



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM  
MEETING DATE: September 1, 2020**

**AGENDA TITLE**

Third reading and consideration of a motion to adopt Ordinance 8417 submitting to the registered electors of the City of Boulder at the Municipal Coordinated Election to be held on Tuesday, November 3, 2020, the question, whether the portion of the Utility Occupation Tax dedicated to exploring municipalization that was approved by the voters in November 2011 and amended in November 2017, be extended from its current expiration date of December 31, 2022 to a new expiration date of December 31, 2025 and be used to repay costs associated with the municipal utility effort and further to be used to fund projects, pilots, initiatives, and research that support the city's clean energy goals in the context of the city's racial equity goals and the community's commitment to the Paris climate agreement, including to provide energy-related assistance to disadvantaged members of the community, improve system reliability and modernization, and support clean energy-related business, including, without limitation, new approaches in electrification of buildings and transportation, enhancement of resilience, and increased access to energy efficiency and renewable energy solutions; only if a majority of electors vote to approve a franchise agreement with Public Service Company of Colorado at the November 3, 2020 election; giving approval for the collection, retention, and expenditure of the full tax proceeds and any related earnings notwithstanding any state revenue or expenditure limitation; setting forth the ballot title; specifying the form of the ballot and other election procedures; and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Thomas A. Carr, City Attorney  
David Gehr, Chief Deputy City Attorney  
Steve Catanach, Director, Climate Initiatives  
Jonathan Koehn, Chief Resilience and Sustainability Officer

## EXECUTIVE SUMMARY

The purpose of this agenda item is to complete third reading and the final adoption of ordinance 8417, setting the ballot title for a ballot question that asks the voters to approve repurposing and extension of the Utility Occupation Tax.

At the July 28, 2020 council meeting council directed staff to bring forward an ordinance to allow funds collected by the Utility Occupation Tax dedicated to exploring municipalization to be used to fund a partnership with Xcel Energy. The ordinance extends the tax until December 31, 2025.

The council passed and amended the ordinance after hearing from the community at a public hearing on August 18, 2020. The amendments included the correction of some typographical errors and setting the expiration of the tax at 2025 rather than 2030.

## 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 8417 submitting to the registered electors of the City of Boulder at the Municipal Coordinated Election to be held on Tuesday, November 3, 2020, the question, whether the portion of the Utility Occupation Tax dedicated to exploring municipalization that was approved by the voters in November 2011 and amended in November 2017, be extended from its current expiration date of December 31, 2022 to a new expiration date of December 31, 2025 and be used to repay costs associated with the municipal utility effort and further to be used to fund projects, pilots, initiatives, and research that support the city's clean energy goals in the context of the city's racial equity goals and the community's commitment to the Paris climate agreement, including to provide energy-related assistance to disadvantaged members of the community, improve system reliability and modernization, and support clean energy-related business, including, without limitation, new approaches in electrification of buildings and transportation, enhancement of resilience, and increased access to energy efficiency and renewable energy solutions; only if a majority of electors vote to approve a franchise agreement with Public Service Company of Colorado at the November 3, 2020 election; giving approval for the collection, retention, and expenditure of the full tax proceeds and any related earnings notwithstanding any state revenue or expenditure limitation; setting forth the ballot title; specifying the form of the ballot and other election procedures; and setting forth related details.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic – The extension of an existing tax should not have an increased impact on the economy. Any tax does affect the economy.
- Environmental – The funding will assist the community in addressing climate change by supporting the city’s goal to reach 100 percent renewable electricity by 2030.
- Social – The proposed ordinance would prioritize dedicating funds to assisting disadvantaged members of the community with utility bill payments and renewable energy projects.

## **OTHER IMPACTS**

- Fiscal – The proposed measure would provide approximately \$2 million per year in additional funding to the city budget.
- Staff time – Implementing the proposed partnership will require staff work that is not part of any workplan.

## **BACKGROUND**

Ordinance 8417 is being considered in conjunction with a larger effort to settle disputes with Xcel Energy related to the City’s municipal electric utility formation efforts.

- Concepts were discussed at the council’s July 28 Study Session.
- August 4, 2020 first reading completed.
- August 20, 2020 public hearing, second reading, and amendment of the ordinance.

