Election — November 5, 2013

City of Lafayette Ballot Questions

League of Women Voters®
of Boulder County

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Lafayette Question No. 2A
Xcel Franchise Renewal

Shall the City of Lafayette enter into a non-exclusive franchise agreement with the Public Service Company of Colorado, d/b/a Xcel Energy, to permit the use of City rights-of-way to provide electric and gas utilities which agreement shall be for 20 years and shall provide for a franchise fee of 3% of Public Service Company's gross revenues from the sale of gas and electric utilities within the city?

Major Provisions
Question 2A is seeking voter approval of the franchise agreement with Xcel for 20 years. The City of Lafayette will receive a franchise fee of 3% of the company's gross revenues from the sale of gas and electric utilities within the city.

Background
Question 2A has been referred to the voters by the city council, as the city charter requires voter approval for any franchise agreement. The current 20-year agreement expires in November 2013.

Those IN FAVOR say
1. Without the franchise fee that Xcel Energy pays annually to the City, the General Fund will be cut significantly impacting residential amenities and services such as police and fire protection, library, recreation center, parks, public art, and snow plowing. The City will also lose undergrounding funds to bury power lines and agreements outlining how the City's rights-of-way are utilized.

2. Without a franchise agreement, Xcel Energy is not required to pay an annual $720,000 franchise fee to the City or provide an annual $180,000 contribution to the undergrounding fund. Additionally, the $1.2 million accumulated in the undergrounding fund will no longer be available to the City.

3. If the franchise agreement is terminated, Xcel Energy will continue to be the service provider for gas and electricity in Lafayette as mandated by the Colorado Public Utility Commission. Therefore it is not beneficial to terminate the franchise agreement.

4. Operating under the current Xcel Energy franchise agreement, Lafayette has become a leading "green" city in Colorado and is free to pursue and provide any and all alternative energy sources it chooses.

Those OPPOSED say
1. By voting NO on renewing the Xcel franchise for another 20 years, combined with voting YES on 301 (Utility Occupation Tax) we can replace the Franchise Fee revenue for the City and remain flexible in responding to the many changes in energy sources, economics and laws expected over the next 2 decades. We will still get our power from Xcel, that is state law.

2. Voting NO sends a message to Xcel that we want them to move more rapidly off of coal and stop investing hundreds of millions of our dollars retrofitting 30-year-old coal plants, for which we must provide Xcel guaranteed profit of 7–10%. Meanwhile the cost of renewables is dropping rapidly.

3. There is zero risk in voting NO because City Council adopted Ordinance 18, which extends the current 20-year franchise by one year if 2A is not approved. The one-year delay also allows the City to spend the $1.2M accumulation in the "undergrounding fund."

4. The primary cause of climate change is burning coal, and 40% of water used in the U.S. goes to cooling coal, gas and nuclear power plants. We need to move beyond fossil fuels, and renewable energy is ready to take their place. A NO vote sends this message.

LAFAYETTE ISSUE NO. 301
UTILITY OCCUPATION TAX

SHALL CITY OF LAFAYETTE TAXES BE INCREASED (UP TO $720,000 IN THE FIRST YEAR) ANNUALLY AND BY SUCH AMOUNTS AS MAY BE COLLECTED THEREAFTER, BY AMENDMENT OF THE CITY HOME RULE CHARTER TO IMPOSE A "UTILITY OCCUPATION TAX" UPON PUBLIC UTILITY COMPANIES WHO USE CITY RIGHTS-OF-WAY TO PROVIDE ELECTRIC AND GAS UTILITIES AT THE RATE OF $720,000 PER UTILITY COMPANY, AS AN ALTERNATIVE TO THE CURRENT THREE PERCENT FRANCHISE FEE IF A FRANCHISE FEE OR LICENSE FEE IS NO LONGER COLLECTED, AND SHALL THAT REVENUE BE DEDICATED TO PROJECTS AND PURPOSES THAT REDUCE ENERGY CONSUMPTION THROUGH ENERGY EFFICIENCY AND/OR INCREASE USE OF RENEWABLE ENERGY BY THE GOVERNMENT, RESIDENTS AND BUSINESSES OF LAFAYETTE, AND SHALL THE FULL PROCEEDS OF THIS TAX AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT AS VOTER APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF LAFAYETTE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Major provisions
Question No 301 is an amendment to the City Home Rule Charter to impose a tax on public utility companies at the rate of $720,000 per company as an alternative to the current 3% franchise fee, if that fee is no longer collected. Proceeds of the tax would be spent on projects that reduce energy consumption through energy efficiency, energy-related projects and purposes related to renewable energy, and action on climate change.

Background
Issue No 301 is a citizen initiative whose goal is to obtain more of Lafayette's energy from renewable energy and less from fossil fuels. This tax would take effect December 1, 2013.

Those IN FAVOR say
1. Voting YES on the Utility Occupation Tax (UOT) replaces the Franchise Fee and funds renewable energy and energy efficiency, *if the 20-year Xcel franchise (2A) is not approved*. It allows us to move away from polluting energy sources and the enormous water use associated with fossil fuels, and begin to address climate change.

