

Election — November 1, 2011

**City of Boulder
Ballot Issues**



**League of Women Voters®
of Boulder County**

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**BOULDER ISSUE 2A
BONDING FOR CAPITAL
IMPROVEMENT PROGRAM**

SHALL CITY OF BOULDER DEBT BE INCREASED UP TO \$49,000,000, WITH A REPAYMENT COST OF UP TO \$82,000,000, WITH NO INCREASE IN ANY CITY TAX;

SHALL THE BOND PROCEEDS BE USED FOR FUNDING CAPITAL IMPROVEMENT PROJECTS THAT MAY INCLUDE WITHOUT LIMITATION:

- 1) REPAIRING AND MAINTAINING STREETS AND PATHWAYS;
- 2) REPAIRING AND REPLACING STRUCTURALLY DEFICIENT BRIDGES AND STRUCTURES;
- 3) COMPLETING MISSING LINKS IN THE TRANSPORTATION SYSTEM;
- 4) REPAIRING AND RENOVATING AGING CITY FACILITIES;
- 5) REPLACING AND MODERNIZING CORE SERVICE COMPUTER SOFTWARE;
- 6) MODERNIZING BASIC POLICE AND FIRE SAFETY FACILITIES AND EQUIPMENT;
- 7) RENOVATING AND REPAIRING PARKS AND RECREATION FACILITIES;

8) RENOVATING PORTIONS OF THE MAIN LIBRARY; AND

9) IMPROVING CONNECTIONS AND STREET-SCAPES DOWNTOWN;

SHALL THIS PURPOSE BE ACCOMPLISHED BY THE ISSUANCE AND PAYMENT OF BONDS OF THE CITY, AT A NET EFFECTIVE INTEREST RATE NOT TO EXCEED 5.5% PER YEAR AND WITH A MATURITY DATE NOT TO EXCEED 20 YEARS FROM THE RESPECTIVE DATES OF ISSUANCE;

SHALL SUCH BONDS BE ISSUED, DATED, AND SOLD AT SUCH TIME OR TIMES AND IN SUCH MANNER AND CONTAIN SUCH TERMS, NOT INCONSISTENT HERewith, AS THE CITY COUNCIL MAY DETERMINE, SUCH BONDS TO BE PAYABLE FROM ANY LEGALLY AVAILABLE FUNDS IN THE CITY'S GENERAL FUND; AND

IN CONNECTION THEREWITH SHALL ANY EARNINGS FROM THE INVESTMENT OF THE PROCEEDS OF SUCH BONDS (REGARDLESS OF THE AMOUNT) CONSTITUTE A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Major provisions

Referred to the voters by city council, proposal 2A would allow the city to borrow up to \$49 million by issuing 20-year Capital Investment Strategy (CIS) bonds at up to 5.5% interest (up to \$33 million total interest) to accomplish specific critical items in the Capital Improvements Program (CIP). About \$30 million would be spent on “significant deficiencies,” such as repairing bridges, and renovating parks and recreation facilities. About \$18 million would go to “high-priority action items” (new projects), such as Boulder Junction improvements and library renovations, to address shortfalls in city departments. The list of projects on the ballot is a summary of specific lists with itemized costs.

Background

A decade of stagnating revenues and material cost escalation has resulted in a backlog of maintenance and capital projects. Boulder’s backlog is an estimated \$700 million.

The projects that ballot issue 2A’s Capital Investment Strategy (CIS) bonds would fund were vetted by a 16-member CIS stakeholder committee appointed by the city manager in May 2011. City departments with citizen advisory boards (downtown/University Hill management, library and arts, parks and recreation, and transportation) consulted with their boards. The CIS stakeholder committee also used the results of a public opinion poll commissioned by the city in May to test voter response and acceptability. The process is explained at www.bouldercolorado.gov/cis.

Bond repayment of about \$4 million per year (\$82 million over 20 years) would be funded by annual city revenues of \$480,000 from the accommodation tax (voters approved it in November 2010), about \$1.3 million in “de-Bruced” property tax revenues (voters approved TABOR waiver in November 2009), and from 1 million to 2.2 million dollars saved as bond repayments end for the library expansion, ballfields, and East Boulder Community Center.