## **ANALYSIS**

Voters originally approved the Utility Occupation Tax at the November 2010 election. This portion of the tax was intended to replace a fee paid under the previous franchise with Xcel Energy. This portion of the tax goes to the general fund. It will cease and be replaced by a franchise fee if the voters approve a new franchise.

At the November 2011 election the voters approved an increase of the Utility Occupation Tax to be used to fund municipalization. This portion of the tax was increased and extended at the November 2017 election. The tax expires on December 31, 2022. In 2021 and 2022, it will collect approximately \$2.1 million.

The Utility Occupation Tax is a tax on any utility providing gas and electricity in the city. The tax is a fixed amount that the utility can, pursuant to a tariff, pass on to its customers.

Under the proposed ordinance the tax would be repurposed and extended to allow for the tax to be used to fund the city’s efforts to meet its climate goals. One of the city’s

goals is to maintain or reduce electrical rates. The potential agreement with Xcel Energy does not address this goal. Staff recommends that a portion of the funding from the repurposed tax be used to fund utility bill relief for disadvantaged members of the community. Other funds could be used to repay the general fund for costs associated with municipalization and to fund the projects that will address the city's climate goals.

The ballot measure only authorizes the imposition and repurposing of the tax. If the voters approve, council will need to pass an ordinance imposing the tax, changing the language related to dedication of the revenue, and appropriating the funds. Council will be able to decide how the funds should be expended within the limitations imposed by the ballot measure.

### **NEXT STEPS**

- If the council passes Ordinance 8417, it will proceed to the November 3, 2020 election.
- If the voters pass the ballot question, then the staff will return to council with amendments to the City's tax code to implement the tax.

### **ATTACHMENT**

A – Proposed Ordinance 8417 – UOT Repurpose and Extension

ORDINANCE 8417

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, THE QUESTION WHETHER THE PORTION OF THE UTILITY OCCUPATION TAX DEDICATED TO EXPLOARING MUNICIPALIZATION THAT WAS APPROVED BY THE VOTERS IN NOVEMBER 2011 AND AMENDED NOVEMBER 2017, BE EXTENDED FROM ITS CURRENT EXPIRATION DATE OF DECEMBER 31, 2022 TO A NEW EXPIRATION DATE OF DECEMBER 31, 2025 AND BE USED TO REPAY COSTS ASSOCIATED WITH THE MUNICIPAL UTILITY EFFORT AND FURTHER; TO FUND PROJECTS, PILOTS, INITIATIVES, AND RESEARCH THAT SUPPORT THE CITY’S CLEAN ENERGY GOALS IN THE CONTEXT OF THE CITY’S RACIAL EQUITY GOALS AND THE COMMUNITY’S COMMITMENT TO THE PARIS CLIMATE AGREEMENT, INCLUDING TO PROVIDE ENERGY-RELATED ASSISTANCE TO DISADVANTAGED MEMBERS OF THE COMMUNITY, IMPROVE SYSTEM RELIABILITY AND MODERNIZATION, AND SUPPORT CLEAN ENERGY-RELATED BUSINESS, INCLUDING, WITHOUT LIMITATION, NEW APPROACHES IN ELECTRIFICATION OF BUILDINGS AND TRANSPORTATION, ENHANCEMENT OF RESILIENCE, AND INCREASED ACCESS TO ENERGY EFFICIENCY AND RENEWABLE ENERGY SOLUTIONS; ONLY IF A MAJORITY OF ELECTORS VOTE TO APPROVE A FRANCHISE AGREEMENT WITH PUBLIC SERVICE COMPANY OF COLORADO AT THE NOVEMBER 3, 2020 ELECTION; GIVING APPROVAL FOR THE COLLECTION, RETENTION, AND EXPENDITURE OF THE FULL TAX PROCEEDS AND ANY RELATED EARNINGS NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION; SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

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

Section 1. A municipal coordinated election will be held in the city of Boulder, county of  
Boulder and state of Colorado, on Tuesday, November 3, 2020.

