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Sam Weaver

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Rachel Friend
Junie Joseph
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Adam Swetlik
Mark Wallach
Bob Yates
Mary Young



Council Chambers
1777 Broadway
Boulder, CO 80302
May 25, 2021
6:00 PM

City Manager
Nuria Rivera-Vandermyde

City Attorney
Thomas A. Carr

City Clerk
Elesha Johnson

STUDY SESSION BOULDER CITY COUNCIL

Municipal Funding Options	90 min.
2021 Ballot Items	60 min.
Online Petition Update	15 min

2:45 hrs

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COVER SHEET

MEETING DATE

May 25, 2021

STUDY SESSION ITEM

Municipal Funding Options

PRIMARY STAFF CONTACT

Kara Skinner, Assistant Director of Finance

REQUESTED ACTION OR MOTION LANGUAGE

Municipal Funding Options

ATTACHMENTS:

Description

- ▣ **Municipal Funding Options**



STUDY SESSION MEMORANDUM

TO: Mayor and Members of City Council

FROM: Nuria Rivera-Vandermyde, City Manager
Cheryl Pattelli, Chief Financial Officer
Kara Skinner, Assistant Director of Finance
Devin Billingsley, Senior Budget Manager

DATE: May 25, 2021

SUBJECT: **Municipal Funding Options**

EXECUTIVE SUMMARY

This agenda item is responsive to a council request that staff provide:

- An overview of the City of Boulder's current funding sources and use of specific types of taxes and fees
- Important municipal funding source considerations
- Current City and County additional funding source discussions
- Municipal funding options
 - Changes to current city local funding sources
 - Other local funding source options

As a home-rule city, the City of Boulder has the authority to implement taxes and fees. The Colorado Constitution Article X, Section 20, the Taxpayer's Bill of Rights (TABOR) does prohibit local governments from enacting a local income tax or a real estate transfer tax (except for real estate transfer taxes that were already in place prior to the adoption of TABOR). Currently the City of Boulder and its voters have approved many tax types as will be described in the analysis section of this memo.

Questions for Council

- Does council have any questions regarding the various funding options?

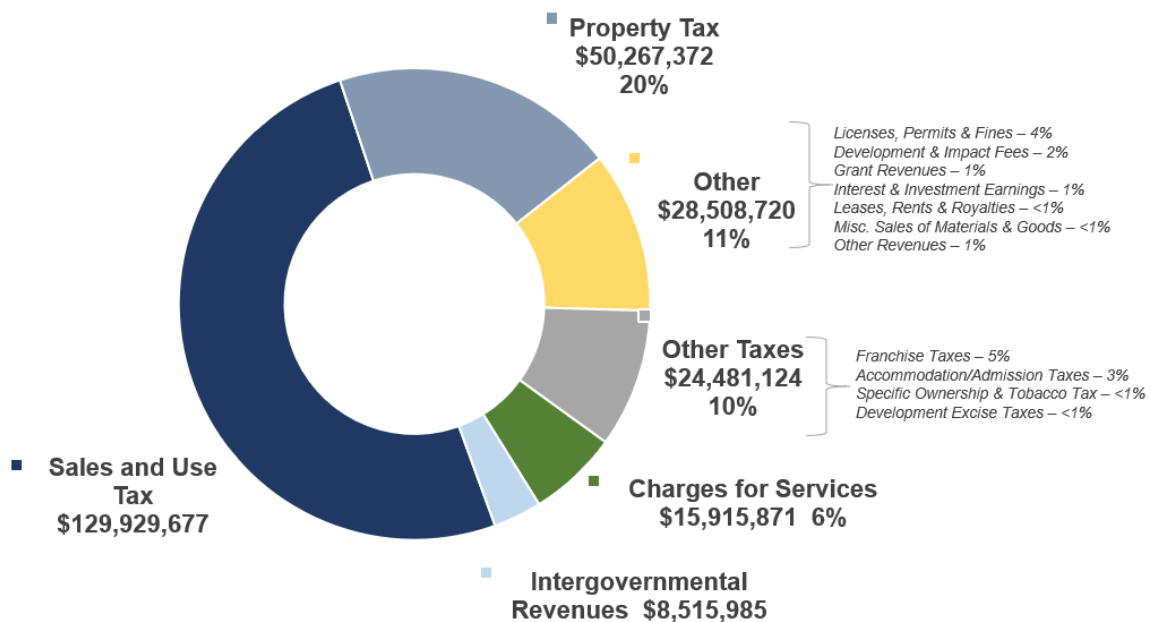
BACKGROUND

At the 2021 City Council retreat, council requested that staff provide information regarding the city's current use of funding sources and options for additional funding sources. Council also requested that staff provide an overview of other city and county funding option discussions such as the potential for a library district and potential Boulder County tax ballot items. Last, a number of council members have expressed interest in potential funding options for social services. Staff has included a summary table of various dedicated funding sources that have been approved by voters across Colorado.

ANALYSIS

Municipal local funding sources fall into four broad categories: sales and use tax, property tax, specific sales taxes and other taxes and fees.

City of Boulder 2021 Funding Sources (excluding Utilities)



The city's funding sources as categorized in this chart are comprised of locally sourced revenue such as sales and use tax, property tax, and charges for services. There also are some locally sourced revenue in the "Other" and "Other Taxes" categories such as licenses, permits & fines, development and impact fees, interest & investment earnings, leases, rents and royalties, and miscellaneous sales of materials and goods, franchise taxes, accommodations tax, admissions tax, and development excise tax. Intergovernmental revenues are not locally sourced – they are revenues from the state or federal government. Other not locally sourced revenue included in the "Other" and "Other Taxes" categories include specific ownership taxes, highway users tax fund (gas tax), and tobacco tax and other pass-through funding.

City of Boulder local revenue sources include the following:

- Sales and use tax including construction use tax and motor vehicle use tax
- Property tax
- Selective sales taxes
 - Marijuana
 - Food service
 - Vaping devices (electronic smoking devices)
- Occupational privilege taxes
 - Liquor
 - Telephone service (local)
 - Trash hauler
 - Utility
- Excise taxes
 - Accommodations
 - Admissions
 - Climate Action Plan (electricity)
 - Development
 - Long-term rental license
 - Marijuana cultivation
 - Oil & gas pollution
 - Short-term rental
 - Sugar sweetened beverage distribution
- Franchise fees
 - Cable
 - Utility (under review by the Public Utilities Commission)
- User fees
 - License and permit fees
 - Disposable bag fee
 - Specific user fees (e.g. recreation programs and facilities)

Important Municipal Funding Source Considerations

When the city is weighing new funding sources or changes to current funding sources, there are a number of factors to consider, such as:

Is the intended use of the funding for general purposes or dedicated purposes? The Blue Ribbon Commission and best practices recommend revenue sources should not be restricted to give the governing body flexibility to prioritize spending to the highest priority and evolving needs. However, to garner taxpayer support, it is common that tax proposals are for dedicated purposes so voters feel confident they will know how the additional or continued revenue will be used.

Potential revenue raising ballot proposals that are being discussed or brought up for consideration are all restricted: the potential for dedicated funding for library services either through an increased dedicated municipal property tax or the formation of a library district with a dedicated property tax; the extension of the 0.3% sales and use tax as a

Community Resilience and Safety Tax; and the potential for a new dedicated sales tax to fund homelessness services. In addition, staff has heard, although this has not been confirmed by Boulder County, that the county may be considering a fall tax measure to fund transportation, affordable housing or mental/behavioral health services/infrastructure.

Is the proposed funding ongoing or is it term limited? Best practices recommend funding sources for ongoing needs be ongoing. Ongoing needs also include a capital program as capital infrastructure continues to need ongoing major maintenance, refurbishment and replacement. However, to garner taxpayer support, it is also common that tax proposals are term limited so voters will have another opportunity to weigh in on the continuation of the tax at a future date.

Is the proposed funding option regressive, neutral, or progressive? A regressive tax is one that lower income taxpayers would pay a greater percentage of their income on the tax than higher income taxpayers. A neutral tax is one that taxpayers would generally pay the same proportion of their income on the tax and a progressive tax is one that lower income taxpayers would pay a smaller percentage of their income on the tax than higher income taxpayers.

What is the revenue generating capacity? Broad sales and use tax and/or property tax typically can generate the most revenue and together typically make up the majority of local government revenue. A general occupation tax (or head tax) depending upon the employment base of the jurisdiction and the tax level could also generate significant revenue. Specific sales taxes (levied against a specific product such as recreational marijuana), excise taxes and fees can lack the broad base and therefore generate less revenue.

What are the underlying economic drivers? For example, what is the mix of residential, commercial and non-profit properties? Is the community a visitor destination or employment center? What is the mix of primary, service and retail jobs? What is the mix of private and government jobs? What is the presence or mix of growing industry jobs or slowing industry jobs? What are the demographics of the community – particularly age and income?

What is the impact on businesses within the jurisdiction and their regional competitiveness? A higher tax rate can negatively impact local businesses and make them less competitive in the region. With higher property taxes, businesses may need to pass along higher taxes in the price of their goods or services. With higher sales taxes, customers may choose to shop in neighboring jurisdictions.

What is the total tax/fee burden? While local governments are often focused on their total tax rates, taxpayers often consider the total tax burden when making choices regarding where to live, locate a business or shop.

How will the COVID-19 Recovery be impacted by the funding option? Will the imposition of a new tax or fee hinder business recovery from the COVID-19 recession

and adversely impact business success or formation? Many local businesses were hit hard by the COVID-19 recession, in some cases revenue falling 10, 30, or 50 percent. Would a tax or fee increase decrease margins such that more businesses would have to close or relocate out of Boulder and would others determine they cannot make the numbers work to start a new venture?

What communities were most adversely impacted by COVID-19 and the COVID-19 and would a tax or fee increase their burden and a time when they are particularly struggling? Communities of color and lower income individuals were disproportionately impacted by the pandemic, public health restriction induced business closures or reduced capacity, and the resulting economic crisis.

Current City and County Additional Funding Sources Discussions

The following are current funding source discussions or proposals that would impact City of Boulder residents.

City of Boulder Sales and Use Tax

Staff and the Financial Strategy Committee are developing a 2022 ballot item for council consideration to extend the city's 0.3% expiring sales and use tax (Community, Culture and Safety) for capital infrastructure. The tax is set to expire 12/31/2021 and if extended is expected to generate \$10 million in 2022, escalated in future years. As this is a tax extension, it would not increase the cities total sales and use tax rate of 3.86% so not a sales tax increase for taxpayers.

In addition, some council members have raised the possibility of a ballot item to request voter approval of a dedicated sales and use tax to fund homeless services. In 2019, voters in the City and County of Denver approved a 0.25% sales and use tax for homeless services.

Property tax – either City of Boulder Property Tax or a Library District Property Tax

Council and the community have been discussing the potential for a dedicated source of library services funding. Staff presented funding options at the February 23, 2021 study session. The options included the formation of a library district with the potential for a 3.85 mill property tax or increasing the city's property tax and dedicating it to library services. If a municipal funding option were considered, increases to the property tax rate could be from 0.24 mills to 4.56 mills depending upon the level of dedicated funding desired to be proposed to the voters. It is anticipated that the earliest a funding measure would be presented to the voters would be November 2022. These proposals could increase the annual property tax bill for a city residential property taxpayer by up to \$257 per year based upon a market valuation of \$850,000.

