



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: September 3, 2019

AGENDA TITLE

Third reading and consideration of a motion to adopt by Emergency measure Ordinance 8346 submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 5, 2019, the question of whether the City of Boulder should extend and dedicate to Open Space a 0.15 cent sales tax; with revenue from the first year dedicated to funding the acquisition of a property interest in an approximately 25-acre property known as Long's Gardens; and setting forth the ballot title and other election procedures and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Cheryl Pattelli, Chief Financial Officer
Dan Burke, Interim Director, Open Space and Mountain Parks

EXECUTIVE SUMMARY

At the August 20, 2019 council meeting, council passed on second reading Ordinance 8346 extending a .15 sales and use tax for 20 years with the first year's revenue dedicated to the purchase of a conservation easement at Long's Gardens and the following 19 years dedicated to acquisition, preservation, restoration and maintenance of open space land.

STAFF RECOMMENDATION

Suggested Motion Language

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

Motion to adopt by Emergency measure Ordinance 8346 submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 5, 2019, the question of whether the City of Boulder should extend and dedicate to Open Space and the General Fund a 0.15 cent sales tax with the first year's revenue being dedicated to the purchase of a conservation easement on Long's Gardens.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The renewal of the 0.15 cent sales taxes will not create any incremental economic impact on any businesses or individuals since the programs the tax currently supports are already absorbed within the macro economy of the city.
- Environmental – The existing tax funds transportation construction, maintenance and operations. Renewal of a portion of these taxes for open space will support land management activities such as weed and wildlife management and environmental education.
- Social – The use of sales taxes to fund the maintenance of mountain parks and natural lands that are accessible to all members of the community, foster a sense of place and provide opportunities for recreation.

OTHER IMPACTS

- Fiscal – The fiscal impact to the city is covered in the analysis section of this agenda item.
- Staff time – The staff time needed to complete the background work for the ballot item is included within the departmental work plans.

ANALYSIS

At the August 20, 2019 council meeting, council heard extensive testimony regarding the importance of preserving the property known as Long's Gardens. Council decided that the city should purchase a conservation easement to preserve this unique property. In addition, Council Members expressed strong support to increase funding for the acquisition, preservation, restoration and maintenance of Open Space land. Council

passed on second reading a revised ballot measure that would dedicate a .15 sales tax to Open Space for 20 years with the revenue from the first year going to purchase the Long's Gardens' conservation easement.

The estimated annual revenue from the proposed tax would be approximately \$5.3 million per year. Council Members stated that this was the maximum amount that council intended the city to pay for the Long's Gardens' conservation easement. Noting that tax revenue accrues over the full year, council directed staff to negotiate and finalize a purchase and sales agreement for the conservation easement, prior to the election, with the closing date for the transaction as December 31, 2020. Council emphasized that no Open Space funds, other than the new tax revenue are to be used for the purchase.

Staff recommends a few small changes to the ballot title. These are included in the attached proposed ordinance. If council wishes to accept the changes, the ordinance should be passed as an emergency ordinance.

ATTACHMENTS

A – Proposed Emergency Ordinance 8346 (as amended)

ORDINANCE 8346

(0.15 Open Space – 20 year)

AN EMERGENCY ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2019, THE QUESTION OF, WITHOUT RAISING ADDITIONAL TAXES, EXTENDING THE EXISTING 0.15 CENT CITY SALES AND USE TAX APPROVED BY THE VOTERS BY ORDINANCE NO. 7913, BEYOND THE CURRENT EXPIRATION DATE OF DECEMBER 31, 2019 UNTIL DECEMBER 31, 2039; AND BEGINNING JANUARY 1, 2020 UNTIL DECEMBER 31, 2039, 0.15 CENT OF EVERY DOLLAR OF THE REVENUES COLLECTED TO FUND THE ACQUISITION AND PRESERVATION OF OPEN SPACE WITH THE FIRST YEAR REVENUE DEDICATED TO THE PURCHASE OF A CONSERVATION EASEMENT AT LONG'S GARDENS AS A VOTER APPROVED REVENUE CHANGE; AND SETTING FORTH THE BALLOT TITLE AND OTHER ELECTION PROCEDURES AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The voters of the city have earmarked sales and use taxes to fund transportation construction and services, such as maintenance of pavement, construction of transportation infra-structure, transit service and other transportation purposes by approval of a sales and use tax in the amount of 0.15 cents on each dollar sales, which tax expires at the end of 2019.