Those IN FAVOR say

1. The proposal does not include a tax increase.
2. If not maintained and upgraded, infrastructure and computer systems become more costly to rebuild later.
3. Capital maintenance for buildings, streets, and other physical assets improves efficiency and reduces the impact on the environment.
4. This is a good time to issue infrastructure bonds since funds are available, interest rates are relatively low, and there is unemployment in the construction industry.

Those OPPOSED say

1. Other sources of funding should be found so that the city does not incur more debt.
2. The proposal obligates the city to spend too much money that it does not have.
3. Going into debt to pay off current expenses is poor financial policy.
4. Such borrowing is a burden on our future.

**BOULDER ISSUE 2B
INCREASE AND EXTEND THE
UTILITY OCCUPATION TAX**

SHALL CITY OF BOULDER TAXES BE INCREASED \$1,900,000 ANNUALLY (IN THE FIRST YEAR) THROUGH AN INCREASE OF UP TO THAT AMOUNT IN THE CURRENT UTILITY OCCUPATION TAX WITH THE ANNUAL INCREASE BEING FOR THE PURPOSE OF FUNDING THE COSTS OF FURTHER EXPLORATION OF AND PLANNING FOR BOTH THE CREATION OF A MUNICIPAL ELECTRIC UTILITY AND ACQUIRING AN EXISTING ELECTRIC DISTRIBUTION SYSTEM, AND SHALL THE CITY'S UTILITY OCCUPATION TAX BE EXTENDED FROM ITS CURRENT EXPIRATION DATE OF DECEMBER 31, 2015 AND EXPIRE ON THE EARLIER OF: (1) DECEMBER 31, 2017, (2) WHEN THE CITY DECIDES NOT TO CREATE A MUNICIPAL UTILITY, OR (3) WHEN IT COMMENCES DELIVERY OF MUNICIPAL ELECTRIC UTILITY SERVICES; WITH THE EXTENSION OF THE EXISTING TAX BEING USED TO CONTINUE TO SUPPORT LOCAL GOVERNMENT SERVICES, AND SHALL THE REVENUE FROM SUCH TAX INCREASE AND EXTENSION AND ALL EARNINGS THEREON (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER APPROVED REVENUE CHANGE, AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Major Provisions

The proposal would authorize an increase in the utility occupation tax of \$1.9 million annually and extend the tax for up to two more years, through 2017. The tax would fund the costs of further exploration of and planning for creating a municipal electric utility and acquiring an existing distribution system.

Background

When the city of Boulder's franchise agreement with Xcel Energy's Public Service Company of Colorado expired at the end of 2010, the franchise fee paid by Xcel was replaced with a voter-approved, five-year utility occupation tax. Current revenues from the utility occupation tax are about \$4 million annually. This tax is now 3% of one's electric bill; with the proposed increase it would be about 4½% of one's electric bill. The city would expect to cover the costs incurred between passage of ballot question 2C (below) and the start of a municipal electric utility's operations or an alternative.

Those IN FAVOR say

1. If this ballot issue doesn't pass, then the city won't be able to pursue a municipal electric utility beyond 2015.
2. If question 2C fails but this issue (2B) passes, the city could use the tax increase to pursue more demand-side management, energy efficiency, and renewable energy credits.

Those OPPOSED say

1. The city says that operation of a new utility will not result in increased costs or rates, but this ballot issue creates an extra guaranteed cost that Boulder residents would pay for municipalization.
2. The city has already spent \$880,000 to study the municipalization issue. The city's proposed budget for 2012 allocates \$260,000 more from the general fund in the event that ballot issues 2C and 2B both fail.