Boulder County Taxes

At this time, staff is not aware of any tax that Boulder County plans to put on the ballot in November. County staff indicated they are in very preliminary stages of considering some options. The county may be considering future dedicated funding for mental/behavioral health services/infrastructure, affordable housing and/or transportation.

City of Boulder Fees

As part of the 2019 Transportation Master Plan Update on [June 18, 2019](#), staff presented potential transportation funding mechanisms including a Transportation utility fee (TUF) or Transportation maintenance fee (TMF). A TUF/TMF would be assessed on commercial and/or residential property and is typically included on utility bills. At that June presentation, staff showed what a fee structure could look like to raise that would raise approximately \$5 million annually. In that sample fee structure, the rates were estimated to be:

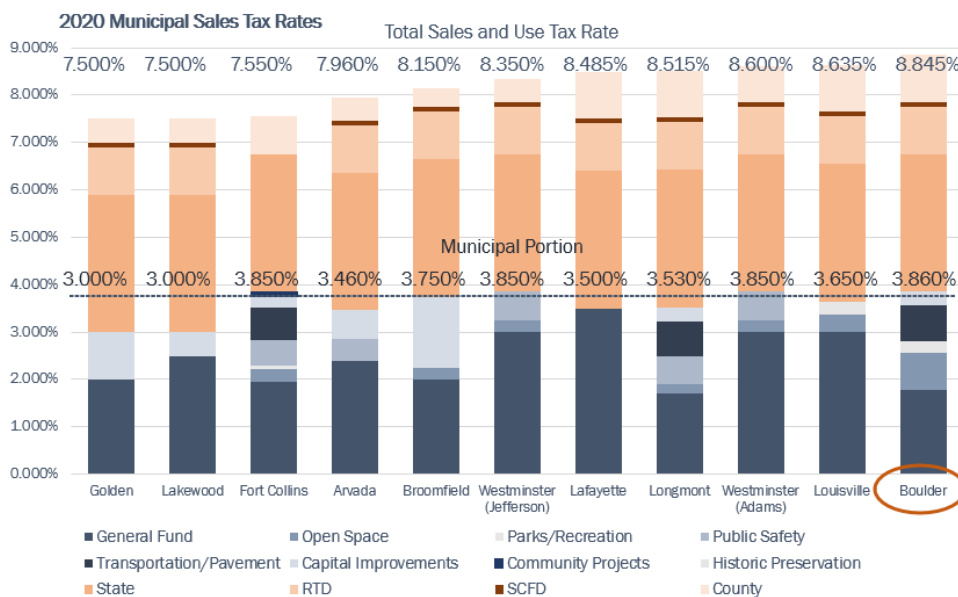
- \$80/year for detached residential unit
- \$53/year for multi-family residential unit
- \$0.20/sq. ft. commercial/retail
- \$0.10/sq. ft. office
- \$0.02/sq. ft. warehouse/light industrial

Additional Municipal Funding Options

Sales and Use Tax

Renew expiring sales and use taxes: In addition to the current funding options being discussed and described above council could consider renewing future expiring sales and use taxes. A 0.15% General Fund, non-dedicated sales tax will expire at the end of 2024. Currently 0.15% generates \$5.1 million annually. and the 0.25% sales and use tax currently dedicated to Parks and Recreation expires at the end of 2035.

Increase the sales and use tax rate: Every 0.1% increase in the city's tax rate would generate \$3.4 million. Currently the city's total sales and use tax rate is 3.86% and the total sales and use tax rate across all taxing entities for taxable transactions in the city is 8.845%. Below is a table of comparable total sales tax rates across peer cities.



Expand the sales and use tax base: Currently the tax base which defines taxable transactions is tangible personal property (goods) and enumerated taxable services. Taxable goods includes groceries or what is known as food for home consumption. Taxable service currently includes telecommunications services, gas, electricity, steam, and heat, meals purchased or sold at restaurants and other facilities, installation and other labor used to render the tangible personal property into a usable form, and computer software.

Council could consider proposing to expand the tax base to include more enumerated services. The economy has been transitioning more to a service based economy and certain demographic groups purchase more services than goods so this has and will continue to erode sales and use tax revenues.

Advantages of a sales and use tax:

- It is a productive source of revenue that generally keeps pace with inflation
- It has a diverse tax base consisting of residents, businesses, commuters, visitors
- It is influenced by changing demographics, consumer mix, business mix, retail mix. (Can be an advantage or disadvantage depending upon the shift).
- It is transparent in that it is assessed on each transaction.

Disadvantages of a sales and use tax:

- It responds relatively rapid to economic cycles so can quickly impact a jurisdiction's revenue stream and the ability to fund and provide services and programs.
- It is a regressive tax. However, of note the City of Boulder has a Food tax rebate program to mitigate the regressive impact of the tax on lower income residents' purchases of groceries.
- It can negatively impact businesses regional competitiveness - there can be cross border effects.
- In recent years, there has been deteriorating effectiveness with economy shifting from goods to more services (largely untaxed)
- It is influenced by changing demographics, consumer mix, business mix, retail mix. (Can be an advantage or disadvantage depending upon the shift).
- It is less transparent in the aggregate, in that taxpayers often have hundreds or possibly thousands of transactions per year so it is not clear the total each taxpayer pays in a year and it is less transparent in that taxpayers may not know what portion of the tax goes to each taxing entity.
- Voter approval is needed to increase the tax rate or change the tax base.

Property Tax

The property tax is assessed on real property and business personal property.

Increase the property tax rate:

Currently the city's total mill levy rate is 11.981 mills and the City Charter has a mill levy cap of 13.0 mills. The current total tax within much of the city is 86.7 mills (the total can vary depending on what special taxing jurisdictions the property resides).

Council could ask voter approval to increase the mill levy by up to 1.019 mills without requiring a charter change. Any proposed increase above that amount would require a voter approved charter change to increase the mill levy cap. Based upon the current city mill levy, homeowners pay to the city approximately \$86 in property tax on every \$100,000 of market value and business owners pay to the city approximately \$348 in property tax for every \$100,000 of market value.

City	Property Tax Rate (mills)
Westminster	3.650
Arvada	4.310
Louisville	7.934
Superior	9.430
Thornton	10.210
Broomfield*	11.457
Boulder	11.981
Longmont	13.420
Lafayette	16.572
* Broomfield rate is just city portion only	

Based upon current property assessments, a 1.0 mill increase would generate \$4.3 million. For every 1.0 mill increase to the city's mill levy, homeowners would pay to the city an additional \$7.15 in property tax on every \$100,000 of market value and business owners pay to the city approximately \$29 in property tax for every \$100,000 of market value.

Create special district or improvement district that levies a dedicated property tax:
Special districts in Colorado are formed or have been formed to provide library services, fire and rescue services, capital improvements, and the city currently has a special district that was formed to provide mass transit – ECO passes to district taxpayers and others. Districts are formed under state statutes and voters within the district would have to approve the funding.

Advantages of a property tax:

- There is a nexus because municipal services benefit property owners (public safety, streets, sidewalks, parks)
- Historically the real estate market and property values have been stable or growing in the City of Boulder and Boulder County.
- If an economic downturn impacts the real estate market and property valuations, the impact to the taxing entity is lagged due to the two-year assessment process and the lag in comparable sales data that impacts property assessments.
- Administration through the county is very efficient – system and processes in place.
- It is a less regressive, more neutral tax.

Disadvantages of a property tax:

- It is a tax on unrealized capital gains. A property owner's property tax bill can increase even when the property owner's cash position does not increase.
- Transparency – it is not very transparent because there is not an exact transaction upon which to base the tax so the value of the property upon which the tax rate is applied must be estimated. In addition, taxpayers may know their total property tax bill but may not know what portion of the tax goes to each taxing entity.
- Larger lump sum payments

Selective Sales Taxes

The City of Boulder currently imposes a number of selective sales taxes as listed above. The tax rates for these selective sales taxes vary. The city's specific sales taxes are food service 0.15%, recreational marijuana 3.5% and electronic smoking devices 40%.

Increase a selective sales tax rate

Council could consider proposing to increase the selective tax rate for existing selective sales taxes. If the food service tax rate was increased by 0.1% from 0.15% to 0.25% that would generate approximately \$424,000 annually. If the recreational marijuana rate was increased by 1.0% from 3.5% to 4.5% that would generate approximately \$576,000 annually. The electronic smoking device tax went into effect July 1, 2020.

Add a new selective sales tax

Based upon a review of the Colorado Municipal League tracking of municipal tax measures that have been approved by voters, the only selective sales tax that was approved that the City of Boulder does not already have in place is a local tobacco tax. One selective sales tax that is in place in some major cities is a selective sales tax on alcohol drinks sold liquor licensed establishments.

Advantages of selective sales taxes

- The tax can be designed to address specific policy goals such as visitors contributing to tax base to offset impact to municipal services or to raise revenue to offset the municipal service cost impact of a specific activity.

Disadvantages of selective sales taxes

- Revenue generation could be limited.
- Revenue may decline significantly due to economic shock or recession as was seen with COVID-19 and accommodation tax, admissions tax and short-term rentals tax.
- Depending on the selective tax it may be regressive.
- It can negatively impact businesses regional competitiveness - there can be cross border effects.
- Voter approval needed to increase rate or change base.
- May not be transparent to the customer that they are being charged a selective sales tax.

Occupational privilege taxes

The City of Boulder currently imposes liquor occupation tax, telephone service (local) occupation tax, trash hauler occupation tax and utility occupation tax.

Increase to current occupation tax rates:

The rates for occupation taxes are not as straight forward as selective sales tax rates and excise tax rates. The revenue budgeted from occupation taxes for 2021 are the following: liquor occupation tax - \$600,000, telephone occupation tax - \$771,000, trash hauler occupation tax - \$1.85 million, and General Fund, general purpose utility occupation tax is being transitioned to a franchise fee upon Public Utility Commission of the franchise agreement. The temporary municipalization utility occupation tax was renewed and repurposed by voters in November 2020.

Add a general occupation tax:

A number of Front Range cities including Aurora, Denver, Englewood, Glendale, Greenwood Village and Sheridan have a general occupational privilege tax or “head tax”. It is imposed on the privilege of operating a business or practicing an occupation within the city. The tax can be imposed on the employer, the employee or both. The Blue Ribbon Commission evaluated this tax and estimated that if the tax was imposed only on the employee at the rate of \$1 per month it could generate approximately \$1 million annually.

Advantages of a general occupation tax or head tax:

- Can generate substantial revenue, usually predictable and stable
- In-commuters contribute to tax base to offset impact to municipal services

Disadvantages of a general occupation tax or head tax:

- May cause businesses to locate outside the city.
- If an employer portion tax is imposed it could negatively impact non-profit organizations.

