

## **CHAPTER VII: OPEN SPACE GOVERNMENT STRUCTURE**

This chapter will analyze the various alternatives available for long-term program management. To develop and implement a program with Placer Legacy's adopted scope of objectives it is necessary to have a governmental entity manage the program. Placer County plays a unique role under the State Constitution to manage the land uses in the unincorporated area. The County's role will therefore be vital and pivotal to the development and implementation of this program. Placer County also has an opportunity to participate as a steward by proactively protecting the natural resources and open spaces of the County.

### **SECTION A: INTER-AGENCY OVERSIGHT**

Numerous agencies have a responsibility to manage the County's open space and natural resources. Some of these agencies have regulatory roles while others have land stewardship roles. For this conservation effort to be effective, it is important for the Placer Legacy Program to be consistent and compatible with the roles and responsibilities of these other agencies. To be compatible and consistent, it is first necessary to understand the unique role that each agency has to play. The following is a list of the federal, state and local entities that have some responsibility to manage the County's open space and natural resources. The agencies and the programs they administer are listed below.

#### **Federal Government - Regulatory**

1. Department of the Interior - Fish and Wildlife Service – Federal Endangered Species Act
2. Department of Commerce - National Marine Fisheries Service – Federal Endangered Species Act
3. Environmental Protection Agency – Federal Clean Water Act
4. U.S. Army Corps of Engineers – Federal Clean Water Act (wetland regulations)

#### **Federal Government – Non-regulatory**

1. Department of the Interior, Bureau of Land Management – Land management
2. Department of Agriculture, Forest Service – Land management
3. Department of the Interior, Bureau of Reclamation – Water management

#### **State Government - Regulatory**

1. Resources Agency, Department of Fish and Game – State Endangered Species Act
2. Resources Agency, Department of Forestry and Fire Protection – Forest Practice Rules, fire protection
3. Resources Agency, Department of Water Resources – Water management
4. Environmental Protection Agency, State Water Resources Control Board (Lahontan and Central Valley Regional Water Quality Control Board) – Water quality

#### **State Government – Non-regulatory**

1. Resources Agency, Department of Conservation – farmland and open space conservation
2. Resources Agency, Native American Heritage Commission
3. Resources Agency, Department of Parks and Recreation

**Local Government**

1. Placer County
2. Cities of Colfax, Auburn, Lincoln, Rocklin and Roseville and the Town of Loomis
3. Tahoe Regional Planning Agency

**Special Districts**

1. Water Districts - examples include Placer County Water Agency, Nevada Irrigation District, South Sutter Irrigation District and the Foresthill Public Utilities District.
2. Recreation Districts – examples include the North Tahoe Public Utilities District and the Auburn Recreation District
3. Placer County Resource Conservation District

The above list does not include the numerous smaller entities that include dependent and independent special districts who manage the manage natural resources in the County.

**SECTION B: INTERRELATIONSHIPS BETWEEN GOVERNMENTAL ENTITIES**

For the Placer Legacy Program to be successfully implemented, it will be necessary for the County or any subsequent management entity, to have established firm and long standing relationships with other governmental entities with an interest or an obligation to participate in the Program. Because one element of Program implementation includes compliance with state and federal laws pertaining to endangered species and wetlands, there are particular relationships between local government, private landowners and state/federal regulators that warrants some consideration. Placer County will have long-term or permanent relationships with many of these agencies as the Placer Legacy Program is implemented. Some Program elements will involve very little in the way of interagency coordination (e.g., agricultural conservation activities). Other program elements will require significant levels of interagency coordination; usually when public lands are involved or state or federal regulatory compliance is necessary.

1. **Endangered Species - Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP)** - The primary agencies for the County to coordinate with in the preparation and implementation of an HCP/NCCP will be the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service and the California Department of Fish and Game (DFG). Because the Placer County HCP/NCCP will also address impacts to federally protected wetland resources, the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency will also be involved. At the local level, endangered species compliance will involve Placer County and potentially cities and special districts.
2. **Sierra Nevada** – A number of agencies have land stewardship and regulatory roles in the Sierra Nevada. The objectives of the Placer Legacy Program include conservation goals and regulatory compliance goals. In order to meet these objectives, the County will need to coordinate with a number of agencies. For the program's conservation goals, the management authority will need to coordinate with the U.S. Forest Service and the Bureau of Land Management as land stewards. For regulatory compliance, the

management authority will need to coordinate with FWS and DFG regarding endangered species regulations and the California Department of Forestry and Fire Protection for their fire suppression and timber harvest regulatory requirements on private timberlands.

