CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 3, 2020

AGENDA TITLE

Online Petitioning Update

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Tanya Ange, Deputy City Manager
Chris Meschuk, Deputy City Manager
Francis X. Duffy, Interim Director of Innovation and Technology
Lynnette Beck, City Clerk
Dianne Marshall, Administrative Specialist III, City Clerk's Office
Pamela Davis, Senior Management Analyst, City Manager's Office
Vani Katta, Business Analyst II, Innovation and Technology

EXECUTIVE SUMMARY

Because of the level of community interest, council has directed staff to provide periodic updates regarding the progress of the online petitioning project. The purpose of this agenda item is to provide background and a progress report. Staff has selected a vendor, Runbeck Election Services, to design and build the city's online petitioning system.

The online petitioning system will be deployed in two phases. The following table provides information on the functionality available in each phase.

#	Phase	Functionality Available	Estimated Timeline
1	**OPS Phase 1 MVP**	Fully secure system that allows constituents to endorse an uploaded Petition.	June 12, 2020
2	**OPS Phase 2**	Various Petition Management, reporting and support components: 1. Petition creation, approval, and certification workflow. 2. Petition management features including calendars, notifications and current and historical petition reporting. 3. Petition archival and storage.	November 13, 2020

BACKGROUND

At its December 19, 2017 meeting, the City Council directed the city manager to form a working group to address concerns raised by council members and members of the public about the city's campaign finance and election laws. The charter for the working group was presented on January 4, 2018. The charter describes the expectations established by the City Council for analysis of the Boulder Home Rule Charter and Boulder Revised Code provisions related to campaign finance, initiative and referenda provisions and other election matters.

The working group was Matt Benjamin, Ed Byrne, Allyn Feinberg, Mark McIntyre, Rionda Osman-Jouchoux, Steve Pomerance, Evan Ravitz, Tyler Romero (resigned), Michael Schreiner, John Spitzer and Valerie Yates. The working group divided its responsibilities into two separate efforts:

- A review of many of the direct democracy provisions of the city, predominately related to municipal initiatives, initiated charter amendments, referenda and recall provisions; and

- Campaign finance reform matters on election procedures and requirements.

The working group recommended that council consider ballot measures to amend the city's Charter as specified in its report dated April 17, 2018. On September 4, 2018, council adopted Ordinance 8274, asking voters to consider amendments to Charter Sections 38 (initiative petitions), 45 (referendum petitions) and 56 (recall petitions). At the November 6, 2018 election 35,465 electors voted in favor of the measure and 14,363 voted against it. Included in the amendments was a provision allowing for electronic endorsement of petitions.

On December 11, 2018, council held a study session to discuss the election results and next steps. Council directed staff to undertake a two-step process with respect to online petitioning. The first step would have been to implement a process used for signature gathering as in Denver. Denver allows proponents to gather signatures using a program, developed by Denver, on an iPad. The program authenticates the voter's credentials in real time against the Denver voter registration database. As a county, Denver manages its own voter registration data. The second step would have been a full-fledged online petitioning system. At that time, Denver was interested in marketing its electronic signature software.

Staff began immediately working to implement Denver's system. Unfortunately, Denver decided to delay efforts to market its software because of other more pressing needs in its election unit. On February 19, 2019, council passed Ordinance 8317 on first reading, to allow for implementation of the Denver system.

At a public hearing on March 5, 2019, staff informed council that the Denver system would not be available in time for the 2019 election. Council decided not to adopt Ordinance 8317 and directed staff to proceed with implementation of a full-fledged online system.

At a special council meeting on April 23, 2019, staff provided council with an update on the progress of the project. Staff informed council that staff intended to develop a business process, identify system parameters, select a vendor through a request for proposals, procure the system, implement a test environment and test the system. Staff proposed a timeline that would allow for implementation by April 2020. Staff cautioned however, that this timeline was aggressive and that it was possible that the system would not be ready for the November 2020 election. The minutes for the April 23, 2019 council meeting state "Council agreed that if the program was not adequately ready by April 1, 2020 that it should be carried over to the next election cycle in 2021." Council members stressed the importance of building a system that was secure and provided protection for Personally Identifying Information.

On May 14, 2019, staff met with Daniel Newman, Chief Executive Officer of MapLight, a non-profit technology organization. Mr. Newman informed staff that he had a grant which would fund creating and implementing an online petition system. On May 29, 2019 staff received a written proposal from Maplight. The proposal offered the city a free, open source system.

While this was an attractive possibility, staff concluded that more information was necessary to properly evaluate MapLight's offer. Accordingly, staff mapped the current method and developed criteria for a new system. Staff released an RFP on July 8, 2019. MapLight was invited to and did respond to the RFP.

The RFP called for a robust, secure and easy to use system for electronic petitioning. One key element of a secure system is a reliable form of identity authentication. This security is necessary for two reasons. Under the city's Charter, only persons registered to vote in the City of Boulder, who have a residential mailing address in Boulder, can sign or endorse a petition. The new system should provide a means to verify that the person logging in is registered to vote in Boulder. It important that the system be resistant to robotic and brute force attacks. Identity authentication provides a method to deter some hacking attacks on the system. The proposed approach to voter identity verification is a best practice known as multi-factor authentication.

Within this approach, a computer user is granted access to a site after successfully presenting two or more pieces of evidence (or factors) to an authentication mechanism: knowledge (something the user and only the user knows, for example a password),

possession (something the user and only the user has, for example - a verification code), and inherence (something the user and only the user is, for example - a finger print). Multi-factor authentication ensures that only City of Boulder eligible voters can access and endorse petitions. In addition, this front-end log-in process ensures that the system is less subject to brute force signature campaigns by internet bots (that is, someone writing computer code that signs a petition 20,000 times in rapid succession). These types of intrusions could create a significant burden on petition committees and city staff to process, and/or could compromise results all together.