Excise taxes, fees and charges

Excise taxes, fees and charges are often imposed or set with specific policy or fiscal goals related to the use of the product or service. The City of Boulder currently imposes a number of excise taxes: accommodations tax, admissions tax, Climate Action Plan tax (on electricity), development excise tax, long-term rental license tax, marijuana cultivation excise tax, oil & gas pollution tax, short-term rental tax, and the sugar sweetened beverage distribution tax.

Departments review fees and charges periodically and set fees based upon to recover costs, in part or in full. In general, these services are of special or unique benefit to the resident of business receiving the service, for example: building safety inspections, development review, vehicle parking, and wastewater treatment. Cost recovery practices for the city include a periodic review of the fees charged to determine whether city expenditures on the selected services are appropriately offset by the fee revenue collected. This review often takes place as part of the development of the budget and the

city includes adjustments to fees in the annual budget document. Without adjustments, the city would need to incrementally shift resources away from current programs to pay for services for residents receiving a special benefit.

Increase an excise tax rate

The tax rates for these excise taxes vary. As examples, for the following excise taxes and increase to the rate could generate the following revenue. If the accommodations tax rate was increased from 7.5% to 8.5% that would generate approximately \$700,000, if the admissions tax rate increased from 5% to 6% that would generate approximately \$100,000, if the short-term rental rate increased from 7.5% to 8.5% that would generate approximately \$134,000.

Add a new excise tax

Based upon a review of other excise taxes across Colorado three excise taxes found in other jurisdictions are a rental car tax, a tax on storage facilities or mini-storage or a tax on hemp.

Advantages of an excise tax, fee or charge

- There is a nexus between user and excise tax, fee or charge – the user receives a specific benefit and high users would pay more for the service or system
- For an excise tax (similar to a selective sales tax) it can be designed to address specific policy goals such as visitors contributing to tax base to offset impact to municipal services or to raise revenue to offset the municipal service cost impact of a specific activity, or to encourage a reduction in a specific activity.
- Transparent – it can be clear what the tax, fee or charge for services is and the user can weigh whether to purchase the service.

Disadvantages of an excise tax, fee or charge

- Depending on the excise tax, fee or charge may be regressive.

Colorado Cities with Dedicated Funding for Social Services

Last, a number of council member have expressed interest in potential dedicated funding for social services. Below is a table of taxes that are dedicated to a variety of specific uses that would be considered social services.

Dedication	Tax	City or Town
Affordable Housing	0.45% Sales Tax 7.5% Short Term Rental Tax 5.0% Short Term Rental Tax 0.417 mills 0.5% Sales Tax & 2 mills	Aspen Boulder Crested Butte Denver* Telluride
Homeless Services	0.25% Sales Tax	Denver*
Childcare/Child Services/Preschool	1.653 mills 0.15% Sales Tax	Breckenridge Denver
Developmentally Disabled	1.011 mills	Denver*
Health & Human Services	\$2/day Short Term Rental Tax	Nederland
Mental Health Services	0.25% Sales Tax	Denver*
Social Services	2.627 mills	Denver*

*City and County

NEXT STEPS

Staff will research and explore specific municipal funding options further at council direction.

ATTACHMENTS

n/a



COVER SHEET

MEETING DATE

May 25, 2021

STUDY SESSION ITEM

2021 Ballot Items

PRIMARY STAFF CONTACT

Kara Skinner, Assistant Director of Finance

REQUESTED ACTION OR MOTION LANGUAGE

2021 Ballot Items

ATTACHMENTS:

Description

- ▣ **2021 Ballot Items Memo and Attachments**



CITY OF BOULDER STUDY SESSION

To: Members of City Council

From: Nuria Rivera-Vandermyde, City Manager
Chris Meschuk, Deputy City Manager
Tom Carr, City Attorney
Cheryl Pattelli, Chief Financial Officer
Kara Skinner, Assistant Director of Finance
Devin Billingsly, Senior Budget Manager

Date: May 25, 2021

Subject: Potential 2021 Ballot Items

PURPOSE and EXECUTIVE SUMMARY

The purpose of this memorandum and the staff presentation at the study session includes:

- Identifying potential ballot items and next steps for the 2021 November city ballot
- Reporting relevant and current information involving potential city, school district, county, regional and state ballot items

This memorandum is intended to provide background so council may provide guidance about the following:

1. Ballot item extending the expiring 0.3% sales and use tax for capital infrastructure and a related ballot item authorizing the issuance of debt

At the February 9, 2021 [Study Session](#) council gave direction to staff to further develop a proposal and options for extending the current 0.30% sales and use tax (currently the “Community, Culture and Safety Tax”) set to expire on December 31, 2021 to partially address the approximately \$300 million in unfunded capital needs and reserve a portion of the tax revenues (10-15%) to fund community non-profit projects or other one-time needs grant pool. Staff has been working with the council Financial Strategy Committee (FSC) and is soliciting community input, particularly regarding the length of the tax, proposed uses, and the issuance of debt, through a statistically significant online survey. Based upon the results of

the community survey, the Financial Strategy Committee will make recommendations to the full council on a final ballot item at a July council meeting.

2. Charter or ballot items brought forward by the Council Charter Committee

The Council Charter Committee is charged with considering and recommending potential ballot measures. The committee is not recommending any major charter changes for 2021. The committee recommends that council consider two minor changes and defer action on two issues that were part of past discussions. The first of the two minor changes was deferred from last year. It is to allow for even payments of council compensation throughout the year. The second change would make small clarifying changes to language relating to council committees. The committee recommends that council defer action on two major issues: changes to the charter to allow for provisions to be waived during an emergency and an overhaul of council compensation provisions. The committee also recommends that council consider the creation of a blue-ribbon commission to study and recommend potential changes to council compensation.

QUESTIONS FOR COUNCIL

1. Does council want staff to move forward with next steps to place the following items on the November 2021 ballot?
 - a. **Tax extension and related debt ballot items**
 - i. Does council wish to consider a proposed ballot item to extend the expiring 0.30% sales and use tax?
 - i. Does council have further guidance related to this proposed ballot item?
 - ii. Does council wish to consider a proposed ballot item to authorize the issuance of debt?
 - i. Does council have further guidance related to this proposed ballot item?
 - b. **Ballot items brought forward by the Council Charter Committee**
 - i. Does council wish to consider the proposed charter amendments to charter section 9 relating to council committees?
 - ii. Does council agree that any changes relating to emergency suspension of charter provisions be deferred until after the pandemic?
 - iii. Does council wish to consider a charter amendment revising charter section 7 to provide for even payment of council compensation?

- iv. Does council wish to charge the Charter Committee with developing a proposal for a blue-ribbon commission to study and potentially recommend changes to council compensation?
 - v. If so, does council have any direction regarding membership and scope of such a commission?
 - vi. Does Council wish to consider alternative ballot measures for any of the initiated measures?
2. Does council want staff to bring forward any additional ballot items or information on other items for the 2021 November ballot?

COMMUNITY SUSTAINABILITY ASSESSMENTS

Until the exact ballot items are known it is not possible to determine the specific impacts of items placed on the ballot. If any ballot items move forward this section will be completed for each ballot item.

BACKGROUND AND ANALYSIS

Ballot item extending the expiring 0.3% sales and use tax and a related item authorizing the issuance of debt – Proposed to be rebranded as the *Community Resilience and Safety Tax*

The current 0.30% Community, Culture and Safety (CCS) sales and use tax is set to expire on December 31, 2021. This tax has historically funded capital projects as well as community non-profit capital projects since its original passage in 2014 as a three-year temporary tax (CCS1) and its extension in 2017 for four more years (CCS2). While these two temporary taxes, together with the 2011 voter-approved Capital Improvement Bond, addressed many capital needs across the city and for the community, the city's current unfunded capital list totals over \$300 million. Current sales and use tax forecasts that assume an inflation rate of 3% annually predict this tax renewal would result in approximately \$114 million over 10 years and approximately \$185 million over 15 years.

Staff and the FSC began work late 2020 to review the state of unfunded city capital needs and at the February 9, 2021 study session presented a history of capital funding, a list of unfunded capital needs as identified by approved master plans at various service levels, according to Budgeting for Resilience categories, and according to time frame in which projects are needed. With the significant need, the FSC recommended council provide direction to staff and the committee to develop a proposal with a term of at least 10 years, hire a survey consultant firm to conduct a statistically significant community survey, develop capital project selection guidelines and criteria, solicit priority projects from departments that align with those guidelines and criteria, and select a number of projects from the proposed list for community input in the survey.

Staff contracted with Magellan Strategies, a quantitative and qualitative research firm specializing in measuring and understanding voter opinion and have conducted voter opinion research for Colorado governments, schools and special districts. Magellan uses a phone call and text message survey method. The text message invitation approach sends a text image to cell phone numbers from a database of the registered voter population. Respondents participate in the survey by touching the image. They can take the survey on their smartphone, desktop, or electronic device. This text message engagement will complement the traditional telephone interviews.

Staff and the FSC developed and relied on a set of guiding principles (**Attachment 1**) that were grounded in city guiding documents such as the City's Sustainability and Resilience Framework, Budgeting for Resilience, and the city's racial equity toolkit to prioritize capital needs. The list of the highest priority projects that were presented to the FSC, from an original list of over \$300 million, totals approximately \$160 million and covers a broad range of city needs. Many of the projects can be scaled depending on the funding available. Below is a sampling of projects that had FSC support for testing in the community survey:

- **Boulder Fire-Rescue facilities** – funding to complete the relocation of Fire Station 3 and to replace Fire Stations 2 and 4 (average age of proposed stations for replacement is 57 years) and to meet service level expectations as identified by the approved Master Plan including the transition to providing in-house advanced life support. This tax could be used to at a minimum purchase the land needed for replacement fire stations. Potential funding range \$11 - 23 million.
- **Transportation network maintenance** – maintenance improvements to street pavement management, Vision Zero safety improvements, accelerate progress toward the city's multimodal and travel safety goals, and bridge remediation – widening and replacing the failing Central Avenue multi-use path and vehicle bridge, replacing structurally deficient traffic signal poles that are in poor or critical condition. Potential funding \$14 million.
- **Parks and recreation system** – Boulder Creek Corridor investments to enhance ecological and recreation qualities of the creek corridor including streambank restoration and designated access points, increased visibility and safety, restoration areas to support ecological health and wildlife habitat. education/interpretation and wayfinding signage and exhibits, gathering spaces and play areas, equipment for all ages including adult fitness areas. Potential funding \$7 million.
- **City facility energy retrofits to meet climate goals** - replacement of mechanical, electrical and plumbing systems that have aging equipment and high greenhouse gas emissions including at the city's three recreation centers that currently account for 50% of the total natural gas usage in city facilities. Potential funding \$12 million
- **Resident/customer service and data** – investments in modern information technology systems that will drive more productive constituent relationships and

access to and equitable delivery of city services; and systems that will provide greater data security, automation, and data access to support data analytics and decision-making. Potential funding \$5 million

Survey results will help inform recommended final ballot language that would include specific projects the city would commit to funding through the tax extension and potentially other project categories from which specific projects would be selected at a future date. Currently staff and the FSC recommend council consider a ballot issue that reserves some flexibility to determine specific future projects. The tax term lengths that are being considered (of 10- and 15-years) are longer than the terms of CCS1 and CCS2, there is a greater need to build in flexibility to address emerging needs or specific economic conditions. The survey will gauge community sentiment toward possible tax extension terms and support for specific capital projects or project categories.

