

**BOULDER CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Monday, August 5, 2013
6 p.m.**

**SPECIAL MEETING
FINAL AGENDA**

1. **CALL TO ORDER AND ROLL CALL**
2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE**

There will be no open comment, all items will be addressed as public hearings

3. **CONSENT AGENDA**
None
4. **POTENTIAL CALL- UP CHECK IN**
Opportunity for Council to indicate possible interest in the call- up of an item listed under agenda Item 8-A1.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS** - *All ballot related items will be handled in TWO public hearings (Items A-C will be handled in one public hearing and Items D &E in a second public hearing)*
 - A. Second reading and consideration of a motion to adopt **Ordinance No. 7910, submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the question of amending section 98, “Term of bonds-disposal of bonds,”** of the Charter of the City of Boulder to **authorize negotiated or private sales of bonds** and setting forth related details
 - B. Second reading and consideration of a motion to adopt **Ordinance No. 7914 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013 **the question of** amending Charter section 130 and other related Charter sections removing **the requirement that individuals be City electors to serve on City Boards** and setting forth related details
 - C. Second reading and consideration of a motion to adopt **Ordinance No. 7915 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the question of** extending Ordinance 7907, **the moratorium on accepting and processing applications for drilling permits** on City of Boulder open space properties **and on any city permits or use review of new mining industry uses involving oil and gas extraction** and setting forth related details

- D. Second reading and consideration of a motion to adopt **Ordinance No. 7912 and Ordinance 7913 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the issues of whether the City of Boulder should: 1) extend and dedicate to open space, transportation and general government services a 0.33 cent sales tax; and 2) impose a new 0.15 cent sales tax to be dedicated to transportation** and setting forth related details

- E. Second reading and consideration of a motion to adopt the following: **Ordinance No. 7912 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013 **the question of whether City of Boulder taxes should be extend and dedicate to open space, transportation and general government services a 0.33 sales tax; and Ordinance No. 7913 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the issue of whether the City of Boulder should impose a new 0.15 cent sales tax to be dedicated to transportation;** and setting forth related details

6. **MATTERS FROM THE CITY MANAGER**

None

7. **MATTERS FROM THE CITY ATTORNEY**

None

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL**

A. Potential Call-Ups

None

9. **PUBLIC COMMENT ON MATTERS** (15 min.) Public comment on any motions made under Matters.

10. **FINAL DECISIONS ON MATTERS** Action on motions made under Matters.

11. **DEBRIEF** (5 Min.) Opportunity for Council to discuss how the meeting was conducted

12. **ADJOURNMENT**

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: AUGUST 5, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 7910, submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, the question of amending section 98, “Term of bonds- disposal of bonds,” of the Charter of the City of Boulder to authorize negotiated or private sales of bonds and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
David Gehr, Deputy City Attorney
Bob Eichem, Chief Financial Officer

EXECUTIVE SUMMARY

At the April 23, 2013 study session and the June 18, 2013 City Council meeting, one of the potential ballot items discussed by the City Council was the possibility of amending the City of Boulder Charter to allow for the ability to use negotiated bond sales in certain circumstances. Council asked that staff bring forward potential ballot language for consideration for this topic.

The memos to the two meetings provide the background and analysis of this potential amendment. The study session materials can be found on the City Council web site for the April 23, 2013 study session on revenue, ballot, and Charter items. [Study Session April 23, 2013](#). The memo for the June 18, 2013 meeting can be found [in agenda item 6A starting on page 118 of the packet on the City Council web site. 6A - Potential Ballot Issues - 6/18/2013 - Laserfiche WebLink](#)

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance No. 7910 regarding revisions in Charter section 98, Term of bonds - disposal of bonds.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The Charter amendment will not create any incremental economic impact on any businesses or individuals since it will apply to future bond measures. The bond amendments will provide the city with more opportunities and options to consider when it considers issuing debt in future years. It will provide the city with another tool to improve the city and continue to make it an attractive place for residents, employers, and employees.
- Environmental –The amendment to the Charter will provide the city with opportunities to issue debt in order to fund important city priorities. Investing in city infrastructure may enhance the environment by creating efficient and cost effective systems and programs.
- Social – Bond issues usually fund important city priorities. Quality infrastructure that is accessible to all members of the community, foster a sense of place and provide opportunities for enhancements to the quality of life of residents and employees that live and work in the city.

