve and protect the open space and associated natural, pastoral, wildlife, public access or other public values for which the land was acquired or received by the County, in accordance with rules and regulations to be promulgated by the Board.

2. Where it is determined appropriate and in the public interest, a qualified entity, such as a land trust, non-profit organization with experience in open space administration, state or federal agency, or a unit of local government in Eagle County, may be allowed by the County to hold and administer County acquired open space. In addition, County acquired property may be transferred to a qualified entity, provided the County retain a permanent and non-revocable reversionary interest in the land, conservation easement, or other interest in land that shall enable the County to resume administration or have the lands transferred back to the County in the event the administering entity ceases to exist or fails to properly administer the land designated by the Board for open space purposes.

3. Lands, conservation easements or other interests in land which are designated by the Board for permanent preservation in the Open Space Program shall remain in the Program in perpetuity unless: i) the lands or conservation easements or other interest in land is transferred to a qualified entity under paragraph (B)(2) of this resolution; or ii) a sale, conversion, exchange, or other transfer of the land, conservation easement or other interest in land is approved by a majority of the Eagle County electorate at a general election or special election called for such purpose. Notwithstanding the foregoing, any lands, conservation easements nor other interest in land acquired by the County in partnership with other entities, units of government, or other appropriate parties, may only be authorized for sale, conversion, exchange or other transfer if such action is allowed for in the instrument under which the land, conservation easement or other interest in land was conveyed to, or acquired by the County.

C. Amendment of Resolution:

The Board may amend or modify this Resolution or any condition or provision contained herein if the Board determines and declares that amending or modifying this Resolution is necessary for the public health, safety and welfare of the citizens of the County of Eagle, State of Colorado.

Section 2. Establishment of the Eagle County Citizens' Citizens' Open Space Advisory Committee.

A. Committee responsibilities and jurisdiction:

The Eagle County Citizens' Open Space Advisory Committee (hereinafter referred to as the "Open Space Advisory Committee" or "Committee") is hereby established to recommend to the Eagle County Board of County Commissioners for the Board's adoption, criteria to prioritize the selection of eligible lands for Open Space Acquisition and on any and all matters pertaining to the Eagle County Open Space Program. The Committee shall be an advisory body to the Eagle County Commissioners and shall make recommendations to the commissioners on matters pertaining to the County's Open Space Program and utilization of the Open Space Fund. Notwithstanding, the Committee shall terminate upon the exhaustion of the Open Space Fund.

1. A Citizens' Open Space Advisory Committee shall be appointed by the Board within ninety (90) days following the Board's adoption and approval of this resolution. The Committee shall consist of fourteen (14) citizen members, who shall be full-time residents of Eagle County and shall be nominated and appointed in the following manner:

a. Seven (7) individuals shall be nominated, for the Board's consideration, by the Town Councils of Red Cliff, Minturn, Vail, Avon, Eagle, Gypsum and Basalt. In addition, the Edwards Metropolitan District, Berry Creek Metropolitan District, Lake Creek Metropolitan District and Arrowhead Metropolitan District (hereinafter collectively referred to as the "Metropolitan Districts") shall collaborate and compile a list of perspective candidates and then forward said list to the Board. The Board shall appoint seven (7) individuals from the above-named towns that were either nominated or not and one (1) member from the Metropolitan District's list to serve as a member on the Citizens' Open Space Advisory Committee. Persons nominated by the above-named Town Councils shall not be paid employees of their respective governing entities. Notwithstanding, elected members may be nominated to serve on the Citizens' Open Space Advisory Committee. If any of the above named governing entities fails to nominate an individual within thirty (30) days following the Board's adoption and approval of this resolution, the Board shall then appoint a member who is a resident of the Town/District.

b. The Board shall appoint two (2) members each from their respective Districts who are from unincorporated Eagle County. The Board will make every effort to appoint a member in the business of ranching or agriculture and from the Roaring Fork

Valley.

c. If an unincorporated area incorporates as a municipality after the enactment of this resolution, the new municipality may be entitled to nominate an individual for appointment to the Citizens' Open Space Advisory Committee, with an adjustment of the size of the Citizens' Open Space Advisory Committee, as determined appropriate by the Board.

2. Members shall serve staggered three-year terms. Dates in which the terms of the members shall commence will be determined once the Board has made its appointment. When a person is appointed to fill out the term of a departing member, that person's term shall end at the time the departing member's term would have ended. The Board shall identify the term of each member at the time of appointment and members may be reappointed to successive terms. Members shall serve at the pleasure of the Board of County Commissioners.