The Community Resilience and Safety Tax Project/Category Criteria included as **Attachment 1** outlines the criteria that would be used to evaluate community non-profit grant applications that would be funded from a reserved portion of tax revenue.

In addition, in the February Study Session memo, staff outlined different financing strategies for capital projects including the benefits of issuing debt particularly for large dollar projects, when construction costs that have been outpacing inflation and during periods of historically low borrowing costs or interest rates. While there are borrowing costs associated with issuing debt, if used strategically, borrowing can result in the ability to actually fund more projects as project funding is advanced and projects are completed at lower total cost (even including financing costs) by avoiding project cost escalations.

The community survey will test sentiment toward a ballot question regarding the issuance of debt up to a certain amount or amounts. Staff is currently proposing testing debt issuance amounts in the range of \$60 to \$100 million.

Information regarding potential ballot items in the future

The city has many unfunded operating and capital needs over the near term (2021-2024) and intermediate and long term (2025+) timeframes. Several capital needs were discussed above. These needs may be ongoing or one-time and include commitments that the city has made to the community, investments in critical facilities and technology, climate initiatives, improvement in public space amenities and new city business/service opportunities.

Council could choose to increase sales and use tax and/or property tax in the future to fund some or all of these unfunded projects and programs.

- The current sales and use tax rate is 3.86%.
 - One tenth of a cent sales and use tax generates approximately \$3.4 million annually. Staff is working with CU staff to model projected sales and use tax for 2022 and beyond.

- The current mill levy of the city is 11.981 and the maximum levy allowed under the charter is 13.000 mills. Any increase in the current mill levy or sales and use tax rate must be approved by the voters.
 - One mill of property tax generates approximately \$4.3 million annually. Staff is working with CU staff to model projected property tax for 2022 and beyond.

Comparative sales and use tax and property tax rates for surrounding communities can be found in **Attachment 2**. **Attachment 4** lists all the expiring sales and use taxes as well as expiring Utility Occupation Tax and CAP Tax in the near term and beyond.

Staff has a separate agenda item on the May 25 council agenda that provides more detailed information related to municipal funding options and advantages and disadvantages of various tax types.

Charter or ballot items brought forward by the Council Charter Committee

1. Council Committees

The committee recommends that council consider a small clarifying change to charter section 9. One change would clarify that the council is required to appoint a recruitment committee for the three council appointments. This year there was some discussion of having a public committee of three council members for recruitment of the city manager. The experience of those who served on the city manager recruitment committee suggested that this would have been impractical, because of the need to balance transparency with the need for applicant confidentiality. The proposed language is as follows:

The council ~~may~~ shall appoint a committee of not more than two council members and any number of non-council members to screen applications for city manager, city attorney, and municipal court judge, to evaluate the performance of the persons occupying such positions, and to consider recommending disciplinary actions relating to such persons. Such committee may conduct its business in private, provided that the council as a whole takes action to determine finalists at a public meeting, to determine compensation at a public meeting, and to take disciplinary action at a public meeting.

In addition, at times, council has appointed large committees to accommodate council member interest. Such committees do not appear to be as effective as smaller committees. The Charter Committee recommends the following potential addition to section 9 of the charter:

The council shall have the authority to appoint council committees. Such committees shall generally consist of no more than two council members and in no event shall be equal or greater than a quorum of council. Other

council members may attend any council committee meeting to observe but shall not participate.

2. Emergency Suspension of Charter Provisions

During the current pandemic there have been times when it would have been helpful to be able to suspend certain charter provisions. Last year, council directed staff to prepare a list of such provisions. Staff produced the memorandum, which is **Attachment 5**. Council decided to defer action to provide more time to consider the recommendations. The Charter Committee recommends that council defer action again. The current emergency is not yet over. There has been no opportunity to reflect on lessons learned in a post pandemic environment. Accordingly, the committee recommends that council defer consideration of changes regarding emergency suspension of charter provisions to allow more time to consider and reflect after the current emergency ends.

3. Council Compensation

At the March 16, 2021 meeting, several council members raised the issue of council compensation. Council members noted that the current structure excludes or limits participation from many in the community. Last year, council considered a proposed charter amendment that would have provided for monthly compensation rather than compensation dependent on the number of meetings, without increasing the amount of council compensation. The proposed language would have amended charter section 7 as follows:

Sec. 7 - Council members shall receive as compensation \$100.00 per meeting ~~for at which a quorum of city council is present, not to exceed~~ fifty-two meetings per calendar year, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, 1990. ~~For purposes of this section only, a "meeting" shall mean a gathering of a quorum of the council, which gathering is noticed to the public as a regular or special meeting as provided in this Charter.~~ Council members serving on January 1, 2020 and after may elect to receive benefits under the same terms and conditions that are available to full-time city employees including without limitation participation in city health, vision, dental, and life insurance plans. This compensation shall be averaged over the calendar year and paid on the same schedule as city employees, or such other schedule as determined by the City Manager.

On the larger issue of appropriate council compensation to encourage more diverse council membership, the committee recommends that council direct the committee to explore the creation of a blue-ribbon commission to study and if appropriate recommend changes to the compensation structure. If council supports the recommendation, the

committee would appreciate council feedback regarding the scope and composition of such a blue-ribbon commission.

Discussion of Initiated 2021 Ballot Measures by Staff

As of the date of this memorandum, there are three ballot measures being circulated for signature: Bedrooms are for People, the Humane Clothing Act and Let Boulder Voters Decide on Annexation of CU South. None of these measures would amend the Charter. Bedrooms are for People used the city's Boulder Direct Democracy Online system and obtained the requisite number of endorsements on May 11, 2021. The Humane Clothing Act and Let Boulders Voters Decide on Annexation of CU South decided to collect signatures using paper petitions. Copies of the three petitions are included as **Attachment 6**. Charter section 54 provides as follows:

If two or more measures adopted or approved at the same election conflict in any of their provisions, they shall go into effect in respect to such of their provisions as are not in conflict and the one receiving the highest affirmative vote shall prevail insofar as their provisions conflict.

To allow for a more robust community conversations, previous councils have considered ballot measures that would conflict with initiated measures. If council wishes to consider any alternative measures, it would be helpful to identify such measures sooner rather than later.

Potential 2021 ballot items from other entities

- ***Boulder County***
At this time, staff is not aware of any tax that Boulder County plans to put on the ballot in November. County staff indicated they are in very preliminary stages of considering some options.
- ***Boulder Valley School District (BVSD)***
At this time, staff is not aware of any tax that BVSD plans to put on the ballot in November.
- ***Regional Transportation District (RTD)***
At this time, staff is not aware of any tax that RTD plans to put on the ballot in November.
- ***State of Colorado***
At this time, there are no referred measures being considered. The only initiative being proposed is [Initiative 14](#) which would reduce the residential property tax assessment rate from 7.15% to 6.5% and the non-residential property tax assessment rate from 29% to 26%.

City staff it is not certain of other revenue or ballot items that may be considered

by the state. Staff will provide additional information as it becomes available.

NEXT STEPS

Based on council guidance provided at the study session, staff will return with more detailed information and ballot language if council wants to consider any items further, and the timeline that will need to be met. Final reading of any ballot issue should be completed by the end of August.

ATTACHMENTS

Attachment 1: Community Resilience and Safety Tax Project/Category Criteria

Attachment 2: Municipal Sales and Use Tax and Property Mill Levy Comparisons

Attachment 3: Tax Measure Results, 2002-2020

Attachment 4: Expiration Dates of Current Taxes

Attachment 5: June 16, 2020 Council Memo

Attachment 6: Petitions for Bedrooms are for People, the Humane Clothing Act and Let Boulder Voters Decide on Annexation of CU South

Community Resilience and Safety Tax
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Citywide Infrastructure Project/Category Criteria	Community Project/Category Criteria
•Does this project benefit a broad cross-section of the city, including various geographies and underrepresented groups?	•Does the project address a need that can't be met through the private sector alone and without a new facility/capital investment?
•Does this project align well with multiple city master plans or furthers more than one of the city's key goals: sustainability, livability, addressing infrastructure deficiencies, and health & safety?	•Does the one-time/project funding build upon the organization's mission and core competencies?
•Does this project create significant additional expenses (operating and/or capital) that are not already planned for in future budgets?	•Does the organization recognize disparities within the community and seek to mitigate or eliminate racial and ethnic disparities as they relate to the organization's accessibility and service delivery?
•Does this project meet an otherwise unfulfilled need and represent a good investment of public dollars?	•Does the organization's internal makeup and constituency reflect equity and inclusiveness? Is the organization committed to continual improvement in these areas?
•Does this project have existing funding identified? If so, what is the value and nature of existing funding?	•Does the organization appear to have the organizational and financial ability to build upon the project being funded?
•Does this project represent a low risk in that use of funding milestones and other means can mitigate completion and operating risks.	•Does this investment of public dollars open access to, or leverage, other investment dollars to maximize community impact?
•Does this project help advance the city's work toward resilience of service delivery in the face of climate change and other environmental influences?	•What matching funds are available or needed to proceed? Is there demonstrated community financial support?
	•What is the project readiness? Many community projects not recommended for funding have merit but the timing, completeness of public process and planning and design were not appropriate for this time and funding source.

Universal Criteria

•Goal of pursuing project mix that addresses critical deficiencies, improves infrastructure, and advances Boulder's vision of being an inclusive and welcoming community.
•Balances maintaining and enhancing infrastructure of existing city or community facilities with expanding scope of what's available in line with the community's vision.
•Advances city's racial equity goals and outcomes.
•Addresses facility maintenance backlog to ensure community viability and resilience while preventing higher costs in the future.

