

Election — November 6, 2018

**City of Boulder
Ballot Issue**



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

The League of Women Voters is not responsible for the accuracy or fairness of the arguments of either side.

**Ballot Issue 2C
Imposition of Oil and Gas
Pollution Tax**

SHALL CITY OF BOULDER TAXES BE INCREASED \$0 IN 2019 AND BY WHATEVER AMOUNTS ARE GENERATED ANNUALLY THEREAFTER THROUGH THE IMPOSITION OF AN OIL AND GAS POLLUTION TAX AT THE RATE OF UP TO \$6.90 PER BARREL OF OIL AND UP TO \$0.88 PER THOUSAND CUBIC FEET OF NATURAL GAS FOR OIL OR GAS EXTRACTED WITHIN THE BOULDER CITY LIMITS COMMENCING JANUARY 1, 2019, AND SHALL REVENUE FROM THE TAX BE USED TO FUND COSTS ASSOCIATED WITH OIL AND GAS EXTRACTION IN THE CITY OF BOULDER AND WITH THE REMAINDER USED BY THE GENERAL FUND AND SHALL 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, referred to voters by City Council, would impose a tax upon oil and gas extracted within the city limits beginning January 1, 2019, if and when such oil and gas extraction would occur. (None occurs now.) Any revenue generated by these taxes would be used to pay for costs to the City associated with oil and gas extraction in the City with any remainder going to the City’s General Fund. The income and expenditure from these taxes would be exempt from TABOR limits.

Background

While the City recently reinstated its moratorium on certain oil and gas development within city limits, considerable concern remains in the community about *potential* oil and gas development within the city limits, which can cause health problems, harm to the environment, degradation of natural resources, overtaxing of the safety net, and damage to buildings, farms and infrastructure. Existing taxes and fees are not adequate to pay for remediation of such damages. Recent accidents in Colorado where oil and gas extraction occurs have alerted municipalities to the need for industry accountability. Lafayette is asking voters to approve similar taxes.

Those IN FAVOR say

1. Oil and gas developers should pay local taxes toward repair of damages to the areas in which they operate because local governments usually pay remediation costs —of drinking and ground water contamination, damage to homes and farms, degradation of the environment, and increase in such illnesses as asthma and cancer.

- 2. Current local and state taxes and fees on oil and gas extraction are not adequate to pay for possible harm.
- 3. Boulder should be able to control its ability to tax and spend if the citizens approve of it.
- 4. Precedent for payments from oil and gas developers exists in the 2013 Boulder County Oil and Gas Road Deterioration and Roadway Safety Fee, designed to recoup the incremental costs to the County transportation system resulting from the impacts of oil and gas development.

Those OPPOSED say

- 1. No other municipality in Colorado has yet passed such a tax on oil and gas extraction. It is possible a lawsuit would be filed challenging the city’s right to tax businesses in this new manner with the citizens of Boulder paying the legal fees.
- 2. It has been proven time and again that local law cannot supersede state law, just as state law cannot supersede federal law. This is a foundational construct of our democracy; it applies to private property rights, interstate commerce, and development of natural resources, to name a few.
- 3. This measure fails to reference the unmeasurable benefits oil and natural gas provides modern society.
- 4. Citizens need to know that this measure veers dangerously outside the city’s purview.

**Ballot Issue 2D
Authorize Retention of All
Sugar-Sweetened Beverages
Tax Revenue**

WITHOUT RAISING TAXES MAY THE CITY KEEP ALL REVENUES FROM THE

2016 VOTER-APPROVED SUGAR-SWEETENED BEVERAGE PRODUCT DISTRIBUTION EXCISE TAX, AND CONTINUE TO COLLECT THE TAX AT THE PREVIOUSLY APPROVED RATE, AND SPEND ALL REVENUES COLLECTED FOR THE HEALTH EQUITY-RELATED PURPOSES PREVIOUSLY APPROVED BY THE VOTERS, WITHOUT REFUNDING TO DISTRIBUTORS THE AMOUNT THAT EXCEEDED THE REVENUE ESTIMATES APPROVED BY VOTERS IN 2016?

Major Provisions

Question 2D would allow revenue in excess of the originally estimated revenue to be kept by the City and used as stipulated in the promotion of health equity programs for 2018 and future years.

Background

In 2016 voters approved the Sugar-Sweetened Beverage Product Distribution Tax which charges beverage distributors a two-cent excise tax on each beverage that contained at least 5 grams of added sweeteners per 12-fluid ounces.

The dedicated uses of this excise tax are health promotion, general wellness programs, and chronic disease prevention by means of access to safe and clean drinking water, healthy foods, and nutrition, food, and other health programs.