3. **Recreation** – Currently, recreational opportunities are provided by a number of jurisdictions in Placer County, each operating autonomously. Each of the cities and the County have park and recreation departments for the purpose of developing and maintaining facilities for the residents of their communities. Special districts also provide recreation in the Auburn and Lake Tahoe area (e.g., Auburn Recreation District and the North Tahoe Public Utilities District). The State Parks and Recreation Department and Forest Service provide public land access for recreational purposes. Because the objectives of Placer Legacy are intended to cross jurisdictional boundaries, it will be necessary for the management authority to coordinate with the many recreational management departments and agencies to insure that there is no redundancy of effort and to develop facilities and opportunities meet unsatisfied demands for recreational opportunities.
4. **Urban Separators and Buffers** – One of the objectives of the Program is to establish permanent urban separators, buffers or transition areas primarily between agricultural areas and urban areas. The majority of the urban development occurring in Placer County today takes place in the cities of Placer County. In order to establish permanent separators and buffers it will require the coordination of County staff and City staff. Issues related to General Plan growth projections, city sphere of influence boundaries, and annexations will need to be identified and resolved to successfully establish buffer and transition areas.

## **SECTION C: PRIVATE AND PUBLIC/PRIVATE PARTNERSHIPS**

One of the advantages in having Placer County oversee the open space program is that it also has relationships with private organizations that may pursue the same or similar goals. New opportunities and relationships will also emerge over time as the program begins to develop a track record of success. These organizations may be local, regional, or national in nature and their goals may be to preserve open space, farmland, watersheds, and/or natural habitats. Below is a list of organizations that Placer County may work with to assist with the implementation of the Program:

### **1. Land Trusts/Conservancies**

Land Trusts and conservancies are organizations that work with private landowners to permanently restrict the uses of the land through the use of a variety of tools. Most land trusts are local, private nonprofit entities with boards of directors made up of private citizens. They rely on private funds, corporate or foundation grants, and property gifts to carry out their land acquisition and management activities.

Land conservation trusts preserve open space and resource lands in a variety of ways. Some use their funds to acquire fee simple interest in real estate and then manage or lease back their holdings. Others purchase conservation easements that protect sensitive land from development while allowing owners to sell their remaining property interests to whomever they please. Land trusts also purchase land and resell it with deed restrictions

that guarantee the property's open space character in perpetuity. Since they are less fettered by red tape, private land trusts are usually able to respond more quickly than governmental entities to sudden and fleeting purchasing opportunities. They also use their real estate experience to help public agencies with the mechanics of acquisition.

- California Rangeland Trust
- Placer Land Trust
- American Land Conservancy
- Dry Creek Conservancy
- Tahoe Conservancy
- Trust for Public Land
- Parks and Preserves Foundation
- American Farmland Trust
- American Park Conservancy
- Sacramento Valley Open Space Conservancy

## **2. Central Valley Habitat Joint Venture**

The Central Valley Habitat Joint Venture is a public/private partnership. It was established in 1988 to "protect, maintain, and restore habitat to increase waterfowl populations to desired levels in the Central Valley of California consistent with other objectives of the North American Waterfowl Management Plan." The joint venture organization is staffed by the U.S. Fish and Wildlife Service and includes public agencies and private land conservation organizations. The Central Valley Habitat Joint Venture may have a role to play because a portion of Western Placer County is in a planning area boundary known as the American Basin where particular conservation objectives are noted.

## **3. Watershed Planning Groups**

Placer County has a number of ad hoc planning organizations that are involved in the preparation of watershed planning programs collectively referred to as Coordinated Resource Management Plans (CRMP). These CRMP groups involve local, state, and federal agency personnel and private citizens all of whom share a common interest in protecting the quality and integrity of watersheds. CRMPs work to bridge the gaps between different political jurisdictions and plan for the watershed as a whole. A CRMP group seeks to coordinate the efforts of all the stakeholders as they attempt to manage the competing interests within complex watershed systems.