3. Members shall not be compensated for their services, but may be reimbursed for expenses actually incurred in the performance of their duties in accordance with Eagle County policy.

4. The Citizens' Open Space Advisory Committee shall provide a recommendation of approval or disapproval to the Board of County Commissioners for all expenditures from the Open Space Fund of all the open space preservation projects and proposed parcels based on established criteria. The Citizens' Open Space Advisory Committee shall present their recommendations to the Board on a schedule to be determined by the Board.

5. Members of the Citizens' Open Space Advisory Committee shall be subject to state law relating to conflicts of interest of public bodies. In addition, a member shall be prohibited from voting on or participating in applications for purchase of lands, conservation easements, or other interests on land adjacent to property in which he or she has an ownership interest. Said conflict must be disclosed by the Citizens' Open Space Advisory Committee member as soon as the member becomes aware of the potential conflict.

6. The Citizens' Open Space Advisory Committee shall convene a minimum of twice a year for the purpose of reviewing applications, in preparation of making and sending their written recommendations to the Board of County Commissioners concerning expenditures from the Open Space Fund and for performing its other functions under this resolution. The Board shall determine the time schedule for submission of the written recommendations by the Committee. Moreover, the Board will make every effort to set a time schedule for submission of written recommendations to coincide with the funding cycle for the Open Space Tax.

7. Within one hundred and twenty (120) days after its appointment, the Open Space Advisory Committee shall recommend to the Board of County Commissioners for the Board's adoption, criteria to prioritize the selection of eligible lands. Criteria for prioritization shall include, but not be limited to: identification and ratings of conservation

values, quality of the resource, property size large enough to protect conservation values, which shall be identified, contiguity to existing or likely to be protected properties, vulnerability to development, percentage of the value of development rights donated by the owner, leveraging of other funds, and the cost of the lands, conservation easement or other interests to be likely acquired by the County. In addition, the Citizens' Open Space Advisory Committee should include if the eligible lands are recommended to be permanently preserved as open space or maintained as open space for a fixed amount of time.

8. The Citizens' Open Space Advisory Committee shall comply with all requirements of the Open Public Meetings Act (C.R.S. § 24-6-401 et seq.) applicable to local public bodies as defined in that Act, as well as any applicable resolutions of the Board.

9. Recommendations to the Board of County Commissioners from the Citizens' Open Space Advisory Committee shall only be in an advisory capacity.

10. All members appointed to the Citizens' Open Space Advisory Committee shall attend all committee meetings, unless excused by the Citizens' Open Space Advisory Committee Chairperson. Notwithstanding, unexcused absences from two or more meetings during a calendar year may result in termination of the member's service on the Citizens' Open Space Advisory Committee.

B. The Citizens' Open Space Advisory Committee's responsibilities may include:

1. The development of specific Open Space Projects' mission and the evaluation criteria and standards and procedures for evaluating open space projects and project funding requests as provided for in this resolution.

2. Recommendations for annual or multi-year funding for individual open space protection projects or proposals, including recommendations for voter approved bonding or other borrowing authority or other funding mechanism.

3. Recommendations for collaborating with federal, state and other governments, non-profit or private organizations or individuals or corporations on open space protection efforts or projects.

4. Recommendations for education or other efforts to foster public awareness and understanding of the Open Space Program.

5. Recommendations to the Commissioners pertaining to open space management and administration.

C. Citizens' Open Space Advisory Committee Organization:

1. The Committee shall elect a chairperson, vice chairperson and such other officers as it may determine appropriate at the committee's first regular meeting of the year and they also may establish sub-committees to assist the committee in performing its authorized duties and responsibilities. Officers may serve not more than two consecutive one-year terms in the same office.

2. The Eagle County Community Development Department shall be the professional staff of the Citizens' Open Space Advisory Committee. Notwithstanding, it is understood that in order to provide an administrative structure for acquiring, maintaining, or permanently preserving Open Space in Eagle County, various other Eagle County departments (i.e., County Engineer, GIS, County Assessor, County Clerk and Recorder and County Treasurer) may be needed to assist from time to time.

3. The Committee shall keep minutes of all meetings that shall be promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under C.R.S. § 24-6-402(4) is held, shall reflect the topic of the discussion at executive session. The minutes shall be prepared by a representative from the staff of the Eagle County Community Development Department and presented to the Committee for approval. Approved minutes shall be maintained as public records as the Board determines appropriate.