Section 2. The official ballot shall contain the following ballot title, which shall also be  
the designation and submission clause for the issue:

**Ballot Question No. \_\_\_\_**

**Repurpose the Utility Occupation Tax**

WITHOUT RAISING THE TAX RATE SHALL THE EXISTING  
UTILITY OCCUPATION TAX, WHICH IN 2021 AND 2022  
WILL BE IN THE AMOUNT OF \$ 2,076,181, BE EXTENDED  
FROM A CURRENT EXPIRATION DATE OF DECEMBER 31,  
2022 TO DECEMBER 31, 2025 AND BE REPURPOSED TO  
PAY ALL COSTS ASSOCIATED WITH THE FORMATION OF  
A MUNICIPAL ELECTRIC UTILITY AND TO BE USED TO  
FUND PROJECTS, PILOTS, INITIATIVES, AND RESEARCH  
THAT SUPPORT THE CITY'S CLEAN ENERGY GOALS IN  
THE CONTEXT OF THE CITY'S RACIAL EQUITY GOALS  
AND THE COMMUNITY'S COMMITMENT TO THE PARIS  
CLIMATE AGREEMENT, SUCH AS:

- PROVIDING ENERGY-RELATED ASSISTANCE TO  
DISADVANTAGED MEMBERS OF THE  
COMMUNITY, INCLUDING SUPPORT FOR UTILITY  
BILL PAYMENTS AND ACCESS TO RENEWABLE  
ENERGY;
- IMPROVING SYSTEM RELIABILITY AND  
MODERNIZING, AND SUPPORTING CLEAN  
ENERGY-RELATED BUSINESSES, INCLUDING,  
WITHOUT LIMITATION, NEW APPROACHES IN  
ELECTRIFICATION OF BUILDINGS AND  
TRANSPORTATION, ENHANCEMENT OF  
RESILIENCE;
- IMPLEMENTING A PARTNERSHIP AGREEMENT  
WITH PUBLIC SERVICE COMPANY OF COLORADO;  
AND

- INCREASING ACCESS TO ENERGY EFFICIENCY  
AND RENEWABLE ENERGY SOLUTIONS;

ONLY IF A MAJORITY OF REGISTERED ELECTORS  
APPROVE A FRANCHISE AGREEMENT WITH PUBLIC  
SERVICE COMPANY OF COLORADO AT THE NOVEMBER  
3, 2020 ELECTION,

AND SHALL THE EXTENDED PORTION OF THE TAX BE  
SUBJECT TO THE SAME TERMS AND CONDITIONS AS THE  
ORIGINAL TAX AND ALL EARNINGS THEREON  
(REGARDLESS OF AMOUNT) CONSTITUTE A VOTER  
APPROVED REVENUE CHANGE, AND AN EXCEPTION TO  
THE REVENUE AND SPENDING LIMITS OF ARTICLE X,  
SECTION 20 OF THE COLORADO CONSTITUTION?

FOR THE MEASURE \_\_\_\_ AGAINST THE MEASURE \_\_\_\_

Section 3. If this ballot measure is approved by the voters, the Charter shall be so  
amended, and the City Council may adopt any necessary amendments to the Boulder Revised  
Code to implement this change.

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

Section 5. This ordinance is necessary to protect the public health, safety, and welfare of  
the residents of the city, and covers matters of local concern.

Section 6. The city council deems it appropriate that this ordinance be published by title  
only and orders that copies of this ordinance be made available in the office of the city clerk for  
public inspection and acquisition.

1 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 4th day of August 2020.

3  
4 \_\_\_\_\_  
5 Sam Weaver,  
6 Mayor

7 Attest:

8 \_\_\_\_\_  
9 Pamela Davis,  
10 City Clerk

11 READ ON SECOND READING, AMENDED, this 20th day of August 2020.

12  
13 \_\_\_\_\_  
14 Sam Weaver,  
15 Mayor

16 Attest:

17 \_\_\_\_\_  
18 Pamela Davis,  
19 City Clerk



1 READ ON THIRD READING, PASSED AND ADOPTED, this 1st day of September  
2 2020.

3  
4 \_\_\_\_\_  
5 Sam Weaver,  
6 Mayor

7 Attest:

8 \_\_\_\_\_  
9 Pamela Davis,  
10 City Clerk  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25