Many of the objectives of the CRMP organizations are compatible and consistent with the objectives of the Placer Legacy Program. The Placer County CRMP organizations include the following:

- Auburn Ravine/Coon Creek CRMP
- American River Watershed Group
- Bear River CRMP
- Truckee River CRMP
- Dry Creek CRMP

## SECTION D: GOVERNANCE STRUCTURE ALTERNATIVES

To effectively manage this Program, the managing entity must be able to accommodate planning goals, receive input from many sources, be flexible in responding to issues, have the broadest base of revenue sources, and be able to communicate and work with many agencies, the public and other parties. Some of the structures below contain all or some of these elements as displayed in Table 7-1.

Below is an overview of organizational structures for consideration:

### 1. Private/Non-Profit

Private/Non-Profit organizations may include foundations, trusts, and conservancies, and are usually designated as 501(c)(3) corporations. Such organizations are governed by an appointed (often self-appointed) Board of Directors depending upon the organization's by-laws and can be staffed by volunteers or paid staff. These organizations may elect to align themselves with regional or national private/non-profit organizations. Examples include the Nature Conservancy and the Placer Land Trust. These agencies are funded through a variety of sources including private parties, state, regional or national organizations, grants, public entities, and investment income.

A primary advantage of this type of organization is the administrative flexibility inherent in private organizations, which may result in a more rapid response on some issues. In addition, this type of organization may engender more trust with property owners than a governmental agency is able to do. Private agencies however, do not have the ability to charge fees and have no taxing authority. As such they must rely on other, sometimes These private non-profit entities are usually created by:

**Formation:** Selecting a board of directors, electing officers, developing by-laws and Articles of Incorporation, and filing these with the Secretary of State and the Internal Revenue Service.

### 2. County Department

The Board of Supervisors, generally through the County Executive Office governs County departments. Funding may come from assessments, fees, taxes, grants and a range of miscellaneous revenue sources. In addition the County may receive State and/or federal funds or donations from private parties. A County department through the Board of Supervisors has a relatively broad authority to raise revenues (fees, taxes, assessments), has land use authority in the unincorporated areas and increased public and political accountability through public processes required of governmental entities. As a County department however, there would not be direct input from cities to the decision making process and Placer Legacy would compete with other County departments and priorities set by the Board of Supervisors.

### 3. Joint Powers Authority (JPA)

A "joint powers" entity is a government entity created under state law, Govt. Code Title 1, Division 5, Chpt. 5, Article 1, Sections 6500-6527, that allows two or more government agencies to combine forces by "jointly" exercising their powers with respect

to a specific purpose or set of objectives. In creation of a JPA, Placer County would join with Placer County cities, or potentially other public agencies to forge a partnership with the intent of working cooperatively to preserve open space. Joint powers agencies function as legally separate government entities with their own governing boards. Such authorities currently exist in California to provide for management of open space. Central to their success is the ability to complement the work of a range of organizations protecting land by using unique techniques to acquire and improve open space and parklands, affording educational opportunities, and providing stewardship for a wide variety of public park and open space resources.

The governing board would be comprised of elected representatives from Placer County and the participating cities in Placer County. An agreement to implement a Joint Powers Authority may be a lengthy process in that a number of agency staff and elected officials with varying political agendas must come to terms on a broad range of issues. Once the agreement was in place representative agencies would designate their respective representatives to sit on the JPA governing board. Staffing could be independent of either the County or the cities or, a City or County department may provide staff support.

The advantages of using this type of structure are the potential for increased coordination between the county and the cities participating in the Program. In addition, it provides a comprehensive approach to planning and implementation of the Placer Legacy Program and each participating entity would have direct input into policies, funding and staffing. Entities that have land use authority would be directly represented in the JPA structure.

**Formation:** A Joint Powers Authority would be created through the actions of the Board of Supervisors and the City Councils in Placer County.