The Taxpayer Bill of Rights (TABOR) requires revenue that exceeds the estimate of a voter-approved tax measure to be refunded to the entity that paid the taxes. The City anticipates that the SSB tax will bring in \$1.4 million more than the estimated \$3.8 million.

Those IN FAVOR say

If voters approve 2D, groups working on health issues, disease prevention, & nutrition education about diseases linked to sugar consumption, will continue and expand.

Those OPPOSED say

The excess revenue should not be returned to distributors, but be returned to small business owners and consumers, to whom distributors passed on the tax.

Note: The five proposed Charter amendments, 2E through 2I, were referred to voters by City Council.

Questions 2E, 2F, and 2G are recommendations from the Campaign Finance / Elections Working Group which City Council formed in 2017—eleven residents with experience as election volunteers and candidates, who were charged with reviewing requirements concerning elections, including voter-approved changes in Question Q in 2017, for timeliness, efficiency of processes, and what is best for Boulder voters within Colorado state law.

The Charter is reviewed regularly to clarify or update provisions and language. Changes to the Charter require voter approval.

Ballot Question 2E **Charter Amendments for Initiative, Referendum and Recall Processes**

Shall Sections 29, 38A, 38B, 39, 40, 44, 48, 54, 56, and 177 of the City Charter be amended pursuant to Ordinance 8272 to clarify the actions required to be taken if a candidate withdraws from a city council election; establish the number of signatures required for an initiative and referendum

to be at least ten percent of the average number of registered electors of the city who voted in the previous two municipal candidate elections so as to return this number closer to the range that was in place prior to changes in federal law and registration procedures; establish the number of signatures required for a recall to be at least twenty percent of the average number of registered electors of the city who voted in the previous two municipal candidate elections; amend the process and establish a fixed schedule for filing, review and consideration of initiative, referendum, and recall petitions so that both petitioners and city staff will have clarity and certainty; set standards for the city clerk's examination of petitions so that this examination is completed in a timely fashion and that the possibility of fraud is minimized; provide for input from the petition committee to the city council prior to setting the ballot title to help ensure accuracy of the title; and require that an ordinance passed by vote of the people may only be amended by two-thirds of the council members present, and only if the amendments are consistent with the basic intent of the ordinance or are necessary to come into compliance with state or federal law?

Major Provisions

Question 2E proposes changes to ten sections of the City Charter—one section about candidates and the ballot, and the remaining nine about initiative, referendum, and recall petitions. (*Summaries of current language are in italics, PROPOSED LANGUAGE IN CAPS.*)

For Section 29, the existing text states that if a candidate withdraws “within 65 days before an election,” the votes will not be counted, but doesn't specify whether or not the ballots would be changed. Removing the 65-day time limit and replacing it with the status of the ballots clarifies what will happen when a candidate withdraws their nomination.

Section 29 - Withdrawal from nomination
Any person having been duly and regularly nominated as herein provided, may withdraw from such nomination by filing with the city clerk a sworn statement of such withdrawal. If a withdrawal occurs BEFORE THE BALLOTS ARE FINALIZED FOR PRINTING, THE NAME OF THE PERSON SHALL NOT APPEAR ON THE BALLOT. IF THE WITHDRAWAL OCCURS AFTER BALLOTS ARE FINALIZED FOR PRINTING, the votes cast for that person shall not be counted.

For Sections 38A, 44, & 56 the existing text specifies differing requirements for the number of petition signatures needed for initiatives, referendums and recall petitions. Initiatives require 5% of registered voters for a November election but require 15% of registered voters for the next available election, including special elections. Referendums require 10%. Question 2E proposes that the number of signatures on both initiative and referendum petitions be “at least 10% of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections.” Recall petitions currently require signatures to number “at least 25% of the last preceding vote cast within the city for all candidates for governor.” The proposed change would require “at least 20% of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections.”

Based upon current municipal voting statistics, initiative petitions currently require approx. 4,100 signatures (for a November election) while referendum petitions require approx. 8,600 signatures. The proposed new minimums would require approx. 3,100 signatures for both initiatives and referendums.

Recall petitions currently require approx. 12,000 signatures while 2E proposes a requirement of approx. 6,100.

Section 38A - Signatures required for initiative, referenda and recall petitions
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 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 44 - Referendum petition

If, within thirty CALENDAR days after final passage of any measure by the council, a petition signed by 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 be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, it shall not, except in the case of an emergency measure, become operative until the steps indicated herein have been

taken.

Section 56 - Petition for recall would be amended to require fewer signatures, as in 38A.

For Section 38B, the existing text leaves the review time for an initiative petition to the discretion of the city manager within the requirements of state law. Question 2E would amend it to specify 10 days for review, 5 days for review of a resubmission.

