



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: February 19, 2019

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8313 amending Chapter 2-3, "Boards and Commissions," B.R.C. 1981, implementing a ballot measure adopted by the voters at the November 2018 election relating to advisory commissions, including increasing the membership of the Housing Advisory Board from five to seven members and changing references from sexes or gender to gender identity; and setting forth related details.

PRESENTERS

Thomas A. Carr, City Attorney

EXECUTIVE SUMMARY

On November 6, 2018, the voters passed Ballot Measure 2H, which, among other things, amended Charter Section 130 to change the provision requiring that not all members be of a single gender identity. The voters also added a provision allowing the council to decide whether any board or commission created after January 1, 2019 should have five or seven members. Neither of these provisions were self-actuating. Accordingly, an ordinance is necessary to allow the changes to apply to the 2019 board and commission appointments.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance 8313 amending Chapter 2-3, “Boards and Commissions,” B.R.C. 1981, implementing a ballot measure adopted by the voters at the November 2018 election relating to advisory commissions, including increasing the membership of the Housing Advisory Board from five to seven members and changing references from sexes or gender to gender identity; and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – None identified.
- Environmental – None identified.
- Social – Inclusion of persons of diverse gender identities as members of the city’s boards and commissions will help improve the diversity of viewpoints and support the city’s value of inclusiveness. Increasing the membership of the Housing Advisory Board will allow for more diverse ideas in this key area.

OTHER IMPACTS

- Fiscal – None identified.
- Staff time – Included in existing work plans.

BOARD AND COMMISSION FEEDBACK

None.

PUBLIC FEEDBACK

Ballot Measure 2H passed with 38,495 (79%) voting in favor and 10,211 (21%) voting against.

ANALYSIS

The proposed ordinance would amend Section 2-3-1 to change the phrase “representing both sexes” to “not all of one gender identity” to track the amended language of Charter Section 130. The proposed ordinance also would amend Section 2-3-23, referring to the Electric Utility Board, which has a specific reference to persons of the same gender. The proposed change would change “gender” to “gender identity.” These are the only two references to the gender or sex of board and commission members.

The proposed ordinance would also amend Section 2-3-24 relating to the Housing Advisory Board. The amendment would change the number of members from five to seven. The proposal would provide that in 2019 the council would appoint three members. Two members would be appointed to five-year terms and one member would be appointed to a three-year term. One appointment would be to fill the expiring one-year term appointed in 2018. The two new appointments would be for three and five years. This would allow for no more than two appointments in any one year. The appointments, not considering early resignations, would be as follows:

2019: Three

2020: One

2021: One

2022: Two

2023: One

2024: Two

2025: One

The proposed ordinance would also set the quorum for the Housing Advisory Board at four and require that a majority of those present vote affirmatively for the board to take action. This differs slightly from the Planning Board, which is required to have an affirmative vote of at least four to act.

ATTACHMENTS

A – Proposed Ordinance 8313

ORDINANCE 8313

AN ORDINANCE AMENDING CHAPTER 2-3, “BOARDS AND COMMISSIONS,” B.R.C. 1981, IMPLEMENTING A BALLOT MEASURE ADOPTED BY THE VOTERS AT THE NOVEMBER 2018 ELECTION RELATING TO ADVISORY COMMISSIONS, INCLUDING INCREASING THE MEMBERSHIP OF THE HOUSING ADVISORY BOARD FROM FIVE TO SEVEN MEMBERS AND CHANGING REFERENCES FROM SEXES OR GENDER TO GENDER IDENTITY; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 2-3-1, “General Provisions,” B.R.C. 1981, is amended to read as follows:

2-3-1. – General Provisions.

(a) The city council:

- (1) At a regular meeting before April shall appoint members to city boards and commissions, who are city residents not all of one gender identity~~representing both sexes;~~
- (2) May remove any member by majority vote for conflict of interest violation, any other violation of applicable law, regulation, or policy, nonattendance to duty, failure to attend three consecutive regularly scheduled meetings without a leave of absence approved by a majority of the board or commission, or any other cause; and
- (3) Shall fill any vacancy for the remainder of its term.