Under staff's proposed process, a person would enter his or her voter registration ID, full name, year of birth and residential address. The system would then validate that the person is a City of Boulder registered voter. To provide additional security, the person would then request a confirmation code be sent to the phone number in the state voter database either by text or voice message. The person would then enter the confirmation code to gain access to the petition endorsement page. If a person had not previously supplied a phone number, that person could update the voter registration system and return to the city system later. To be effective, the city needs real time voter information to be able to continuously validate and verify that the voter is who they say they are and confirm that they are a current City of Boulder registered voter.

The RFP asked for a system to handle electronic petitions only and not both paper and electronic petitions for the same matter. Under the proposal, a petitioner would be able to use paper petitions or electronic petitions, but not both for the same initiative, referendum or recall. The challenge of mixing online petitioning and paper is identifying and removing duplicate signatures/endorsements. This is a challenge with all paper petitions and requires a significant commitment from the City Clerk's Office. It is difficult to predict how many petitions the city will receive. Over the last 10 years, the city has had four successful initiative petitions and no referendum or recall petitions. The 2018 Charter changes reduced the number of signatures required for initiatives, referenda and recalls. It is reasonable to expect more petitions, although impossible to predict the number with sufficient reliability to staff in advance. The use of electronic petitions will not require additional staff resources.

On August 16, 2019, the city received nine responses to the RFP. From these, staff selected and interviewed three finalists. MapLight was one of the finalists. MapLight did not propose a free system in response to the RFP. Of the three finalists, MapLight and Runbeck were very close in price. Staff selected Runbeck principally because the company had more experience with secure election systems and they had existing relationships with several secretaries of state, including Colorado's. The timetable for availability for the 2020 election cycle called for contract completion and mechanism for access to a daily voter registration file by October 2019. The city signed the contract with Runbeck in December 2019.

MapLight proposed an open source system, while Runbeck proposed a proprietary system. Under an open source system, the developer makes the code available free to the public who can use it and update it. A proprietary system can only be sold by the

developer. Whether the proposal was open source or proprietary was not a significant factor in the city's decision-making process. The city uses both open source and proprietary systems. Staff was more concerned about the ability of the respective bidders to produce a safe, reliable and secure online system. Staff believes that Runbeck made the better proposal.

Staff has been working with Runbeck to design the system with the belief that Boulder County will provide access to a daily voter registration file. As stated above, the online petition system will be deployed in two phases. The following table provides information on the functionality available in each phase.

#	Phase	Functionality Available	Estimated Timeline
1	**OPS Phase 1 MVP**	Fully secure system that allows constituents to endorse an uploaded Petition.	June 12, 2020
2	**OPS Phase 2**	Various Petition Management, reporting and support components: 4. Petition creation, approval and certification workflow. 5. Petition management features including calendars, notifications and current and historical petition reporting. 6. Petition archival and storage.	November 13, 2020

The city has faced challenges in accessing voter registration data. The Secretary of State's office has never supplied voter registration data directly to a city. The SOS has thus far declined to share the voter data files with Boulder. They have directed the city to work through Boulder County, which is how the city currently manages municipal elections. Council members have reported that both the Secretary of State and the Boulder County Clerk have expressed concerns about online petitioning for both policy and security reasons. Nevertheless, staff is in the process of finalizing a Memorandum of Understanding with Boulder County for access to a daily voter registration file.

On December 18, 2019, the city asked the members of the former elections working group to meet. The group raised several questions. They expressed support for open source software and for allowing both electronic and paper petitions for the same matter. Either change would require additional development time and a change to the contract with Runbeck. Runbeck has not expressed any interest in producing open source software.

Steve Pomerance, a member of the working group, has made several suggestions which staff has explored. He has suggested that the city provide an option for voters to have a postcard sent in addition to a phone message. Mr. Pomerance also suggested using credit cards to verify a person's identity while charging them a nominal fee of $1.00. The challenge with postcards is the uncertainty in the required staff levels needed to manage such a system and the security risk related to postcard disposal/misuse. The maintenance of credit card information is governed by strict regulations. This would add an additional level of complication to the system and require the city to pay credit card processing fees for each transaction.

There have been several questions asked about the system. The following is an attempt to provide answers to these questions:

Q. Why did the city not accept MapLight's free offer?

A. With a new system such as this, staff believed that it was important to proceed with a RFP to better understand what might be available. Staff also was concerned about customer service and respondents' abilities to address any security related issues after implementation. MapLight's RFP response was similar in price to Runbeck's. MapLight subsequently offered a free product that would not have met the RFP requirements. It would be highly unusual to allow a disappointed participant to rewrite the RFP requirements after conclusion of the process. Staff asked for comments on the RFP. MapLight did not provide any.

Q. Why did the city not require open source software in the RFP?

A. Staff's primary concern was in the system being implemented, not in how others might be able to benefit from the software.

Q. The State of Arizona has a system for signing candidate petitions. Why did the city not acquire that system?

A. Arizona developed its system in-house. They have not offered to sell the system.

Q. Why has staff not accepted MapLight's most recent offer for a free system?

A. MapLight participated in the RFP process. It would be highly unusual to allow an unsuccessful participant to make an offer that would essentially rewrite the RFP. This would undermine the procurement process and encourage future vendors to wait until after the process is completed to make a best offer.