Section 38B - Submission of initiative form for comment

Prior to obtaining any signatures on the petition, the committee of the petitioners shall submit the proposed petition form to the city manager for review and comment. Within TEN DAYS, the city manager shall provide the committee of the petitioners with comments concerning the format or contents of the petition. Where appropriate, such comments may also contain suggested editorial changes to enhance the clarity and simplicity of the language in the petition. The committee of petitioners may amend the petition in response to some or all of the comments of the city manager AND RE-SUBMIT IT FOR REVIEW. ANY ADDITIONAL COMMENTS FROM THE CITY MANAGER ON THESE AMENDMENTS SHALL BE PROVIDED WITHIN FIVE CALENDAR DAYS. If any substantial amendment is made to the petition, other than an amendment in direct response to the comments of the city manager, the amended petition shall be resubmitted to the city manager in accordance with this section. In the event the committee of the petitioners fails to submit the proposed petition form, or any substantial amendment to the proposed petition form, prior to obtaining

signatures, the city clerk may refuse to accept the petition for filing.

Section 39 does not specify when the city clerk must count the signatures on an initiative petition. Question 2E proposes adding a timetable for the process, as follows.

Section 39 - Filing of petition; protest
BY THE LAST BUSINESS DAY ON OR BEFORE 150 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 180 CALENDAR DAYS PRIOR TO THE DATE OF FILING, AND WHETHER THIS NUMBER MEETS THE REQUIREMENTS OF SECTION 38A. BY 140 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 120 CALENDAR DAYS BEFORE THE NOVEMBER ELECTION, AND SHALL CERTIFY WHETHER THE PETITION IS SUFFICIENT OR INSUFFICIENT ON OR BEFORE THAT DAY. ...

For Sections 40 & 48, the existing text regarding submission of petitions to City Council specifies that once Council refers the petition to a committee, the committee has 60 days to report back to Council and then Council has another 60 days to

consider the petition and take final action. There is currently no language regarding challenging the ballot title or seeking input from the petitioners. Question 2E amends these sections to require Council to seek input on the title from the petitioners, specify a time to set the ballot title and accept title challenges.

Section 40 - Submission of petition to council

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 70 CALENDAR DAYS BEFORE THE NOVEMBER ELECTION. TITLE CHALLENGES SHALL BE FILED NO LATER THAN SEVEN CALENDAR DAYS AFTER SETTING OF THE BALLOT TITLE.

Section 48 - Title of ballots

Proposed measures and charter amendments shall be submitted by ballot title. There shall appear upon the official ballot a ballot title which may be distinct from the legal title of any such proposed measure or charter amendment and which shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such measure or charter amendment. The ballot title shall be prepared by a committee of the council which may be a committee of the whole. IF THE PROPOSED MEASURE IS AN INITIATIVE, COUNCIL SHALL SEEK THE INPUT OF THE COMMITTEE OF THE PETITIONERS PRIOR TO SETTING THE BALLOT TITLE.

Section 54 currently prohibits City Council from repealing a voter-approved ordinance but says nothing about amending one. Question 2E proposes

allowing amendments but only in certain circumstances, as follows.

Section 54 - Repeal of amendment of initiated or referred measures

No ordinance that has been passed by vote of the people under the initiative or has received a favorable vote of the people under the referendum shall be repealed except by an ordinance submitted to a vote of the people. AN ORDINANCE PASSED BY VOTE OF THE PEOPLE UNDER THE INITIATIVE OR HAS RECEIVED A FAVORABLE VOTE OF THE PEOPLE UNDER THE REFERENDUM MAY BE AMENDED BY TWO-THIRDS OF THE COUNCIL MEMBERS PRESENT PROVIDED THAT THE AMENDMENTS DO NOT ALTER OR MODIFY THE BASIC INTENT OF SUCH ORDINANCE OR ARE NECESSARY TO COME INTO COMPLIANCE WITH THE STATE OR FEDERAL LAW.

Section 177 - Disposal of open space land

Currently, a petition requesting that a proposed disposal be referred to voters requires signatures numbering at least five percent of the registered electors of the city. Question 2E changes the requirement to 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— the same as for other referendums (38A).

Those IN FAVOR say

The proposed changes clarify the petition process and lower the required number of signatures; they also clarify nomination withdrawals and approved ballot amendment requirements.

Those OPPOSED say

No opposition is known.

Ballot Question 2F
**Charter Amendment for
Initiative Petition Signature
Verification**

Shall Sections 39, 46, and 57 of the City Charter be amended pursuant to Ordinance 8273 to require the city clerk, to the extent reasonably possible and so as to ensure authenticity, compare the signatures on a petition to signatures with the election records of the Boulder County Clerk or the Secretary of State?