**BOULDER QUESTION 2C
LIGHT AND POWER UTILITY**

Shall the City of Boulder have the authority to establish, acquire, erect, maintain, and operate, by any lawful means, a municipal light and power utility with programs and improvements that include without limitation generation plants, renewable energy, energy conservation, and distribution systems, with all necessary powers appurtenant thereto if the city council determines that it can acquire the electrical distribution system in Boulder and charge rates that do not exceed those rates charged by Xcel Energy at the time of acquisition and that such rates will produce revenues sufficient to pay for operating expenses and debt payments, plus an amount equal to twenty-five percent (25%) of the debt payments; and with the reliability comparable to Xcel Energy and a plan for reduced greenhouse gas emissions and other pollutants and increased renewable energy;

Shall the City amend its Charter by the addition of a new Article XIII, "Light and Power Utility," as described in Ordinance No. 7804 that provides for utility service standards, the creation of an electric utilities department and electric utilities board, and the general powers and limitations of the utility; and

Shall the City, acting through the utility, issue enterprise revenue bonds payable solely from the net revenues of the utility, to finance the costs of acquiring from Xcel Energy and any affiliate thereof, and constructing, relocating, installing, improving, completing or expanding the equipment, facilities and other assets comprising an existing electric distribution system within or outside the City's boundaries, and paying all necessary or incidental costs related thereto, and shall the City have the authority to adopt all means necessary or appropriate to carry out the requirements, purpose and intent of this measure?

Major Provisions

This ballot question would (1) authorize the city of Boulder to pursue a municipal electric utility under the conditions specified in the first paragraph (rate parity, revenue generation, reliability, reduced emissions, increased renewables); (2) amend the City Charter with the addition of a

new Article XIII, which is described in Ordinance No. 7804; and (3) allow the city to issue enterprise revenue bonds to fund various costs and under certain conditions as specified in the third paragraph.

Background

The city of Boulder's franchise agreement with Xcel expired at the end of 2010, but by state law Xcel has the right and the obligation to continue providing electricity to Boulder until a new agreement is reached with Xcel or until Boulder sets up its own municipal utility. The Colorado Public Utilities Commission does not allow Boulder to create a franchise agreement with any other electricity supplier, only Xcel.

During past renewals of the franchise agreement, the city has considered forming its own municipal electric utility. The city commissioned a 2005 Municipalization Feasibility Study, which was followed by similar studies in subsequent years. Prior to the end of the franchise agreement there were many meetings between the city and Xcel to come up with agreements that would satisfy Xcel and satisfy the city's desire to reduce its carbon footprint.

If this proposal passes, legal proceedings are expected, particularly over costs in the following areas: the cost to purchase the distribution system, stranded costs (to pay for existing infrastructure investments), the cost of a "going concern" (a company's ability to realize assets and discharge liabilities because of an expectation of operating in the foreseeable future), and the cost of purchasing smart grid infrastructure.

Other financial issues won't be determined in court but are not yet fully known. These include the cost to separate newly acquired distribution lines from the rest of Xcel's distribution system and the interest rates for bonds which the city would issue to purchase the system.

Those IN FAVOR say

1. The city of Boulder's goals for any electricity municipalization include rate stability, service reliability, carbon reduction and local control including the ability to use local resources.
2. Local control means we can work toward more renewable energy and reduce our carbon footprint. Xcel is wedded to coal. Coal power-generation plants can't easily decrease their power output to take advantage of surges in renewable energy supply. Wind is already a comparable or cheaper source of electricity than coal.
3. Our cost models are public. They have been vetted by top finance and energy consultants who affirm that municipalization is feasible and affordable. Some of the high estimates that Xcel consultants have given for certain costs—"going concerns" are a good example—won't hold up in court or at the Federal Energy Regulatory Commission.
4. The city of Boulder has experience running utilities, including, most notably, the water utility. In addition, the city would not need to generate its own electricity to be a utility. It could buy electricity on the open market
5. Because there are no shareholders expecting a share of the profits nor executives with million-dollar salaries, a municipal utility has financial advantages over an investor-owned utility.
6. The goal of the city's Climate Action Plan (CAP) is to reduce Boulder's greenhouse gas emissions to 7 percent below 1990 levels by 2012. Although the 2010 CAP report announced reductions in greenhouse gas emissions for each of the previous three years, the city is not on track to reach its goal. CAP focuses on individuals and organizations making changes, but municipalization is a way for the city to make substantially more progress on its climate goal (though not by 2012).
7. Xcel cannot be trusted. It campaigned against Amendment 37 which set renewable energy goals in the state, and in February it suddenly announced reductions to its Solar*Rewards

program. Xcel also oversubscribed wind customers and then didn't deliver the promised wind power.