#### 4. **Special District – Independent**

A special district is a legal government entity, established under Public Resources Code, Div. 5, Chpt. 3, Sections 5500-5595, which is neither a city nor county, established for the purpose of carrying on specific activities within defined boundaries. A district may encompass cities and counties. An elected or appointed Board of Directors governs the district. An advisory committee, authority or commission may provide input. Funding may come from taxes, bond measures, and fees or private sources. An independent special district would have authority to raise specific types of tax and fee revenue and, as a public agency would provide for a broad representation of interests through the election process, as well as provide for public input. A special district, however, may result in some duplication of effort and those agencies having land use authority (i.e., the County and the Cities) would have more limited input into the program. A new independent governmental entity potentially could result in higher costs for the Program.

**Formation:** A district can be formed by electors residing in the proposed district by petition to the Board of Supervisors for approval to form the district followed by an election of registered voters.

## 5. Special District – Dependent

A special district is a legal government entity, established under Public Resources Code, Div. 5, Ch. 3, Sections 5500-5595, which is neither a city nor county, established for the purpose of carrying on specific activities within defined boundaries. (A district may encompass cities and counties). The Board of Supervisors governs the district. An advisory committee, authority or commission may provide input. Paid district staff provide support. Funding may come from taxes, bond measures, fees or private sources and the district has the authority to raise revenues such as fees, taxes, and assessments. As a dependent district there would be some economies of scale as the district would use the existing administrative structure.

**Formation:** In order to form the district, the Board of Supervisors may pass a resolution creating the district or electors residing in the proposed district may petition to the Board of Supervisors for approval to form the district and, subsequently, form the district by election.

## 6. County Service Area (CSA) Improvement Zone

A CSA is a legal government entity, which is neither a city nor county, established under Govt. Code, Title 3, Div.2, Pt. 2, Chpt. 2.2, Sections 25200-25211.3, for the purpose of carrying on specific activities within defined boundaries. The Board of Supervisors governs these entities. Funding may come from assessments and service fees or charges.

**Formation:** A CSA is activated by resolution of the Board of Supervisors and resides within an existing CSA. An advantage of a CSA is that the boundaries are flexible and the revenue raising authority of a public entity is available. In addition, as a County Service Area there would be continuity of purpose and they are relatively simple to create.

## SECTION E: CRITERIA FOR IDENTIFICATION OF APPROPRIATE ORGANIZATIONAL STRUCTURE

To a large extent, the ultimate organizational structure selected will depend upon the method(s) and level of funding available for the Program, whether or not there is participation from Placer County cities and other outside agencies and the level of effort to be dedicated to the Program. The organizational alternatives must be evaluated in the context of these variables.

To select an appropriate organizational structure or combination of structures to manage the Placer Legacy Program, consideration should be given to the criteria outlined below:

1. The selected alternative should have the capacity to provide a range of functions and activities proposed under the Placer Legacy Program. These activities are broadly defined in three functional areas.

**Land Management Activities** – These include administrative and program responsibilities resulting from efforts to obtain public interest in open space, agricultural land and lands with important biological resources. Land management activities also

include components for maintenance of open space, trails, trailheads and active and passive recreational lands, as well as, monitoring of lands held under Placer Legacy.

**Ongoing Planning Efforts** – These activities may include planning efforts required for identification of scenic resources, refinement of programs to protect agricultural land from conversion, identification of lands with public safety constraints, monitoring of trends that may affect resources and more active participation in public land planning, land exchanges and management agreements to facilitate protection of Sierra ecosystems.

**Program Activities** – Apart from land management and ongoing planning efforts, the Placer Legacy Program includes specific components to further goals of the Program such as increased staff resources for agricultural land conservation; marketing and tax planning assistance to County farmers; and evaluation and program development to protect historic and cultural resources.

2. The selected alternative(s) should encompass the key elements of the Program, as previously identified. As such the governmental structure(s) should allow for:
  - (a) Design of a program that would enable phasing of the Placer Legacy Program and provide early opportunities for successful implementation.
  - (b) Maintain local land use control by taking a leadership role in the preservation of endangered species and habitat protection.
3. The Board of Supervisors determined that in developing the Program, priority will be given to ensuring that the process involves all stakeholders and provides meaningful opportunities for public involvement from both unincorporated and incorporated area residents. The organizational structure should reflect this priority.
4. The selected organization should enable utilization of a broad base of revenue sources to implement the Program.