OTHER IMPACTS

- Fiscal – The fiscal impact of each bond issue will vary based on the bond issue.
- Staff time – The preparation and analysis of ballot items is a part of the ongoing work program of the departments involved.

PUBLIC FEEDBACK

Other than the public feedback that will be obtained during the public hearing there have not been any public comments received since this topic was discussed at a previous study session and council meeting.

BACKGROUND

Under Charter section 98, the city is required to sell bonds “to the highest responsible bidder” which has been interpreted to mean at public sales through competitive bidding.

There are two methods of selling bonds issued by local governments. The two methods are known as competitive or negotiated sales. While there are numerous team members involved in a government bond sale, there are two positions that have major differences in roles when using competitive or negotiated bond sales: the issuer and the financial planner.

Best practices in government finance provide that no matter which method is used, the issuer should have a separate financial advisor who has been selected through a request for proposal process. Due to recent changes in federal laws, the financial advisor now has a fiduciary responsibility to the issuer and may not represent or be the underwriter at any time in the bond sale process. This has eliminated the appearance of a conflict of interest when it used to be quite common for the financial advisor to be both the financial advisor and the underwriter.

Negotiated Bond Sales

When negotiated sales are used, an underwriter offers to purchase the entire bond amount from the issuer at a negotiated price. The underwriter is then responsible for selling the bonds to individuals or institutions. This process requires the underwriter to be involved early on in the process so it can participate in structuring the bond issue (when certain amounts will mature, call dates, expected interest rates, length to maturity), and conducts the pre-marketing effort to create interest in the bonds that will be sold.

The best practice for negotiated bonds sales is to select the underwriter through a request for proposal process with stated criteria of how the firm will be selected. It is not uncommon for one firm to be the lead and team with others when a bond issue is large or very complex. This provides additional outlets for making sure the bonds will be sold. The underwriter's way of making money relies on the difference between the amount they bid for the bonds from the issuer versus the amount they are able to sell the bonds for in the market. There is a structured method for analyzing what this actual difference should be to determine that the amounts are in line with current market charges. The financial advisor has a major role in conducting this analysis and ensuring no hidden costs are included.

Competitive Bond Sales

In a competitive sale method, the financial advisor has a much larger role and the underwriters' role is limited to submitting an electronic bid and buying the bonds from the issuer the day the bonds are sold. The financial advisor provides major support to staff for the structuring of the bond issue, is responsible for the pre-marketing, coordinates with the other less involved members of the team, ensures that the winning bid submitted meets all structural requirements of the bond sale, and conducts the closing on the day the bonds are sold.

Best Practices for Bond Sales

Best practices and advisories for debt management have been written by the Government Finance Officers Association of the United States and Canada (GFOA). They can be found at

http://www.gfoa.org/index.php?option=com_content&task=view&id=122&Itemid=135

Best practices demonstrate that there are times when consideration could be given to use competitive sales and other times when negotiated sales should be considered. Some of the most major reasons that council has heard of in previous discussions are:

When to consider using competitive sales

- ▶ Bond rating of the bonds is A or better
- ▶ General Obligation (often called GO bonds) or utility bond with a long-term record of strong performance
- ▶ Structure of bond issue easy to explain
- ▶ Issues are of sufficient size
- ▶ Positive market conditions
- ▶ Known issuer
- ▶ No special conditions on the sale
- ▶ Flexibility for the issue date is not needed

When to consider using negotiated sales:

- ▶ Rating of the bonds will be A or lower
- ▶ No or limited track record for the bonds to be issued
- ▶ Bond issue has unique features
- ▶ The bond issue is complex
- ▶ Issuer desires to target participation
- ▶ The date for selling the bonds needs to be flexible (unstable market conditions)
- ▶ The story behind the bond issue needs to be discussed with potential buyers of the bonds

ANALYSIS

The original city Charter approved in 1917, required complete bond sales through the language in section 98, which has never been changed. The competitive method has served the city well for over nine decades. The city has sold bonds that are not complex or unique, has had an A or better bond rating, a long history of paying off its bonds, and has not targeted participation in the sale of the bonds.