Other Considerations

- | |
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| <ul style="list-style-type: none"> •Individual Projects vs. Project Categories •Mix of Large, Medium, and Small Projects <ul style="list-style-type: none"> •Mix of Project Timing •Mix of Departments and Community Groups |
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MUNICIPAL SALES AND USE TAX RATES AND PROPERTY MILL LEVY COMPARISONS

Sales and Use Tax Rate Comparison with Neighboring Cities

City	Sales and Use Tax Rate (%)
Arvada	3.460
Superior	3.460
Lafayette	3.500
Longmont	3.530
Louisville	3.650
Thornton	3.750
Westminster	3.850
Boulder	3.860
Broomfield*	4.150

Property Tax Rate Comparison with Neighboring Cities

City	Property Tax Rate (mills)
Westminster	3.650
Arvada	4.310
Louisville	7.934
Superior	9.430
Thornton	10.210
Broomfield*	11.457
Boulder	11.981
Longmont	13.420
Lafayette	16.572

TAX MEASURE RESULTS, 2002 - 2020

	Ballot Measure Summary	2002	2003	2006	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
1	.15% Sales Tax for Public Safety	X															
2	.15% Sales Tax for Open Space		P														
3	.15% Sales Tax for General Fund Services		P														
4	One Year .15% Sales Tax for Fire Training Center			P													
5	Climate Action Plan Tax			P													
6	.38% Sales and Use Tax				P												
7	De-Brucing: Remaining Property Taxes				P												
8	.15% Sales and Use Tax					P											
9	Increase of Housing Excise Tax					X											
10	Accommodations Tax Increase From 5.5% to 7.5%						P										
11	Utility Occupation Tax to Replace Franchise Fee						P										
12	Increase Utility Occupation Tax by \$1,900,000							P									
13	Climate Action Plan Tax Extension								P								
14	.25% Sales and Use Tax for Parks and Recreation Renewal								P								
15	.15% Sales and Use Tax for Transportation									P							
16	0.33% Sales and Use Tax for Open Space and General Operations									P							
17	0.15% Sales and Use Tax for Open Space, Transportation and General Operations									P							
18	Recreational Marijuana Tax									P							
19	0.3 Cent Sales and Use Tax for Community, Culture and Safety Projects										P						
20	Short Term Rental Tax											P					
21	Utility Occupation Tax - GF Portion (Not for Municipalization) Extension											P					
22	Climate Action Plan Tax Extension											P					
23	Distribution Tax on Sugar-Sweetened Beverages (\$.02 per ounce)												P				
24	0.3 Cent Sales and Use Tax for Community, Culture and Safety Projects Extension													P			
25	Utility Occupation Tax - Energy Strategy Portion Increase and Extension (increase 2018 & 2019, remaining years at 2017 rate)													P			
26	Oil and Gas Pollution Tax														P		
27	Retention of All Sugar-Sweetened Beverages Tax Revenue														P		
28	Tobacco Vaping Products Tax															P	
29	0.15 cent Sales and Use Tax Extension for Open Space and Long's Garden															P	
30	Repurpost of the Utility Occupation Tax - Energy Strategy Portion																P

X = Measure Failed

P = Measure Passed

EXPIRATION OF CURRENT TAXES

	Tax Expiration Date	2021 Projected Revenue
Near Term (202-12024)		
0.30% Sales and Use Tax for Community, Culture and Safety Projects	12/31/2021	9,659,134
Utility Occupation Tax- Energy Strategy	12/31/2022	2,071,985
Utility Occupation Tax- General Fund	12/31/2022	4,895,614
CAP Tax	3/31/2023	1,705,649
Intermediate and Long Term (2024 and beyond)		
0.15% Sales and Use Tax- General Fund	12/31/2024	5,049,081
0.25% Sales and Use Tax- Parks and Recreation	12/31/2035	8,415,135
*0.15% Sales and Use Tax- Open Space Repurposed to Transportation	12/31/2039	5,049,081
0.15% Sales and Use Tax- Open Space and Long's Garden	12/31/2039	5,049,081

* In 2013 the voters approved the 0.15% Sales and Use Tax - Open Space to be used for Transportation from 2020-2029 and to be used for General Fund purposes from 2030-2039.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: June 16, 2020

AGENDA TITLE

Introduction, first reading and consideration of a motion to order published by title only Ordinance 8406 Submitting to the Registered Electors of the City of Boulder at the Special Municipal Coordinated Election to be Held on Tuesday, November 3, 2020 the Question of Amending Charter Section 12 to Allow the City Council Under Specified Emergency Conditions to Suspend the Operation of Certain Charter Provisions; and Setting Forth Related Details.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney

EXECUTIVE SUMMARY

As the city has faced the COVID-19 pandemic, council and staff have worked to continue city functions and operations. As the city looks to the future and other even more severe potential emergencies, staff is recommending that council consider proposing a charter amendment that would allow a two-thirds majority of council to alter or suspend certain specified charter provisions. The proposed ordinance would limit the authority to emergencies declared by the President of the United States or the Governor of the State of Colorado. The proposed ordinance includes 19 charter sections or portions of charter sections. Staff selected these mostly because they require compliance with dates or procedures that could be impaired or prevented by an emergency.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and order published by title only Ordinance 8406 submitting to the registered electors of the City of Boulder at the special municipal coordinated election to be held on Tuesday, November 3, 2020 the Question of Amending Charter Section 12 to Allow the City Council Under Specified Emergency Conditions to Suspend the Operation of Certain Charter Provisions and Setting Forth Related Details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The City’s ability to function during an emergency has a direct and substantial effect on the economy.
- Environmental – During certain natural disasters, the ability of the city to act to preserve the natural environment could be enhanced by the proposed ordinance.
- Social – The city’s ability to function, particularly to provide services to those in need in the community could be enhanced by the proposed ordinance.

OTHER IMPACTS

- Fiscal – None identified.
- Staff time – None identified.

BACKGROUND

Council directed staff to draft a proposed ballot measure that would 1) be limited so that the council could not itself create an emergency; 2) be limited in scope to specific charter provisions; 3) require a super majority of council to approve; and 4) be limited in time and scope.

The proposed ordinance would only permit suspension or alternation of charter provisions during a federal or state declared disaster emergency. Since January 1, 2000, there have been 11 federal disaster declarations including Boulder County. Five of those were also state declarations. There were no state declarations that were not also federal declarations.

Federal Disaster Declarations for Boulder County since January 1, 2000

Declaration	Dates
Walker Ranch Fire	September 16, 2000 – September 20, 2000
Colorado Wildfires	April 23, 2002 – August 6, 2002
Colorado Snowstorm	March 17, 2003 – March 20, 2003

Colorado Overland Fire	October 29, 2003 - October 31, 2003
Colorado Hurricane Katrina Evacuation*	August 29, 2005 - October 01, 2005
Colorado Snow*	December 18, 2006 - December 22, 2006
Colorado Olde Stage Fire	January 7, 2009
Colorado Four Mile Canyon Fire	September 6, 2010 – September 17, 2010
Colorado Severe Storms, Flooding, Landslides, and Mudslides*	September 11, 2013 - September 30, 2013
Colorado Severe Storms, Tornadoes, Flooding, Landslides, and Mudslides*	May 04, 2015 - June 16, 2015
Colorado Covid-19*	March 28, 2020 - ongoing

* Also a state disaster declaration.

At council's direction, staff reviewed the charter and created a list of recommended provisions that could be subject to change by council during an emergency. The following chart provides the text of those provisions along with the rationale for inclusion.

Charter Section	Text	Rationale
Section 5, paragraph 3	The terms of all council members shall begin at 10:00 a.m. on the third Tuesday in November following their respective elections. In the event that one or more of the prevailing candidates is not determined by such time because the vote count is incomplete or inconclusive, or a recount is required, the terms for such council member(s) shall not begin until the business day following the final determination of the election results for that candidate. All council members shall be subject to recall as provided by this charter.	The possibility that council would be unable to meet on the third Tuesday in November.
Section 8, paragraph 1	A vacancy shall exist in the council whenever a duly elected council member fails to qualify within ten days after notice of the election, dies, resigns, removes from the city, is absent from five consecutive regular meetings of the council unless formally excused therefrom, is convicted of a felony while in office, or is judicially declared a lunatic; or, in case of a recall, no successor is elected, or if elected, fails to qualify.	The possibility that a council member would be prevented from five consecutive council meetings due to an emergency.
Section 9, paragraph 1	At 10:00 a.m. on the third Tuesday in November following each general municipal election, the council shall meet at the usual place of holding meetings, at which time the newly elected council members shall take office. Thereafter the council shall meet	The possibility that council would be unable to meet on the third Tuesday in November.

	at such times as may be prescribed by ordinance or resolution and shall meet in regular session at least once in each calendar month. The mayor, acting mayor, or any five council members may call special meetings upon at least twelve hours' written notice to each council member, served personally on each, or left at each member's place of residence.	
Section 10, paragraph 2	Five council members shall constitute a quorum, but a smaller number may adjourn from time to time	The possibility that council would be unable to meet the quorum requirement.
Section 22	A regular municipal election shall be held in the City of Boulder on the same Tuesday in November of every odd numbered year as the state ballot issue elections in odd number years, and shall be known as the regular municipal election. All other municipal elections shall be known as special municipal elections.	The possibility that an election could not be held.
Section 28	A petition of nomination shall be completed and filed in the office of the city clerk not earlier than ninety-one nor later than seventy-one days before the election.	The possibility that candidates could not meet the deadline.
Section 31	The city clerk shall prior to the date upon which ballots are distributed to registered electors certify a list of the candidates so nominated for office at such election, whose names are entitled to appear upon the ballot as being the list of candidates nominated as required by this charter, together with the offices to be filled at such election, designating whether such election shall be for a full or unexpired term; and the clerk shall file in the clerk's office said certified list of names with residence and business addresses and the offices so to be filled, and the clerk shall cause to be published a notice calling such election, in one daily newspaper of general circulation and published in the City of Boulder, which notice shall contain a list of said names of candidates, with residence, place of business, the offices to be filled, the time when and the places at which such election shall be held.	The possibility that the publication requirement could not be met.
Section 38A	A petition signed by registered electors of the city of at least ten percent of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections shall be required for an	The possibility that petitioners could not gather signatures.

	initiative and referendum petition to be sufficient. A petition signed by registered electors of the city of at least twenty percent of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections shall be required for a recall petition to be sufficient.	
Section 39	<p>By the last business day on or before <u>150</u> calendar days before the November election, the committee of petitioners shall submit its petition. The city clerk shall ascertain by examination the number of registered electors whose signatures are appended thereto, dated no more than <u>180</u> calendar days prior to the date of filing, and whether this number meets the requirements of <u>section 38A</u>. By <u>140</u> calendar days before the November election the clerk shall attach to said petition a certificate showing the result of said examination. If by the city clerk's certificate, of which notice in writing shall be given to one or more of the persons designated, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by filing supplementary petition papers with additional signatures. The city clerk shall make like examination of the amended petition, with such examination being completed by <u>120</u> calendar days before the November election, and shall certify whether the petition is sufficient or insufficient on or before that day. If the clerk's certificate shall show the same to be insufficient, the city clerk shall file the petition in the clerk's office and shall notify each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.</p> <p>When examining the signatures on petitions, the clerk shall verify signatures to the extent reasonably possible by comparison with the election records of the Boulder County Clerk or the Secretary of State and shall compare the signatures on a petition for</p>	The possibility that petitioners or the clerk's office could not meet charter deadlines.