Those OPPOSED say

1. The Public Utility Commission (PUC) currently regulates the price that Xcel charges its customers. A municipal utility is not regulated by the PUC so Boulder citizens would lose some protection. There's no reason to think that a local monopoly (the municipal utility) will be any less monopolistic than Xcel.
2. Rate parity is only guaranteed at start-up. After that there is no rate-parity guarantee. According to its cost model, the city would not see the true costs at start-up because principal payments on bond debt would be delayed until year 3 of operations, with only interest payments being made in the first two years.
3. It is important that we not let a municipal utility's revenues get entangled with the city's general funding, as it sets up poor incentives for responsible fiscal management and transparency.
4. In reality it is very hard to stop the municipalization process even if a city wants to do so. The pro-municipalization cost models have cost estimates that are wildly wrong. Combined with the difficulty of using an "off ramp" [stopping the process], watch out, Boulder!
5. Rather than take on the risks and costs of municipalization, the City of Boulder should pursue localization, e.g., more demand-side management, energy efficiency, and the use of renewable energy credits.
6. The city cannot even manage its prairie dog population. Why does anyone think that it can run an electric utility? Consider also that Boulder's water utility has raised its rates by 159% over the last 20 years (56% when adjusted for inflation).
7. Although the city talks green, there is no guarantee that a local utility will provide more renewable energy, reduce our carbon emissions, be as reliable or be price-competitive.

**BOULDER QUESTION 2D
AMENDMENT OF
ORGANIZATIONAL
STRUCTURE**

Shall Sections 12, 64, 65, 68, 72, 89, 101, 104, 105, and 108 of the Charter be amended pursuant to Ordinance No. 7799 to reflect organizational changes in names of positions and departments, specifically including without limitation, to change the title of the director of finance and record to chief financial officer, to move the duties of the city clerk to the city manager's office; and to eliminate obsolete references to the employee that was to take the role of city marshal in the last century and related details as specifically set forth in Ordinance No. 7799?

Major Provisions

The greatest number of Charter changes that would be made by approval of Question 2D would be to change the title of the director of finance and record to "chief financial officer" and to create a "Department of Finance and Licensing," not "record." These references are found in Sections 65, 68, 80, 101, 104, 105, and 108.

Other changes would be:

1. In Section 12 to include a municipal judge in the offices appointed by Council, and eliminate a police magistrate.
2. Section 64 allows the city manager to hire a clerk of council to administer oaths, approve documents, serve as election official and have custody of public records.
3. Section 72 deletes the office of city marshal.

Background

These changes would codify actual practice of many years' duration.

**BOULDER QUESTION 2E
CHANGE IN PENALTY FOR
VIOLATIONS OF THE
CITY CHARTER**

Shall Sections 120 and 151 of the Charter of the City of Boulder be amended as set forth in Ordinance No. 7800 to change the penalty for violating the Charter from \$100 to \$1000?

Background

This change would bring the Charter into agreement with state law.

**BOULDER QUESTION 2F
CLEAN-UP CHARTER
PROVISIONS REGARDING
ELECTIONS**

Shall Sections 5, 21, 27, 31, 32, 33, 34, 55, 56, 57, 61, 97, 97A, 98, 108, 124, and 164 of the Charter of the City of Boulder be amended to update the Charter with current election terminology and practices as set forth in Ordinance No. 7801?

Major provisions

Section 5: States that terms of newly elected council members will not begin until "the final determination of the election results."

Sections 21, 27, 56, 57, 61, 97, 97A, 98, 108, 124, & 164: In each of these sections of the code "registered elector" would replace "qualified elector."