B. The electorate should consider authorizing the City Council to continue the collection of a 0.15 cents on each dollar sales and use tax from its present expiration date of December 31, 2019 and beginning January 1, 2020 designate the revenue generated to fund open space purposes;

C. It is appropriate for voters to approve of the continued collection, retention and expenditure of the full tax proceeds and any related earnings from this portion of the sales and se tax; and

1 D. The purposes that will be served by the continued collection of the tax are critical
2 for the continued provision of essential general fund city services.
3

4 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
5 OF BOULDER, COLORADO:
6

7 Section 1. A municipal coordinated election will be held in the City of Boulder, County
8 of Boulder and State of Colorado, on Tuesday, November 5, 2019.

9 Section 2. At that election, there shall be submitted to the electors of the City of Boulder
10 entitled by law to vote the question of authorizing the City Council, by duly passed ordinance, to
11 amend that portion of section 3-2-5, “Rate of Tax,” B.R.C. 1981, that pertains to the
12 transportation tax that is currently set to expire at midnight on December 31, 2019 by extending
13 the tax beyond its current sunset date until December 31, 2039.
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15 Section 3. The official ballot shall contain the following ballot title, which shall also be
16 the designation and submission clause for the issue:
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BALLOT ISSUE _____

**SALES AND USE TAX EXTENSION FOR
OPEN SPACE AND LONG’S GARDENS**

WITHOUT RAISING ADDITIONAL TAXES, SHALL THE EXISTING 0.15 CENT CITY SALES AND USE TAX FOR TRANSPORTATION PURPOSES, APPROVED BY THE VOTERS BY ORDINANCE NO. 7913, BE EXTENDED BEYOND THE CURRENT EXPIRATION DATE OF DECEMBER 31, 2019 UNTIL DECEMBER 31, 2039; AND BEGINNING JANUARY 1, 2020 UNTIL DECEMBER 31, 2039 DESIGNATING ~~0.15 CENT OF EVERY DOLLAR OF THE REVENUES COLLECTED TO FUND THE ACQUISITION AND PRESERVATION OF OPEN SPACE LAND INCLUDING THE USE OF ALL OF THE FUNDS GENERATED IN THE FIRST YEAR TO PURCHASE A CONSERVATION EASEMENT AT LONG’S GARDENS~~ LOCATED AT 3240 BROADWAY AS A VOTER APPROVED REVENUE CHANGE?

YES/ FOR _____

NO/AGAINST _____

Section 4. If a majority of all the votes cast at the election on the issue submitted are for the issue, the issue shall be deemed to have passed, and the City Council authorized to make amendments to the Boulder Revised Code, 1981, to implement this issue.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance.

Section 6. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 7. The immediate passage of this Ordinance is necessary for the preservation of the public peace, health, or property. The council declares this to be an emergency measure due to the need to place the measure on the November 2020 ballot. The deadline for final submission

1 is September 5, 2019. Therefore, this Ordinance is hereby declared to be an emergency measure,
2 and as such shall be in full force and effect upon its passage.

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4 Section 8. If any section, paragraph, clause, or provision of this ordinance shall for any
5 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining
6 provisions of this ordinance. The tax established by this issue is intended to be authorized under
7 any lawful means of taxation, including license taxation pursuant to City of Boulder Charter
8 Section 122.

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10 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of
11 the residents of the city, and covers matters of local concern.

12 Section 10. The City Council deems it appropriate that this ordinance be published by
13 title only and orders that copies of this ordinance be made available in the office of the city clerk
14 for public inspection and acquisition.

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17 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
18 TITLE ONLY this 6th day of August 2019.

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21 _____
22 Suzanne Jones,
23 Mayor

24 Attest:

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26 _____
27 Lynnette Beck,
28 City Clerk

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READ ON SECOND READING, PASSED, this 20th day of August 2019.

Suzanne Jones,
Mayor

Attest:

Lynnette Beck,
City Clerk

READ OF THIRD READING, ADOPTED AS AN EMERGENCY MEASURE BY
TWO-THIRDS COUNCIL MEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE
ONLY this 3rd day of September 2019.

Suzanne Jones,
Mayor

Attest:

Lynnette Beck,
City Clerk