	<p>duplication. The clerk may use facilities of other cities to assist in this process. Protests of petitions may be made as provided by Colorado law and the Boulder Revised Code but must be submitted by <u>40</u> calendar days after submittal of the petition to the clerk.</p>	
Section 40	<p>If the petition shall be found to be sufficient, the city clerk shall so certify and submit the measure to the council at its next regular meeting. Unless the committee of petitioners withdraws the petition, the council shall take final action, including setting the title, prior to <u>70</u> calendar days before the November election. Title challenges shall be filed no later than seven calendar days after setting of the ballot title.</p>	<p>The possibility that the council or clerk could not meet the deadlines.</p>
Section 46	<p>Within ten days after the filing of the petition the city clerk shall ascertain whether or not the petition is signed by registered electors of the city to the number of at least ten percent of the registered electors of the city as of the day the petition was filed, and the clerk shall attach to such petition a certificate showing the result of such examination. If by the city clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by the filing of supplementary petition papers with additional signatures. The city clerk shall within ten days after such amendment make like examination of the amended petition and certify the result thereof. The City Clerk shall verify signatures to the extent reasonably possible by comparison with the election records of the Boulder County Clerk or the Secretary of State.</p>	<p>The possibility that the clerk or petitioners could not meet the deadline.</p>
Section 79	<p>Any officer or department whose duty it is to prepare ordinances and resolutions relating to the location of any public improvement, which may be considered by the planning board a part of the comprehensive plan - including specifically the location of any public building, or the location, extension, widening, enlargement-ornamentation, or parking of any street, boulevard, alley, parkway, playground, or other public grounds, or the vacation of any street, or any other alteration of the city plan of streets and highways, or the</p>	<p>The possibility that an emergency public improvement is necessary and it is not possible to provide the requisite notice.</p>

	location of any bridge, tunnel, or subway, or of any surface, underground or elevated railway or public utility, or any ordinance relating to housing, building codes or zones - shall, prior to the submission to the proper board or officer of the municipality of the ordinance or resolution required to be adopted before such proceedings are instituted, give notice to the board of the pendency (before the officer or department) of proceedings with reference to any of the above matters.	
Section 80	Whenever the planning board shall have made a general plan of the municipality or of any portion thereof in accordance with Section 78 of this charter, no public improvement shall be authorized to be constructed in the city until approved by the board; provided, that in case of disapproval, the board shall communicate its reasons to the council and to the director of that department which has control of the construction of the proposed improvement; and the council by majority vote shall have the power to overrule such disapproval. If the reasons for disapproval are not given to the council and to said department director within twenty days after the plans for the public improvement are submitted to the board, such plan shall be deemed to be approved by the board.	The possibility that an emergency public improvement is necessary, and Planning Board is not able to meet.
Section 81	All plans, plats, or replats of lands laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, and located within the city limits shall be submitted to the planning board and be approved by it before such plans or plats shall be recorded. And no such plan or plat shall be entitled to record in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the board. The disapproval of any such plan, plat, or replat by the board shall be deemed a refusal of the proposed dedication shown thereon. The approval of the board shall be deemed an acceptance of the proposed dedication but shall not impose any duty upon the city concerning the maintenance or improvement of any such dedicated parks until the proper	The possibility that an emergency dedication for public use is necessary, and Planning Board is not able to meet.

	authorities of the city shall have made actual appropriation of the same by entry, use, or improvements; and owners and purchasers shall be deemed to have notice of the published plans, maps, and reports of the board affecting such property within its jurisdiction.	
Section 88	The fiscal year of the city shall commence on the first day of January and end on the last day of December of each year.	The possibility that the city would need to extend or delay the commencement of the fiscal year.
Section 93	Not later than three months before the end of each fiscal year, the city manager shall prepare and submit to the council an annual budget for the ensuing fiscal year, based upon detailed estimates furnished by the several departments and other divisions of the city government, according to a classification as nearly uniform as possible.	The possibility that the city manager would be unable to prepare the budget.
Section 95	Upon the basis of the budget as adopted and filed, and including the levies required to be made by this charter, the several sums shall forthwith be appropriated by ordinance to the several purposes therein named for the ensuing fiscal year. Said ordinance shall be adopted not later than the first day of December in each year and shall be entitled "The Annual Appropriation Ordinance."	The possibility that the council would be unable to complete the budget process by the end of November.
Section 128	No free water service shall hereafter be given to any person, persons, firms, corporations, or institutions whatever other than the corporate City of Boulder.	The possibility that residents or businesses would be unable to pay for water.
Section 130, paragraph 3	All commissions shall hold regular monthly meetings. Special meetings may be called at any time upon due notice by a majority of the members. A majority of the members shall constitute a quorum, and the affirmative vote of at least a majority of the members shall be necessary to authorize any action by the commission.	The possibility that advisory commissions would be unable to meet.

The proposed ordinance would limit suspension or alteration to a period of sixty days, which could be renewed by super majority of council. No suspension or alteration would extend beyond the end of the declared emergency.

ATTACHMENT

Attachment A - Proposed Ordinance 8406

ORDINANCE 8406

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 OF AMENDING SECTION 12 OF THE BOULDER CITY CHARTER TO ALLOW THE CITY COUNCIL UNDER SPECIFIED EMERGENCY CONDITIONS TO SUSPEND THE OPERATION OF CERTAIN CHARTER PROVISIONS; 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. At that election, a question shall be submitted to the electors of the City of Boulder that will allow voters to consider the following amendment to Section 12 of the City Charter to allow for electronic petitions and the use of electronic signing of initiative petitions online. The material to be added to the Charter is shown by double underlining and material to be deleted is shown stricken through with solid lines.

Section 3. Section 12 shall be amended to read as follows:

Sec. 12. - Specific duties of council.

The council shall choose and appoint a city manager, a city attorney, a municipal judge, and an auditor for such independent audits as are in this charter required or authorized to be made by

1 order of the council, and such advisory boards or commissions as may be desired or are
2 elsewhere provided for by this charter; but no member of the council shall act or be chosen as
manager.

3 The council shall cause to be made at least annually, and at such other times as it may deem
4 necessary, an audit of all financial accounts of the city.

5 The council shall consider all recommendations and reports from time to time presented by the
6 city manager, or by any of the advisory commissions or the departments of planning and parks,
and shall accept or reject the same within thirty days from the date of filing thereof with the
council.

7 During a time of emergency declared either by the President of the United States or the Governor
8 of the State of Colorado, the council shall have the power, after a vote by two-thirds of the
members present adopt an ordinance to suspend or alter the operation of the following charter
9 provisions:

10 Section 5, paragraph 3, relating to the terms of council members.

11 Section 8, paragraph 1, relating to the council member absences.

12 Section 9, paragraph 1, relating to meetings of council.

13 Section 10, paragraph 2, relating to a quorum.

14 Section 22, relating to municipal elections.

15 Section 28, relating to the time for completing a candidate petition.

16 Section 31, relating to election notices.

17 Section 38A, relating to signatures required for initiative, referenda and recall petitions.

18 Section 39, relating to the time for submission and review of petitions.

19 Section 40, relating to the time for council action on a petition.

20 Section 46, relating to the time for the city clerk to review petition signatures.

21 Section 79, relating to notice prior to public improvements.

22 Section 80, relating to Planning Board approval of public improvements.

23 Section 81, relating to Planning Board approval of dedications to public use.

24 Section 88, relating to the fiscal year of the city.

25 Section 93, relating to the time for submission of the annual budget.

Section 95, relating to the date for adoption of the annual appropriations ordinance.

Section 128, relating to free water.

Section 130, paragraph 3, relating to monthly meetings of advisory commissions.

Council suspension or alternation shall be to the minimum effect necessary to address the
emergency or to conduct the business and affairs of the city during the emergency. The
suspension or alteration shall be for a period of no more than sixty days, which council may be
renewed with a two-thirds majority vote of council members present but shall in no event extend
beyond the end of the declared emergency.

Section 4. The official ballot shall contain the following ballot title, which shall also be
the designation and submission clause for the measure:

Ballot Question No. ____**Charter Amendments Related to Emergencies**

Shall Section 12 of the City Charter be amended pursuant to Ordinance 8406 to allow the Boulder City Council to adopt ordinances that alter or suspend specified provisions of the charter during an emergency declared by the President of the United States or the Governor of the State of Colorado?

For the Measure ____

Against the Measure ____

Section 5. 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 6. 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.

Section 7. 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 8. 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.

the residents of the city, and covers matters of local concern.

public inspection and acquisition.

TITLE ONLY, this 16th day of June 2020.

Sam Weaver,
Mayor

Attest:

Pam Davis,
Acting City Clerk

1 READ ON SECOND READING, PASSED, AND ADOPTED this 21st day of July 2020.

4
5 _____
6 Sam Weaver,
7 Mayor

8 Attest:

9
10 _____
11 Pam Davis,
12 Acting City Clerk



Initiative Petition Cover Sheet

Office of the City Clerk

Please check the relevant areas below and turn in a copy of this cover sheet when you submit your Petition form for review. Submit another updated copy when you file your Petition after circulation.

This is an initiative Petition for a: ☒ Municipal Initiative ☐ Charter Amendment

Submitted on: Feb 1, 2021

The City Clerk has provided forms and guidelines at <https://bouldercolorado.gov/elections> and will attempt to facilitate the initiative petition process. However, an initiative petition involves a legal process. The city cannot provide legal advice to you, and you should consult your own attorney.

☒ Use the Petition forms provided by the Clerk's Office or follow the applicable law to include all necessary information, warnings, signature blocks, etc.

☒ Include the names and addresses of at least five City of Boulder registered electors on all communications to the city pertaining to this measure. Please include email addresses.

☐ Call 303-441-4222 to schedule an appointment to file your Petition with the City Clerk's Office. Allow 1-2 hours for the appointment.

ADDITIONAL REQUIREMENTS FOR CHARTER AMENDMENTS

☒ The Petition shall state whether the proposed amendment is sought to be submitted at the next November election or at a special election. If a special election is requested, the Petition shall state the approximate date for such special election.

☒ Include a Statement of Intent to circulate a petition. The Statement of Intent must be signed by at least five City of Boulder registered electors.

Petition Section Number _____

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SUMMARY OF PROPOSED MEASURE: Shall the City of Boulder expand access to housing by allowing all housing units to be occupied by a number of people equal to the number of legal bedrooms, plus one additional person per home, provided that relevant health and safety codes are met?

All notices or information concerning the petition shall be mailed to the following five persons who shall represent the proponents in all matters affecting this petition:

Name:	Mailing Address:
Chelsea Gitlin	3481 Cripple Creek Sq, Boulder, CO 80305
Kurt Nordback	777 Dellwood Ave, Boulder, CO 80304
Krista Nordback	777 Dellwood Ave, Boulder, CO 80304
Eric Budd	4662 Ingram Ct, Boulder, CO 80305
Sarah Dawn Haynes	1210 Lehigh St, Boulder, CO 80305

This proposed amendment is sought to be submitted at the 2021 November election.

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BEDROOMS ARE FOR PEOPLE ACT

BE IT ENACTED BY THE PEOPLE OF THE CITY OF BOULDER, COLORADO:

SECTION 1. In the Boulder Revised Code, amend Section 9-8-5 (a) of Chapter 8 of Title 9 as follows:

(a) General Occupancy Restrictions: Subject to the provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, no persons except the following persons shall occupy a dwelling unit:

(1) Members of a family plus up to two additional persons; ~~Quarters that roomers use shall not exceed one third of the total floor area of the dwelling unit and shall not be a separate dwelling unit or~~

(2) Up to three persons in P, A, RR, RE, and RL zones; or

(3) Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM, and IMS zones; or

(4) Two persons and any of their children by blood, marriage, guardianship, including foster children, or adoption; or

(5) Up to the number of persons equal to the number of legal bedrooms, plus one additional person per dwelling unit.