(b) Each city board or commission shall:

- (1) Hold regular monthly meetings;
- (2) Keep minutes of its meetings and records of its transactions, which are publicly available;
- (3) Appoint a chair, vice-chair, and secretary (who may be a city employee);
- (4) Conduct its meetings under the then current Robert's Rules of Order, Newly Revised, unless the board or commission adopts other rules of meeting procedure;

- 1 (5) Hold all meetings open to the public, after full and timely notice of date, time, place,
2 and subject matter of the meeting, and provide an opportunity for public comment at the
3 meeting; and
- 4 (6) Unless otherwise provided by law, conduct all quasi-judicial hearings under the
5 procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.
- 6 (c) Unless otherwise provided by law, three members of each board constitute a quorum, and
7 each board or commission shall act only on an affirmative vote of at least three members.
- 8 (d) Unless otherwise provided by law, each city board or commission is authorized to:
 - 9 (1) Hold special meetings at any time upon the call of a quorum and after at least twenty-
10 four hours' notice to members and as much public notice as is practicable under the
11 circumstances;
 - 12 (2) Administer oaths;
 - 13 (3) Adopt rules interpreting its legislative duties under this code and establishing
14 procedures in aid of its functions; and
 - 15 (4) Issue subpoenas to require the presence of persons and the production of writings,
16 papers, books, documents, records, or tangible things necessary to its proceedings.
 - 17 (A) The secretary of the board or commission shall issue subpoenas upon written
18 request therefor.
 - 19 (B) Subpoenas shall be served in accordance with the provisions of Colorado Rules of
20 Civil Procedure 45(c), except that no witness fees or mileage shall be paid.
 - 21 (C) No person shall fail to obey a subpoena issued by the board or commission.
- 22 (e) Except as otherwise provided by law, all members of city boards and commissions shall
23 serve without pay, shall serve until their successors take office, and shall not hold any other
24 office in the city, but the secretary of any board or commission may be a city employee.
- 25 (f) If a member of a city board or commission is present at a meeting and refuses to vote, the
member's vote shall be recorded in the affirmative. No member is excused from voting
except on approving minutes of a meeting that the member did not attend or on a matter
creating a conflict of interest under Chapter 2-7, "Code of Conduct," B.R.C. 1981, or on
consideration of such member's conduct in the business of the board or commission.
- (g) If a city board or commission listed in this chapter, or the city council, the Boulder
Municipal Property Authority, or an advisory body to a general improvement district, gives
posted notice of a public meeting other than a notice required to be posted on affected
property, in addition to any other place where such notice is posted, the notice shall be
posted on the bulletin board in the first floor lobby of the municipal building located on the
southwest corner of Broadway and Canyon. It shall not be necessary for any of these bodies
to designate this place for posting annually. Except in cases of emergency meetings, such
notice, if posted, shall be posted at least twenty-four hours in advance of the meeting. Notice
posted pursuant to this subsection shall be full and timely notice, but no meeting shall be
deemed not to have been preceded by full and timely notice merely because notice was not
posted as allowed in this subsection so long as full and timely notice was given by some
other means.

Section 2. Section 2-3-23, “Electric Utility Board,” B.R.C. 1981, is amended to read as follows:

2-3-23. – Electric Utility Board.

- (a) Electric Utility Board. The City of Boulder electric utility board consists of nine members not all of the same gender identity. The members of the board shall not hold any other office in the city and shall serve without pay.
- (b) Chair and Secretary. The board shall choose a chair and a secretary from among its members. The director of electric utilities may be designated as secretary by the board.
- (c) Regular and special meetings. The board shall have regular meetings once a month. Special meetings may be called at any time by the city manager, the chair, or four members of the board upon the giving of at least twenty-four hours' notice of said special meeting to the board members.
- (d) Quorum. Five members of the board shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by the board, except as otherwise expressly provided herein.
- (e) Record of meetings. The board shall keep minutes and records of its meetings, recommendations, and decisions.
- (f) Rules of order. Except as otherwise expressly provided herein, the board shall have power to make rules for the conduct of its business.
- (g) Board member qualifications. Board members shall be qualified to serve on an advisory commission pursuant to Section 130 of the charter, customers of the electric utility, or the owners or employees of a business or governmental entity that is a customer of the electric utility; provided, however, that a majority of the board shall be qualified to serve on an advisory commission pursuant to Section 130. Board members shall be well known for their ability, probity, public spirit, and particular fitness to serve on the electric utility board. At least three board members shall be owners or employees of a business or governmental entity that is a customer of the electric utility.
- (h) Board member duties and functions. The duty of each member shall be to represent the entire utility customer base without discrimination between customer class or location and without regard to the location or class of customer or the member. The duties and functions of the electric utility board are those established in the charter, this code, and other ordinances of the city, including, without limitation:
 - (1) Advice. To advise the city council on policy matters pertaining to the municipal electric and utility systems, including, without limitation, such policies as the board determines are necessary or prudent to carry out its fiduciary duties and the requirement of the charter;
 - (2) Sounding Board. To act as a sounding board to the city council, city manager, and the electric utility director for the purpose of identifying the ratepayers' service delivery expectations;