2. Arguments that the UOT will cause harm to City services are highly exaggerated. Even the worst-case scenario of a short-term cash flow challenge in the early years can readily be managed by postponing nonessential planned road expansions like S. Boulder Rd. or 111th St. The City has managed similar budget shifts effectively in the past.

3. The two votes that create a clean energy path – YES on 301 and NO on 2A – carry zero risk because City Council adopted Ordinance 18, which extends the current 20-year Xcel franchise by one year if 2A is not approved. The one-year delay also allows the City to spend the $1.2M accumulation in the "undergrounding fund."

4. This initiative incentivizes investments that result in energy savings. Businesses with lower energy bills are more profitable and are a draw for new businesses, with sales tax benefits for the City. Residents with lower energy bills have more money to circulate locally rather than sending it to Xcel headquarters in Minnesota.

Those OPPOSED say

1. The outcome of the Utility Occupation Tax results in a loss of $720,000 to the City's General Fund requiring cuts to residential amenities and services such as police and fire protection, library, recreation center, parks, public art, and snow plowing.

2. The $720,000 Utility Occupation Tax will be passed along to residents through utility bills. Residential utility bills will not be reduced as a result of passing this tax.

3. The Utility Occupation Tax does not replace the $180,000 annual loss to the City's undergrounding fund nor does it compensate for losing the $1.2 million dollar existing fund balance.

4. The Utility Occupation Tax does not outline an agreement for the City to continue participating in much needed utility right of way agreements with public utility companies.

Lafayette Question No. 300
Gas and Oil Charter Amendment

Shall Chapter II of the Lafayette Home Rule Charter be amended to add a new section 2.3 entitled Community Bill of Rights and Obligations to (i) prohibit corporations, or persons using corporations, from extracting gas and oil within the city limits, except through currently active wells; (ii) prohibit corporations, or persons using corporations, from depositing, storing or transporting within city limits any water, brine, chemical or by-products used in or that result from the extraction of gas or oil; (iii) prohibit corporations, or persons using corporations, from engaging in the creation of fossil fuel and nuclear energy production or to create delivery infrastructure that facilitates activities related to the extraction of gas and oil; (iv) prohibit corporations, or persons using corporations, from extracting water from sources in the city for use in the extraction of gas and oil; (v) impose liability on corporations, or persons using corporations, that engage in the extraction of gas or oil extraction outside of the city limits for harm caused within the city; (vi) interpret the definition of "persons" who are entitled to certain rights and privileges of the United States and Colorado Constitutions; (vii) limit the rights of corporations, or persons using corporations, that engage in gas and oil extraction to enforce state or federal law, or to challenge municipal or charter provisions; and (viii) invalidate permits, licenses, privileges or charters issued by state or federal agencies, boards or commissions that would violate the charter prohibitions?

Major Provisions

Question 300 amends the Home Rule Charter to add a new section titled Lafayette Community Bill of Rights and Obligations. The amendment calls for prohibitions of (1) extraction of gas and oil in city limits, (2) corporations from depositing, storing, transporting water, brine, chemical or by-products used in the extraction of gas or oil; (3) creation of fossil fuel and nuclear energy production related to the extraction of gas or oil; (4) corporations or persons using corporations from extracting water for use of extraction.

The amendment would impose liability on corporations in the extraction of gas or oil outside of the City for harm caused within the City. It interprets the definition of persons and limits the rights of corporations to challenge municipal provisions. It would also invalidate permits and licenses issued by state or federal agencies that violate the charter prohibitions.

Background

The proposed charter amendment is a citizen initiative to ban the extraction of gas and oil within the City, including hydraulic fracturing (fracking).

Those IN FAVOR say

1. Unconventional oil and gas drilling using hydraulic fracturing is a toxic, dangerous, industrial process that does not belong within the city limits of a residential community. It cannot and should not exist in close proximity to homes, parks, and schools.

2. Toxic chemicals are used in the drilling and fracturing process, and additional toxins (volatile organic compounds) are released into the air and ground during production. These chemicals include endocrine disrupting compounds and benzene, a known carcinogen. All have serious health repercussions, especially for children and the elderly.

3. The Lafayette Community Bill of Rights to ban hydraulic fracturing elevates **community rights** above corporate "rights." It establishes our community's right to say no to any dangerous industrial activity within our city limits.

4. The Lafayette Community Bill of Rights to ban hydraulic fracturing protects Lafayette's public health, environment, and property values in perpetuity, not just for a fixed period of time.

Those OPPOSED say

1. There's not a single instance of hydraulic fracturing contaminating ground water in Colorado. Period.

2. Initiative 300 contains vaguely written language that could have a profound effect on the delivery and transport of natural gas in Lafayette. According to one expert quoted in the *Boulder Camera*, "companies that don't want to find themselves on the wrong side of the law will simply avoid doing business in Lafayette (if 300 passes)."

3. Green energy solutions —solar gardens and wind power— that we use in Lafayette require the extraction of cheap, reliable and plentiful natural gas found right here in Colorado. When the wind doesn't blow and the sun doesn't shine, it's mostly natural gas that allows us to turn on the lights, power our smart phones and drive our electric cars.

4. Renewable energy sources need a backup power source that doesn't depend on the weather. Natural gas is clean-burning, plentiful and home grown. Lafayette citizens deserve policy, not posturing. Plan it. Don't ban it.

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