(Continued on Next Page)

Petition Section Number _____

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For the purposes of this subsection, unless the context is otherwise required, "Bedroom" must meet all requirements defined in the Title 10 Chapter 5.5 - Residential Building Code including but not limited to the following:

- i. Must have 70 square feet of floor space;
- ii. Must have a minimum of 7 feet in at least one direction;
- iii. Must have its own access to a hallway or communal space;
- iv. Must have two points of egress;
- v. Must have at least one window;
- vi. Must have a source of heat;
- vii. Garages, kitchens, bathrooms, and one living room per dwelling unit are deemed not to be bedrooms for the purposes of this definition.

Petition Section Number _____

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1	Printed Name	Residence Address (Street & Number)		Date of Signing
	Signature	City/Town	County	
2	Printed Name	Residence Address (Street & Number)		Date of Signing
	Signature	City/Town	County	
3	Printed Name	Residence Address (Street & Number)		Date of Signing
	Signature	City/Town	County	
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	Signature	City/Town	County	
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8	Printed Name	Residence Address (Street & Number)		Date of Signing
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9	Printed Name	Residence Address (Street & Number)		Date of Signing
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	Signature	City/Town	County	
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16	Printed Name	Residence Address (Street & Number)		Date of Signing
	Signature	City/Town	County	
17	Printed Name	Residence Address (Street & Number)		Date of Signing
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	Signature	City/Town	County	
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	Signature	City/Town	County	
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	Signature	City/Town	County	
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	Signature	City/Town	County	
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	Signature	City/Town	County	
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	Signature	City/Town	County	
48	Printed Name	Residence Address (Street & Number)		Date of Signing
	Signature	City/Town	County	
49	Printed Name	Residence Address (Street & Number)		Date of Signing
	Signature	City/Town	County	
50	Printed Name	Residence Address (Street & Number)		Date of Signing
	Signature	City/Town	County	

Petition Section Number _____

AFFIDAVIT OF CIRCULATOR**I do solemnly affirm under penalty of perjury that:**

- I was at least 18 years of age at the time this section of the petition was circulated and signed by the listed electors;
- I circulated this section of the petition;
- Each signature on this petition was affixed in my presence;
- Each signature on this petition is the signature of the person whose name it purports to be;
- To the best of my knowledge and belief each of the persons signing this petition section was, at the time of signing, a registered elector; and
- I have not paid or will not in the future pay and I believe that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to the petition.

Circulator Name (please print)

Last Name

First Name

Permanent Residence Address (or location if homeless)

Street Name and Number

City/Town

State

Zip Code

Sign and Date in the Presence of a Notary

Signature of Circulator

Date of Signing

A NOTARY PUBLIC MUST COMPLETE THE FOLLOWING SECTION

STATE OF COLORADO

COUNTY OF _____

Subscribed and affirmed before me this _____ day of _____, 20____,
by _____ [Circulator named above].

Signature of Notary

(S E A L)

Petition Section Number	
<p>WARNING: IT IS AGAINST THE LAW: For anyone to sign any initiative or referendum petition with any name other than their own or to knowingly sign their name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure. DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE. Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.</p>	
<p>Committee All notices or information concerning the petition shall be mailed to the following five persons, who shall represent the proponents in all matters affecting this petition.</p>	
Name	Address
Brent Johannes	3007 10 th St., Boulder, CO 80304
Name	Address
Lucille Heller	3007 10 th St., Boulder, CO 80304
Name	Address
Alexis Miller	3007 10 th St., Boulder, CO 80304
Name	Address
Aidan Cook	360 S 42 nd St., Boulder, CO 80305
Name	Address
Nicholas Antonellis	3007 10 th St., Boulder, CO 80304
<p>Petition Title Humane Clothing Act</p>	
<p>Petition Summary “Shall the City of Boulder prohibit the sale and manufacture for sale of certain fur products?”</p>	
<p>Text of the Measure BE IT ENACTED BY THE PEOPLE OF THE CITY OF BOULDER, COLORADO: In the Boulder Revised Code, add Section 5-6-17 of Chapter 6 of Title 5 to read as follows: <u>5-6-17. – Fur Products.</u> <p>(a) <u>It shall be unlawful to manufacture, sell, display for sale, distribute, or trade for monetary or nonmonetary consideration any Fur or Fur Product in the City.</u></p> <p>(b) <u>This prohibition does not extend to:</u> <p>(1) <u>A Fur Product where the activity is expressly authorized by federal or state law;</u></p> <p>(2) <u>A Fur Product used by or traded with an American Indian, Alaskan Native, Indian tribe member, and/or persons having origins in any of the original peoples of North, Central, or South America, as a sacred object, funerary object, cultural item, or object of cultural patrimony, as these terms are defined under state and federal law, Referencing the American Indian Religious Freedom Act (42 USC 1996), and the</u></p> </p> </p>	

Petition Section Number

Native American Graves Protection and Repatriation Act (25 USC 3001 and 43 C.F.R. Part 10);

(3) A Used Fur Product bought, sold, donated or owned by a person not in the primary business of selling Fur or a Fur Product, including a Non-Profit Organization, second hand store, or pawn shop; and

(4) The manufacture for sale of a Fur Product using Fur sourced exclusively from a Used Fur Product.

(c) For the purposes of this section, the term *fur* means any animal skin or part thereof with fur, fleece or fur fibers attached thereto, either in its raw or processed state.

(d) For the purposes of this section, the term *fur product* means any article of clothing or covering for any part of the body or fashion accessory made in whole or in part of fur, including, but not limited to, a coat, jacket, handbag, purse, wallet, shoe, slipper, hat, earmuff, scarf, shawl, glove, jewelry or keychain. "Fur Product" does not include any of the following;

(1) A dog or cat fur product, as defined in Section 1308 of Title 19 of the United States Code;

(2) An animal skin or part thereof that is to be converted into leather, or which in processing will have the hair, fleece, or fur fiber completely removed;

(3) Cowhide with the hair attached thereto;

(4) Lambskin or sheepskin with the fleece attached thereto; or

(5) The pelt or skin of any animal that is preserved through taxidermy or for the purpose of taxidermy.

(e) For the purposes of this section, the term *non-profit organization* means any charity or corporation that is authorized under United States Code 26 Section 501(c)(3) for charitable, religious, philanthropic, educational or other similar purposes.

(f) For the purposes of this section, the term *taxidermy* means the practice of preparing and preserving the skin and Fur of a deceased animal or part of a deceased animal that is stuffed and mounted in a lifelike form.

(g) For the purposes of this section, the term *used fur product* means fur or Fur Product in any form which has been worn or used by an ultimate consumer.

(h) This section shall be effective on January 1, 2022.

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Petition Summary		
<p>“Shall the City of Boulder prohibit the sale and manufacture for sale of certain fur products?”</p>		
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AFFIDAVIT OF CIRCULATOR				
<p>I do solemnly affirm under penalty of perjury that:</p> <ul style="list-style-type: none"> • I have read and understand the laws governing the circulation of petitions. • I was at least 18 years of age at the time this section of the petition was circulated and signed by the listed electors. • I circulated this section of the petition. • Each signature on this petition was affixed in my presence. • To the best of my knowledge and belief, each of the persons signing this petition section was, at the time of signing, a registered elector, and • I have not paid or will not in the future pay, and I believe that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition. 				
Circulator Name (print)				
First Name		Last Name		
Permanent Residence Address (or location if homeless)				
Street Name and Number		City/Town	County	State Zip Code
Sign and Date in the Presence of a Notary				
Signature of Circulator			Date	
A NOTARY PUBLIC MUST COMPLETE THE FOLLOWING SECTION				
STATE OF COLORADO COUNTY OF _____				
Subscribed and affirmed before me this _____ day of _____, 2021, by				
[Circulator Named Above]				
Notary Seal (must include notary ID number and expiration date)		Signature of Notary		

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<p>Committee All notices or information concerning the petition shall be mailed to the following five persons, who shall represent the proponents in all matters affecting this petition.</p>	
Amy Siemel	1233 Aikins Way, Boulder, CO 80305
Allyn Feinberg	335 17 th St., Boulder, CO, 80302
Margaret LeCompte	290 Pawnee Drive, Boulder, CO 80303
Peter Mayer	1339 Hawthorn Ave., Boulder, CO 80304
Ann Harlin Savage	1050 Tantra Park Circle, Boulder, CO 80305
<p>Petition Title: LET BOULDER VOTERS DECIDE ON ANNEXATION OF CU SOUTH</p>	
<p>Petition Summary: Shall the voters of the City of Boulder adopt changes to the City of Boulder, Colorado, Revised Code to require that any agreement with the University of Colorado regarding terms of annexation for the land known as CU South include certain specific details, and that the annexation agreement gain voter approval in an election prior to provision of city utilities and services other than flood control facilities to or on any portion of CU South?</p>	
<p>Text of the Measure</p> <p>BE IT ENACTED BY THE PEOPLE OF THE CITY OF BOULDER, COLORADO:</p> <p>SECTION 1. In the Boulder Revised Code, amend Chapter 2 of Title 9 by the addition of a new section 9-2-17.5 as follows:</p> <p><u>9-2-17.5. Annexation of CU South.</u></p>	

The City of Boulder shall not provide city utilities and services other than flood control facilities to any portion of the property of approximately 308 acres owned by the University of Colorado as of January 1, 2021, located south of the intersection of Table Mesa Drive and US Highway 36 and known as CU-South, without the approval by the voters of Boulder of a binding, public annexation agreement that shall identify in detail the following items:

(a) Site Plan: A site plan for the property that specifies zoning, allowed uses, location, height, and square footage for all development including dwelling units, classrooms, other non-residential buildings and facilities, and recreational fields and associated facilities.

(b) Transportation: A transportation plan that includes street, bike, and pedestrian facilities and layout, transportation access points, and that specifies projected traffic levels, traffic mitigation options, and shuttles or other means to transport students, faculty and other employees to and from the site.

(c) Costs: Financial projections of all publicly paid costs associated with development and use of this property, including utilities, transportation, flood control, pollution control measures, and any other costs of both facilities and services, on or off site.

(d) Financing and Payment: Who will pay for all the projected costs for development and use of CU-South and how and when such payments will be made.

(e) Permits: Agreements with and necessary approvals from City, County, State and Federal agencies.

(f) Environmental Impacts: Plans for preservation and restoration of environmental assets in the South Boulder Creek floodplain on CU South, and adjacent Open Space.

(g) Pollution Controls: Controls to minimize air, water, light, and noise pollution.

(h) Future Owners: Terms that will bind future owners to the obligations in the Annexation Agreement.