- (3) Rulemaking. To adopt rules and regulations with respect to any matter within its jurisdiction as it may be permitted by the council;
 - (4) Meeting Rules. To adopt bylaws governing its meeting and agenda procedures and other pertinent matters;
 - (5) Budget and Appropriations. To review and make recommendations to the city council on the city manager's proposed budget and appropriation as it relates to the utility;
 - (6) Revenue Bonds. To review and make recommendations to the city council concerning the issuance of revenue bonds or other obligations payable from revenues of the electric utilities enterprise;
 - (7) Other Recommendations. To review and make recommendations on any other matter relating to the electric utilities program, and may request and obtain from the electric utilities department and the city manager information relating thereto.
- (i) Public Hearings. Prior to making any recommendation to the council or the city manager, the board shall hold a public hearing.
 - (j) No subpoenas. The board is not authorized to issue subpoenas.
 - (k) Electric utility board member appointments. The council will appoint the electric utility board prior to or concurrent with the point in time that the utility has issued bonds and is receiving revenue that will qualify it as an enterprise under Article X, Section 20 of the Colorado Constitution. Until such time as the board is appointed, the city council shall be responsible for fulfilling the responsibilities of the electric utility board.

Section 3. Section 2-3-24, "Housing Advisory Board," B.R.C. 1981, is amended to read as follows:

2-3-24. – Housing Advisory Board.

- (a) The City of Boulder Housing Advisory Board consists of ~~five~~ seven members appointed by City Council for five-year terms. At the time of appointment, at least one member will be a tenant and at least one shall be a homeowner. ~~The board members who are first appointed shall be designated to serve for staggered terms so that the term of one board member expires each year.~~ In 2019, upon the increase in the board from five to seven members, the city council shall appoint two persons to serve five-year terms (one to fill an expiring one-year term and another to fill a new five-year term) and one person to serve a three-year term, so that no more than two terms will expire in any one year.
- (b) The Planning Board and the technical review group that advises the city manager on housing funding priorities, shall appoint one member each to serve as advisory members of the board without vote.
- (c) The city manager serves as secretary to the board.

1 (d) The responsibilities of the board are:

- 2 (1) To advise the city council and city manager on housing issues, strategies, goals and
policies.
- 3 (2) To study and recommend to the council and the city manager long and short-range goals,
ordinances, funding priorities and programs to address recognized housing needs.
- 4 (3) To develop and recommend, with community input, innovative approaches to accomplish
5 the city's housing goals, including tools for preserving existing housing.
- 6 (4) To advise the city council and city manager concerning the impacts of city policy
proposals on housing affordability, diversity and accessibility.
- 7 (5) To review regional housing issues and make recommendations to the city council.
- 8 (6) To advise the city council concerning an appropriate advocacy role for the city in state
and federal housing matters.
- 9 (7) To consult and coordinate with housing committees and other city boards and
commissions to develop and support the city's housing efforts.

10 (e) The board shall not perform any administrative functions unless expressly provided in this
11 code.

12 (f) The board shall not involve itself in any review under the land use regulations, Title 9, "Land
Use Code," B.R.C. 1981, unless its opinion is requested by the city council or the planning
13 board. Nothing in this section shall prohibit the housing board from making recommendations
for changes to Title 9, "Land Use Code," B.R.C. 1981.

14 (g) Prior to making any recommendation, the board shall hold a public hearing.

15 (h) The board is not authorized to issue subpoenas.

16 (i) Four members of the board constitute a quorum. An affirmative vote of a majority of the
members present shall be necessary to authorize any action of the board.

17
18 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of
19 the residents of the city and covers matters of local concern.

20 Section 5. The City Council deems it appropriate that this ordinance be published by title
21 only and orders that copies of this ordinance be made available in the office of the city clerk for
22 public inspection and acquisition.

1 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 5th day of February 2019.

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5 _____
Suzanne Jones,
Mayor

6 Attest:

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8 _____
Lynnette Beck,
9 City Clerk

10 READ ON SECOND READING, PASSED AND ADOPTED this 19th day of February
11 2019.

12
13
14 _____
Suzanne Jones,
Mayor

15 Attest:

16
17 _____
Lynnette Beck,
18 City Clerk