## **SECTION F: ORGANIZATIONAL APPROACH**

From 1998-2000, Placer County developed and initiated the management of the Placer Legacy Program. In 2000, early implementation efforts proceeded under the guidance of the Board of Supervisors. Consequently, a County Department has overseen the Placer Legacy Program. As part of a County Department, efforts will more likely assure alignment of Placer Legacy goals with the County's General Plan. In addition, a County department would provide ease of access by the public for comments and feedback. The County can take advantage of economies of scale through utilization of existing resources. In addition, access to other County departments to utilize their expertise, as well as the ability to utilize existing relationships with regulatory agencies is likely to result in a program that meets the original goals of Placer Legacy.



## **SECTION G: ACQUISITIONS AND DECISION MAKING PROCESS**

The managing authority will acquire lands in accordance with the goals and objectives outlined in the Program Implementation Matrix ([Table 3-2](#)), as consistent with applicable directives of the governing legislative body (bodies) of the jurisdiction(s) constituting the authority. The matrix identifies programs and the kind of land the County would seek to protect in order to accomplish the agricultural and open space goals of Placer Legacy and the General Plan.

Each year, after reviewing program goals, timeline and inventorying potential willing sellers, staff will develop an open space and agricultural acquisition activity schedule which will guide the management authority's land acquisition efforts for that calendar year. Staff would seek input from an open space citizen advisory commission (see Section 8 below) on the acquisition goals and budget implications before submitting it to the board of directors of the managing authority for approval. Each year, staff will also produce an update on land acquisition and programmatic activities from the previous year to help the public and the authority's board of directors measure progress.

The managing authority will use a variety of methods to acquire lands. By far the most common will be outright purchase of fee title or conservation easements. The decision to expend revenues for acquisitions will be conducted in a public forum. The authority will also be able to acquire land by gift or donation, by transfer from other land management agencies and by dedication/exaction from discretionary land use projects.

## **SECTION H: OPEN SPACE ADVISORY COMMISSION**

An open space advisory commission will be formed to serve as an advisory body to the management authority (e.g., Placer County or a JPA). The commission would provide advice and recommendations on matters pertaining to the implementation of the Placer Legacy Open Space and Agricultural Conservation Plan and any subsequent programs developed through Placer Legacy over time (e.g., HCP/NCCP).

The commission would be formed in the same manner that other Board-appointed commissions are appointed in Placer County. Applications would be received following an advertisement of vacancies. Applicants would be evaluated and selected by the Board of Supervisors by majority vote. The responsibilities of the commission would include the following:

- Routinely advise the management authority on matters pertaining to the operation and implementation
- Establish a communication network and promote coordination and cooperation between the management authority and other public and private groups involved in open space and agricultural conservation.
- Develop educational materials to educate the public and decision-makers about the benefits of open space resources and conservation efforts.
- Provide a public forum to discuss open space conservation issues.
- Provide input and direction to management authority staff on Program administration and implementation.
- Identify and evaluate potential open space acquisition properties
- Set program acquisition and management priorities through a public deliberative process.

- Issue annual progress reports to the management authority on the accomplishments and status of the Program.
- Provide oversight of management authority staff activities.