4. The Committee may adopt such policies, as it deems appropriate concerning the operation of the Committee and Open Space Committee meetings as long as such policies are consistent with the applicable State of Colorado and Eagle County Government requirements. The presence of seven (7) or more members of the Committee shall constitute a quorum necessary to take action and transact business. All actions shall require a simple majority vote of the quorum. If a committee member is recused from consideration of any matter due to a conflict of interest, such member shall nonetheless be considered present for the purposes of maintaining a quorum.

D. Definition of "Open Space" and "Open Space Maintenance or Preservation":

1. Open Space: As used in this resolution, and for purposes of the Open Space Program, the terms "open space" or "open space lands" shall mean an area of land that is primarily undeveloped, natural or pastoral in character and which may possess values such as fish and wildlife habitat or migration routes; working farms and ranches; scenic landscapes and vistas; wetlands, floodplains or other riparian habitat; public access to rivers and streams or other lands open to the public; geographic or topographic formations; rare or significant flora or fauna; cultural or historic values; or other natural or open space values. Notwithstanding, "open space" or "open space lands" may include lands, which can be restored, to a primarily undeveloped, natural, or pastoral character if such restoration has been approved as part of an officially adopted Eagle County or municipal plan.

2. Open Space Acquisition, Maintenance or Permanent Preservation: As used in this resolution, and for purposes of the Open Space Program, the terms open space "acquisition," "maintenance" or "preservation" shall mean the retention and management of open space acquired by the County to maintain or preserve the open space and conservation values for which it was acquired, with the land remaining primarily in the undeveloped, natural or pastoral character existing as of the date of acquisition. The natural values of open space lands may be rehabilitated or enhanced through water, soil, fish, wildlife, or other conservation techniques.

As determined appropriate for an individual open space parcel, and if in accordance with the instrument of acquisition or conveyance, open space lands may be used for the following:

- Dispersed motorized or non-motorized recreation including hiking, hunting, fishing, horseback riding, nordic skiing, mountain biking, snowmobiling or other off-road vehicle use of a low impact and dispersed nature that is consistent with conservation values; or
- The construction of trails for the purposes of public access and low impact dispersed recreation; or
- The construction of rustic camping or other rustic facilities (i.e., huts, shelters, etc.) in conjunction with low-impact dispersed recreational uses.

However, open space lands shall not be used for the construction or operation of developed recreational facilities such as golf courses, athletic fields, motorized vehicle tracks, equestrian facilities or other developed facilities for non-dispersed types of recreation.

Section 3. Establishment of Eagle County Open Space Fund.

A. Fund and Purposes: There is hereby established the Eagle County Open Space Fund (hereinafter referred to as "the Fund"), which shall consist of, a separate account in the Eagle County Treasury. All monies derived from the Eagle County Open Space tax shall be deposited into the Fund, together with all interest or other earnings thereon and shall be earmarked and restricted to the acquisition, maintenance or permanent preservation of Open Space. The Fund may accept donations, contributions from private, or other funding sources to assist the Open Space Program, and nothing herein shall be constructed to prohibit Eagle County Board of County Commissioners from contributing to the Fund from time to time, if they determine it appropriate and in the public interest.

THEREFORE, the Board of County Commissioners finds, determines and declares that this Resolution is necessary for the public health, safety and welfare of the citizens of the County of Eagle, State of Colorado.

MOVED, READ AND ADOPTED by the Board of County Commissioners of the County of Eagle, State of Colorado, at its regular meeting held the 3rd day of February, 2004.



COUNTY OF EAGLE, STATE OF COLORADO, By and Through Its BOARD OF COUNTY COMMISSIONERS

ATTEST:

Lyak J. Simonson
By: Lyak J. Simonson
Clerk to the Board of County Commissioners

By: _____
Tom C Stone
Chairman

By: Michael L. Gallagher
Michael L. Gallagher
Commissioner

By: Arn M. Menconi
Arn M. Menconi
Commissioner

Commissioner Gallagher seconded adoption of the foregoing resolution. The roll having been called, the vote was as follows:

Commissioner Tom C. Stone absent
Commissioner Michael L. Gallagher aye
Commissioner Arn M. Menconi aye

This Resolution passed by unanimous vote of the Board of County Commissioners of the County of Eagle, State of Colorado.