Two separate issues have occurred that suggests City Council may wish to consider asking the voters to modify this language in certain situations so that negotiated sales could be used if approved by council. The first is to ensure that City of Boulder residents

have the opportunity to purchase bonds sold by the city. The second would be to provide an option to sell potential municipalization bonds.

In a competitive sale, the issuer cannot designate how many bonds need to be made available for local purchase. The competitive method allows the underwriter that buys the bonds to sell them to the people who normally purchase their bonds. While it is possible some of the bonds may end up selling locally, it is not guaranteed. Staff was asked to research possible options to make bonds available locally. The negotiated sales method would allow this to occur.

The possibility of selling municipalization bonds will be more challenging than the bonds the city has sold in the past. As has been discussed in past study sessions and council meetings: the bonds will be more complex than previous bond issues; the city will not have a track record for the type of bonds to be issued since the electric utility would be very new; there would be unique features that would need explanation; it would be helpful to have more flexibility regarding the sale date of the bonds, and there may be a desire to target participation by residents of the area.

Proposed Charter Amendment

In the June 18, 2013 discussion, council members expressed a preference to be able to have the council choose when the city might use a negotiated bond sale arrangement. The proposed Charter amendment permits this flexibility. At the meeting, council accepted an alternative that staff presented as recommended by the city's financial advisor, to add the clause "**or other obligations**" after the word "bonds." This language is intended to refer to debt generally. This is intended as a clarification and is consistent with the current practices.

The proposed Charter change reads as follows:

Sec. 98. Term of bonds—disposal of bonds.

For bonds or other obligations requiring an election prior to their issuance, the ~~The~~ term of any bond issues and the maximum rate of interest shall be fixed by the ordinance submitting the question to the registered electors of the city. ~~When issued, bonds~~ Bonds or other obligations shall be sold to the highest responsible bidder at public sale, but in no case for less than par, and in all cases to the best advantage of the city. Council shall have the option to authorize a negotiated or private sale of bonds or other obligations. Prior to authorization of a negotiated or private sale of bonds or other obligations, the manager will provide a recommendation to council as to whether such sale would be to the best advantage of the city. Bonds or other obligations may be sold at, above, or below par and contain provisions for redemption prior to maturity, with or without payment of a premium.

For future bond sales, the first approach will be to use competitive public sales of the bond issue. The bond issue would come before the council in the same manner as it does today. If the city wanted to use a negotiated sale, it would start with at least a two step process. First, a request would need to be made to the council to authorize a negotiated sale. Before the council would make a decision to use this bond sale option, the city manager will need to analyze whether such a sale would be to the best advantage to the city. The manager would present this recommendation to the council. The council would consider the manager's recommendation and decide whether to authorize the sale of such bonds. Then, the bond issue would be prepared as discussed above in the section of this memo titled, "Negotiated Bond Sales."

The city's bond counsel, Kutak Rock has also advised that a small revision to Charter section 98 be made to update the language to current bonding practices and to remove ambiguity in the Charter section. The phrase, "but in no case for less than par," has been deleted. The language is obsolete, going back to practices in place in 1917, when the city's Charter was adopted and bonds were issued as "bearer bonds." In general, bearer bonds are being phased out in favor of registered bonds and capital appreciation bonds.

The city has interpreted the phrase as applying to the whole issue; the city has allowed individual maturities to be sold at a discount but have said that the bonds have to be sold in their entirety either at par or with a "net" original issue premium. Removing that limitation removes a potential conflict with what actually has occurred over the years at public sales. Bond counsel has advised that this is a rather unique restriction that does not appear in other charters. Other city charters are either silent on it or specifically allow bonds to be sold "at, above, or below par."

MATRIX OF OPTIONS

The approach that staff recommends is that bonds are sold by competitive public sale unless the City Council determines that a negotiated sale is to the best advantage of the city based on a recommendation by the city manager. At the July 16, 2013 City Council meeting, council decided not to go forward with language that permitted the greatest amount of flexibility in deciding how to do bond sales. That option did not have a presumption that the city would sell bonds in competitive public sales unless council decides otherwise, as described above in the analysis section of this memo.

The City Council may adopt the measure proposed in this memo, amend it, or reject it.