**Table 7-1. Management Structure Options**

<b>Placer Legacy</b> Management Structure - Options				
<b>Entity</b>	<b>Governance</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>How to Create</b>
<b>Private/Non-Profit</b> (Foundations, Trusts, Conservancies, 501 (c)(3))	Board of Directors; volunteers; may align with regional or national organization	<ul style="list-style-type: none"> <li>• Administrative flexibility</li> <li>• Broad representation and resources</li> <li>• Could have specialized knowledge/focus</li> <li>• Element of trust with property owners</li> <li>• Potential tax advantages to contributors</li> <li>• Potential for more rapid response</li> </ul>	<ul style="list-style-type: none"> <li>• Diminished public and political accountability</li> <li>• Funding sources may be less reliable</li> <li>• National organizations may have objectives that conflict with local interests</li> <li>• No independent taxing authority; relies on other revenue sources</li> </ul>	<ul style="list-style-type: none"> <li>• Create board of directors/elect officers</li> <li>• Develop by-laws and Articles of Incorporation</li> <li>• File with CA Secretary of State and IRS</li> </ul>
<b>COUNTY DEPARTMENT</b>	Board of Supervisors	<ul style="list-style-type: none"> <li>• Authority to raise revenues (fees, taxes, assessments)</li> <li>• Comprehensive approach</li> <li>• Coordination with land use entities</li> <li>• Economies of scale</li> <li>• Existing relationships/ linkages</li> <li>• <b>Increased public and political accountability</b></li> <li>• <b>Land use authority</b></li> <li>• Speed of implementation</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of decision making authority and limited input by cities</li> <li>• Less flexibility in acquisition and management of property</li> <li>• May compete with other issues, departments &amp; funding</li> <li>• Perception of county government involvement</li> </ul>	<ul style="list-style-type: none"> <li>• Action by Board of Supervisors</li> </ul>
<b>Joint Powers Authority</b>	Appointed members of Board of Supervisors/ City Councils	<ul style="list-style-type: none"> <li>• City/county coordination</li> <li>• Elected officials/joint governance</li> <li>• Existing working models</li> <li>• Flexibility in staffing/ administration</li> <li>• Political acceptance</li> </ul>	<ul style="list-style-type: none"> <li>• City/county coordination</li> <li>• Coordination of funding</li> <li>• Duplication of effort</li> <li>• Perception of “another layer of government”</li> <li>• Potential difficulty in implementing</li> </ul>	<ul style="list-style-type: none"> <li>• Action by Board of Supervisors / City Councils and/or regional governing agency</li> </ul>

<b>Entity</b>	<b>Governance</b>	<b>Advantages</b>	<b>Disadvantages</b>	<b>How to Create</b>
<b>Special District</b> *Independent <ul style="list-style-type: none"> <li>• Open Space District</li> <li>• Park District</li> </ul>	Elected Board of Directors or board is appointed by BOS to fixed terms	<ul style="list-style-type: none"> <li>• Authority to raise revenues (fees, taxes, assessments)</li> <li>• Boundaries are flexible</li> <li>• Broad representation possible</li> <li>• Can customize</li> <li>• Focused efforts/interest</li> <li>• Precedent already established</li> </ul>	<ul style="list-style-type: none"> <li>• Duplication of effort</li> <li>• Greater potential for conflict with local governments</li> <li>• More limited city/county input</li> <li>• Potentially higher cost</li> <li>• Time to implement</li> <li>• Less flexibility in acquisition and management of property than private agency</li> <li>• Less flexibility in program implementation and administration than private agency</li> </ul>	<ul style="list-style-type: none"> <li>• Varies with type of district</li> <li>• Potentially could require special legislation</li> <li>• BOS resolution or petition of voters to LAFCO for consideration, then to BOS for protest hearing</li> </ul>
<b>Special District</b> *Dependent <ul style="list-style-type: none"> <li>• Open Space District</li> <li>• Park District</li> </ul>	Board of Supervisors	<ul style="list-style-type: none"> <li>• Authority to raise revenues (fees, taxes, assessments)</li> <li>• Boundaries are flexible</li> <li>• Can customize</li> <li>• Continuity of purpose</li> <li>• Economies of scale – use of existing administrative structure</li> <li>• Precedent already established in other counties</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of city control</li> <li>• Less flexibility in acquisition and management of property than private agency</li> <li>• Less flexibility in program implementation and administration than private agency</li> <li>• Perception of county entity</li> <li>• Time to implement</li> </ul>	<ul style="list-style-type: none"> <li>• Varies with type of district</li> <li>• Potentially could require special legislation</li> <li>• BOS resolution or petition of voters to LAFCO for consideration, then to BOS for protest hearing</li> </ul>
<b>COUNTY SERVICE AREA IMPROVEMENT ZONE (CSA)</b>	Board of Supervisors	<ul style="list-style-type: none"> <li>• Authority to raise revenues</li> <li>• Administrative flexibility</li> <li>• Boundaries are flexible (can apply to only certain areas of the county)</li> <li>• Easy to create</li> </ul>	<ul style="list-style-type: none"> <li>• Less flexibility in acquisition and management of property</li> <li>• Less flexibility in program implementation and administration</li> <li>• Perception of county entity</li> </ul>	<ul style="list-style-type: none"> <li>• Board activates by resolution; Can be within existing CSA</li> </ul>