Section 31: Sets the date by which candidate lists are certified to be "prior to the date upon which ballots are distributed to registered electors" rather than fifty-five days prior to the election.

Section 32: Would effectively allow only council members to serve on a canvassing board. Previously, qualified electors could be appointed to serve.

Section 33: Would delete an obsolete, detailed description of the operating mechanism of voting machines.

Section 34: Would mandate that candidates be listed on the ballot by lot, not alphabetically.

Section 97: Would limit the taxes used to qualify for bonded indebtedness to "ad valorem" taxes.

Section 97A: When discussing urban renewal financing, "property taxes" are amended by the addition of "ad valorem" to read "ad valorem property taxes."

**BOULDER QUESTION 2G
AMENDMENT OF INITIATIVE
PROCEDURES**

Shall Sections 38, 38A, 38B, 39, 40, 41 and 42 of the Charter, relating to the procedures for submitting an initiative petition to the City, be amended pursuant to Ordinance No. 7802 to require initiative petitions to:

- 1) Be simple and clear;
- 2) Be submitted for review and comment prior to circulation;

- 3) Have signatures no older than 180 days prior to filing;
- 4) Expand time for council to hold hearings and take final actions on petitions;
- 5) Change election timing for initiative petitions; and
- 6) Related details as specifically set forth in Ordinance No. 7802.

Major provisions

In addition to provisions listed above, Ordinance No. 7802 sets 180 days as the time limit for signatures to be gathered for an initiative.

**BOULDER QUESTION 2H
AMENDMENT TO ABOLISH
CORPORATE PERSONHOOD**

Shall the People of the City of Boulder, Colorado, call for reclaiming democracy from the corrupting effects of corporate influence by amending the United States Constitution to establish that:

- 1) Only human beings, not corporations, are entitled to constitutional rights; and
- 2) Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

Background

This proposal was promoted by local supporters of Move to Amend and was placed on the ballot by vote of the Boulder City Council. It is a reaction to the 2010 U.S. Supreme Court decision “Citizens United v. Federal Election

Commission” and other earlier decisions that include corporations in provisions for “persons.”

The proposal gives Boulder voters an opportunity to voice their opinion on whether or not the U.S. Constitution should be amended to make it clear that corporations are not people and money is not speech. The nationwide Move to Amend group is encouraging other city, county and state legislative bodies to pass similar resolutions.

Those IN FAVOR say

1. Judicial bestowal of civil and political rights upon corporations usurps basic human and constitutional rights guaranteed to human persons and empowers corporations to sue municipal and state governments for adopting laws that violate “corporate rights” even when those laws serve to protect and defend the rights of human persons and communities.
2. The Citizens United v. FEC decision that rolled back the legal limits on corporate spending in the electoral process creates an unequal playing field and allows unlimited corporate spending to influence elections, candidate selection, policy decisions and sway votes.
3. Large corporations’ profits and survival are often in direct conflict with the essential needs and rights of human beings.

Those OPPOSED say

1. The abolition of all constitutional rights for all corporations will not achieve the intended result of making very large corporations more responsible or transparent. Instead, it will leave nearly all organized associations of people without safeguards to prevent government overreaching. Big and small corporations, non-

profits, labor unions and other associations would not have protection from, for instance, unreasonable searches and seizures or the taking of property without just compensation.

2. “Corporations” include non-profit organizations, labor unions, small companies, and other organized associations of people. The proposal would negatively impact all of these organizations when the intended target of the ballot measure is only very large national and international corporations.

3. The ballot measure would be more effective if it was targeted at the 2010 “Citizens United v. FEC” decision, which overruled that part of the McCain-Feingold Act which limited the amount of money corporations could spend on independent expenditures for political purposes. Instead, the ballot measure is much broader, incorrectly stating that how anyone spends money cannot or should not be considered speech protected by the First Amendment. A more targeted ballot measure would have more success in gaining national support and therefore achieving the intended result of denying large corporations the ability to dominate political speech with unlimited spending.

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