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Signature of Circulator			Date	
A NOTARY PUBLIC MUST COMPLETE THE FOLLOWING SECTION				
STATE OF COLORADO COUNTY OF _____				
Subscribed and affirmed before me this _____ day of _____, 2021, by				
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Notary Seal (must include notary ID number and expiration date)		Signature of Notary		



COVER SHEET

MEETING DATE

May 25, 2021

AGENDA ITEM

Online Petition Update

PRIMARY STAFF CONTACT

Tom Carr, City Attorney, 303.441.3020

REQUESTED ACTION OR MOTION LANGUAGE

Online petition update

ATTACHMENTS:

Description

- ▣ **Update on Boulder Direct Democracy Online System**



STUDY SESSION MEMORANDUM

TO: Mayor and Members of City Council

FROM: Nuria Rivera-Vandermyde, City Manager
Thomas A. Carr, City Attorney
Chris Meschuk, Deputy City Manager
Jennifer Douglas, Director, Innovation and Technology
Elesha Johnson, City Clerk
Dianne Marshall, Administrative Specialist III, Clerk's Office
Elizabeth Pomroy, Project Manager, Innovation and Technology

DATE: May 25, 2021

SUBJECT: Update on Boulder Direct Democracy Online

EXECUTIVE SUMMARY

As part of the ballot measure study session, this memorandum provides an update on the city's online petitioning system, Boulder Direct Democracy Online. Because of the level of community interest, council has directed staff to provide periodic updates regarding the progress of the online petitioning project. Of three petition committees this year, one decided to use the online system. This committee satisfied the endorsement requirement on May 11, 2021 by obtaining 3,336 signatures. The clerk must still verify these endorsements on or before June 15. As with any new system, there were challenges and unexpected issues. This memorandum includes data regarding the use and effectiveness of the system.

DISCUSSION

At the November 2018 election voters approved a charter amendment proposed by the city council to allow for electronic endorsement of initiative, referendum and recall petitions. State law precludes the use of electronic signatures for charter amendment petitions. Staff conducted a request for proposals procurement process and selected Runbeck Election Services to develop, implement and maintain an online system for petition endorsement. Runbeck made the system available for public use in January 2021. Bedrooms Are for People filed a petition shortly thereafter. Under a city manager

rule, petitioners can use either or both electronic or paper methods. The rule does not, however, allow for aggregation of signatures between the two methods.

The system, called Boulder Direct Democracy Online (“BDDO”), uses multi-factor authentication. Multi-factor authentication is used to ensure that digital users are who they say they are by requiring that they provide at least two pieces of evidence to prove their identity. Each piece of evidence must come from a different category: something they know, something they have or something they are. The city accesses voter registration information by way of an agreement with the County Clerk and Recorder. During the summer of 2020, staff finalized an MOU to gain daily access to the information electronically to allow BDDO to authenticate with voter registration information.

The agreement with the Clerk and Recorder only provides for city access to public information. Any information that the city receives is available for purchase by anyone. The system could not therefore rely solely on public voter registration information. Runbeck needed to design the system to authenticate the user by relying on something only the user could have. The public records include telephone numbers. This allowed the system to send a code to the phone number that only a person with access to that phone would see. The person would then enter the code into the system to gain access.

This process presented some challenges. Phone number is not a required field for voter registration. This meant that many eligible voters do not have a phone number associated with their voter records. In addition, since the phone number is available as a public record, campaigns purchase lists and use phone numbers to solicit voters. This discourages those who do not wish to receive such solicitations from entering their phone numbers.

The secretary of state’s office allows voters to enter and remove their phone numbers through an online system. It takes between 24 and 72 hours for an updated record to show up in the BDDO system. There is therefore a waiting period between the voter’s entry of a telephone number and ability to endorse a petition.

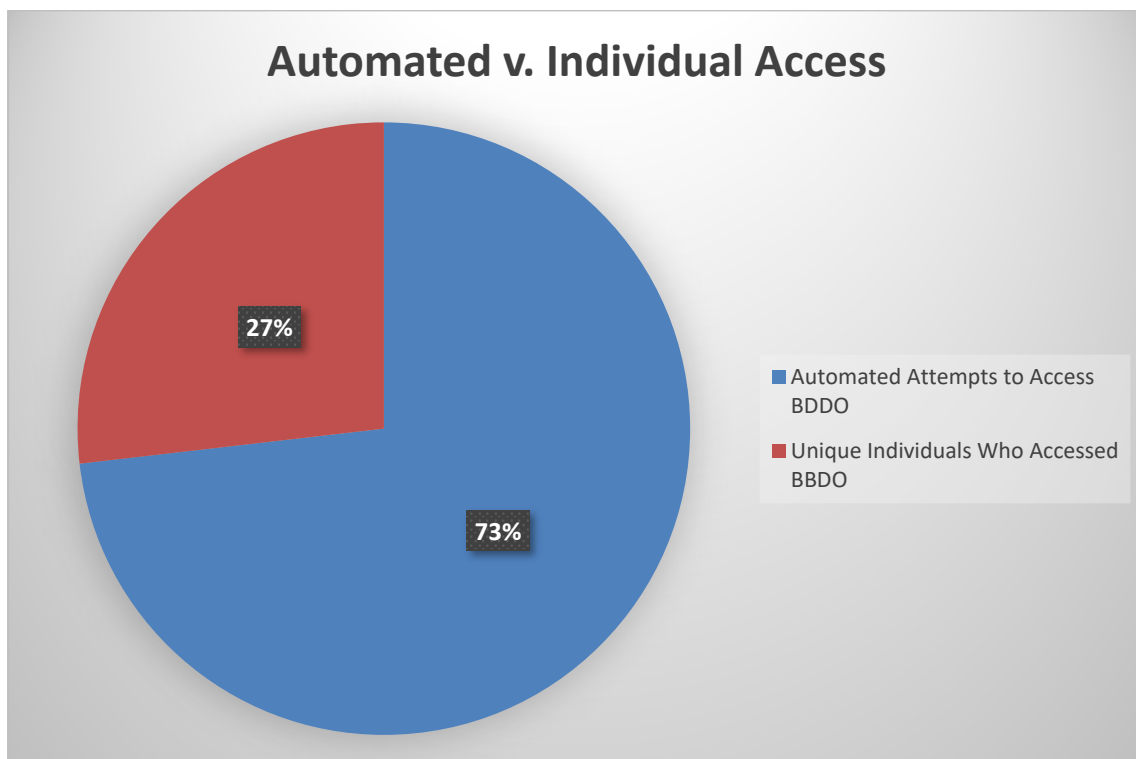
After implementation staff learned of another issue that presented a challenge. For a period of approximately ten years, ending around 2010, the voter registration application included a box that voters could check to make their phone telephone number unlisted. This option is no longer available and there is no reference to it in any current materials. There is no indication in the voter record that the city receives that the number is unlisted. If the telephone number is characterized as unlisted, the record simply does not include a telephone number. This is the same as if there were no number at all. This resulted in the unfortunate occurrence of a voter accessing the system, adding a telephone number and still being unable to access BDDO.

The Clerk and Recorder requires a signature to change a telephone numbers’ status from unlisted to listed. Before the pandemic, a voter was required to appear

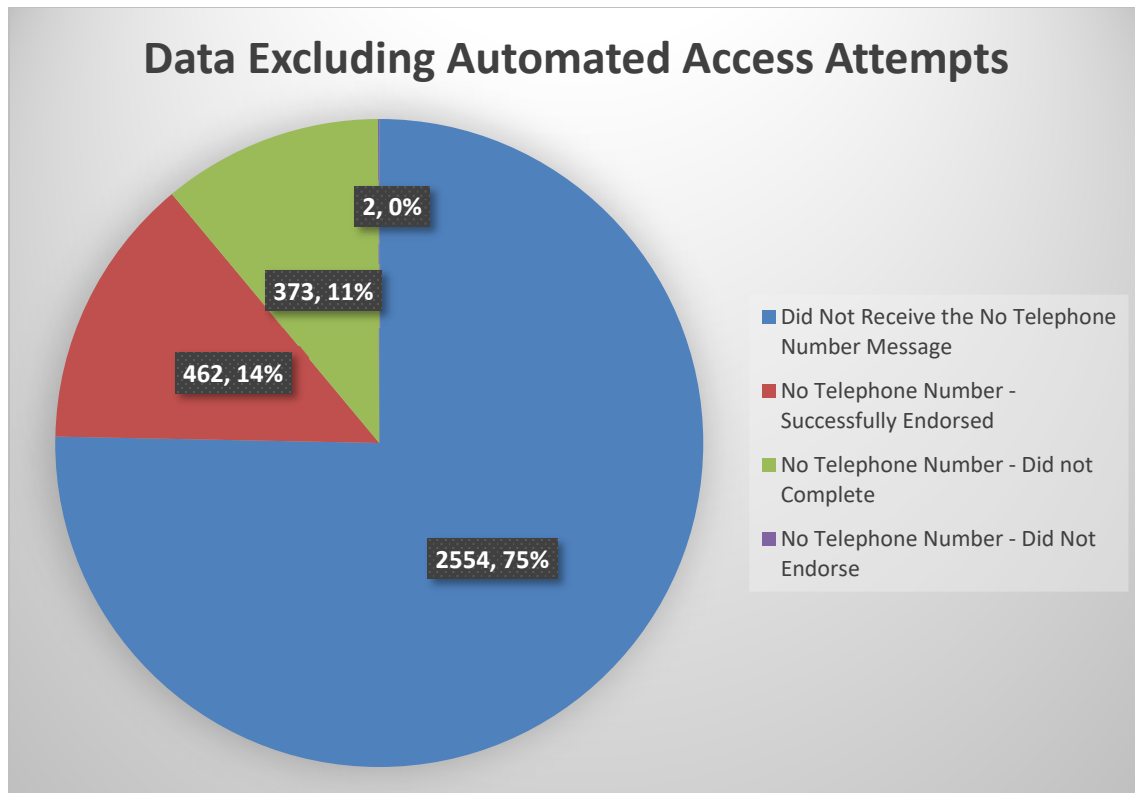
personally in the Clerk and Recorder's office to sign a form to make the change. Because of the risk associated with such personal contact, the Clerk and Recorder agreed to accept a scanned and emailed form.

Only the Bedrooms Are for People committee used BDDO. Bedrooms Are for People met the requisite number of endorsements on May 11, 2021. As of May 11, there were 12,639 attempts to log into BDDO. The system detected and rejected 9,248 automated attempts to access the system. The remaining 3,391 attempts represented unique individuals who accessed the system. 2,554 individuals accessed the system without receiving a no telephone number message. 837 individuals received a message that there was no telephone number in their voter registration data. Of those, 462 ultimately successfully accessed the system and endorsed the petition. 373 had not successfully accessed the system as of May 11. Two individuals successfully added a telephone number, accessed the system, but had not endorsed as of May 11.

The following chart breaks down the automated attempts compared to individual attempts to access the system:



Excluding the automated attempts to access the system, 75% of the individuals who attempted to access the system did so without receiving a no telephone number message. Unfortunately, approximately 11% of the individuals who accessed BDDO did not complete the process by May 11 after receiving a no telephone number message. This represented 45% of the individuals who received the no telephone number message. These voters may have tried to log in repeatedly but had not successfully logged in by May 11. Some may have logged in since May 11. The following chart shows this data:



NEXT STEPS

Under the Charter, the clerk has 10 days after submission to validate the signatures. The Bedrooms Are for People Committee has informed the clerk that they intend to continue collecting endorsements until the deadline. The committee will then “submit” the endorsements for verification. In the case of the electronic endorsement, this will involve a security review to make sure that there is no evidence of electronic tampering.

When the election cycle is complete staff intends to review the system, including the contract with Runbeck to determine how to proceed. Staff welcomes any input from council regarding next steps.