Major Provisions

The proposal amends the three sections of the charter that mention petition signatures, to add the requirement that the city clerk make a reasonable attempt to verify the signatures “by comparison with the election records of the Boulder County Clerk or the Secretary of State.” For Section 39 two further additions are proposed: (1) “The clerk may use facilities of other cities to assist in this process,” and (2) Protests of petitions “must be submitted by 40 calendar days after submittal of the petition to the clerk.”

Background

Currently the city clerk verifies the voter registration information for each of the petition signers, but it is at the city clerk’s discretion to verify the signatures. Denver is the only Colorado municipality with such a requirement, which has been in effect since 2005.

Those IN FAVOR say

The proposed change would ensure authenticity of petitions.

Those OPPOSED say

The proposed change would require additional staff and/or money for temporary employees or contracting with a third party for verification.

Ballot Question 2G
**Charter Amendment Related
to Electronic and Online
Petitions**

Shall Sections 38, 45, and 56 of the City Charter be amended pursuant to Ordinance 8274 to allow the Boulder City Council to adopt ordinances that permit use of electronic petitions and to permit on-line electronic signing or endorsement of initiative referendum, and recall petitions?

Major Provisions

Changes to the City Charter would permit use of electronic petitions and on-line electronic signing or endorsement of initiative, referendum, and recall petitions, in addition to the current practice using paper petitions and handwritten signatures.

Background

The Secretary of State’s office currently uses Colorado-issued drivers’ licenses or IDs to verify the integrity of signatures for voter registration and voter record updates, when on-line entries are made. The same system or a similar mechanism could be used for the petition access and petition signature process.

Those IN FAVOR say

1. Electronic petitions and petition signatures will make the process more accessible (24/7) to all voters and allow

the full petition to be read instead of just the title.

2. Electronic signatures eliminate the problem of legibility and allow for quicker and accurate verification with voter rolls, avoiding the possibility of signing twice.
3. Electronic petitions can be unsigned, if citizens change their mind before petition submission deadlines.

Those OPPOSED say

1. Electronic petitions might be more subject to fraud than petitions collected in person.
2. Electronic petitions are dehumanizing.
3. Designing and setting up the electronic petition process involves expenditure of funds and staff time that would otherwise be available for other purposes.

Ballot Question 2H
**Charter Amendment
Related to Advisory
Commissions**

Shall Section 130 of the Charter be amended pursuant to Ordinance 8271 to: allow council to set the number of any new advisory commission as five or seven when forming the commission; allow council to increase the size of the Housing Advisory Board from five to seven members; change the criteria for what constitutes a majority to accommodate boards of different sizes; and change the reference of “sex” to “gender identity”?

Major Provisions

This proposal would allow Council to set the number of members of a *new* advisory

commission to be *five or seven* members. Existing board and commission member numbers would not change except for the Housing Advisory Board, which would change to seven members. A change from the word “three” to “majority” is needed because a majority of seven is four. Reference to “sex” would be changed to “gender identity.”

Background

This ballot measure developed out of Council’s interest in enlarging the existing Housing Advisory Board to seven members, and in allowing persons to describe their own gender identity.

Those IN FAVOR say

1. A larger number of members of the Housing Advisory Board would allow more input on a very charged issue.
2. Official language needs to allow a person to self-select their sexual identity in accordance with what has been established as an important community value.
3. The Council should have flexibility to determine whether five or seven members will best serve the needs of a new board or commission.

Those OPPOSED say

1. The current number of members of boards and commissions is adequate.
2. The Council should be careful to vet members appointed to the Housing Advisory Board to ensure a representative group, rather than make an exception for this one board.
3. To accomplish an effective change of terms used, from “sex” to “gender identity,” there should be a separate ballot measure to change terms throughout the City Charter.

Ballot Question 2I Charter Amendment for Planning Department Budget Recommendations

Shall Section 78 of the Charter be amended pursuant to Ordinance 8270 to change the time for the Planning Department to submit its recommendations for public improvements from sixty days to thirty days before the submission of the budget to be consistent with the city’s budgeting process?

Major Provisions

The proposal gives the Planning Department 30 days more for full review of their capital improvement plan prior to submitting it.

Background

Under the current budget process, the Planning Board must submit the recommended capital improvement program (“CIP”) to the city manager at least 60 days before the city manager submits the proposed budget to City Council. The 60-day requirement means that staff begin developing the CIP budget in late February or early March, before last year’s financials are finalized and before projections for current and future years are updated.

City Council’s charter committee recommended changing the requirement to 30 days. This would improve alignment of the CIP process with the overall budget planning process and allow time to access more accurate financial data.

Those IN FAVOR say

The proposed change allows the development of the CIP to be more closely aligned with the overall budget and allows more accurate revenue projections to be incorporated into the CIP.

Those OPPOSED say

No organized opposition is known.

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