ATTACHMENT A Ordinance 7910

ORDINANCE NO. 7910

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF AMENDING SECTION 98, "TERM OF BONDS - DISPOSAL OF BONDS" OF THE CHARTER OF THE CITY OF BOULDER TO AUTHORIZE NEGOTIATED OR PRIVATE SALES OF BONDS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

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 98 of the city Charter pertaining to the term of bonds and disposal of bonds. 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.

Sec. 98. Term of bonds—disposal of bonds.

For bonds or other obligations requiring an election prior to their issuance, the ~~The~~ term of any bond issues and the maximum rate of interest shall be fixed by the ordinance submitting the question to the registered electors of the city. ~~When issued, bonds~~ Bonds or other obligations shall be sold to the highest responsible bidder at public sale, but in no case for less than par, and in all cases to the best advantage of the city. Council shall have the option to authorize a negotiated or private sale of bonds or other obligations. Prior to authorization of a negotiated or private sale of bonds or other obligations, the manager will provide a recommendation to council as to whether such sale would be to the best advantage of the city. Bonds or other obligations may be sold at, above, or below par and contain provisions for redemption prior to maturity, with or without payment of a premium.

1 Section 3. The official ballot shall contain the following ballot title, which shall also be
 2
 3 the designation and submission clause for the measure:

4 **Ballot Question No. _____**

5 Negotiated or Private Bond Sales

6 Shall section 98, "Term of bonds - disposal of bonds" of the Charter
 7 of the City of Boulder be amended as described in Ordinance No.
 8 7910 to give the City the option to sell bonds or other obligations
 9 by a negotiated or private sale instead of a public sale when
 determined to be to the best advantage of the City?

10 FOR THE MEASURE _____ AGAINST THE MEASURE _____

11 Section 4. If a majority of all the votes cast at the election on the measure submitted are
 12 for the measure, the measure shall be deemed to have passed and the Charter shall be amended as
 13 provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be
 14 so amended, and the City Council may adopt any necessary amendments to the Boulder Revised
 15 Code to implement this change.
 16

17 Section 5. The election shall be conducted under the provisions of the Colorado
 18 Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this
 19 ordinance, and all contrary provisions of the statutes of the State of Colorado are hereby
 20 superseded.
 21

22 Section 6. The officers of the City are authorized to take all action necessary or
 23 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to
 24 conduct the election for the city.

25 Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any
 26 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining
 27 provisions of this ordinance.
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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: AUGUST 5, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 7914 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013 the question of amending Charter section 130 and other related Charter sections removing the requirement that individuals be City electors to serve on City Boards and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul Fetherston, Deputy City Manager
Karen Rahn, Director, Human Services

EXECUTIVE SUMMARY

The Human Relations Commission (HRC) requested that the City Council consider amending the Boulder Home Rule Charter to allow those not registered to vote in the City of Boulder to serve on City Boards and Commissions. Council directed that the city attorney prepare a proposed ordinance making the proposed change consistent throughout the Charter.

Suggested Motion Language:

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

Motion to adopt Ordinance No. 7914 placing on the November 5, 2013 ballot a measure amending sections 74, 130, 157, 172, 185 of the Boulder Home Rule Charter.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – To the extent that City Boards and Commissions provide input and assistance with economic development in the City of Boulder, economic development could benefit from more diverse representation on City Boards and Commissions
- Environmental – Several boards, in particular the Environmental Advisory Board and the Water Resources Advisory Board, provide guidance on important environmental issues. Diverse representation on these boards could provide a benefit to the environment.
- Social – Diversity is one of the City’s most important values. Expanding the Board and Commission selection process to be more inclusive for those not presently eligible to participate will support this goal.

OTHER IMPACTS

- Fiscal – None identified.
- Staff time – Staff work necessary to implement this provision should be minimal and can be accomplished within normal work programs.

BOARD AND COMMISSION FEEDBACK

This is an HRC initiative. The details of HRC feedback are covered in the analysis section of the first reading memorandum.

BACKGROUND

Charter section 130 establishes the criteria for membership on the City’s Boards and Commissions. It was included in the original 1918 Charter and was amended in 1998 to allow for appointments to be delayed until March.

Charter section 130 provides in relevant part as follows:

At any time after the organization of the council elected under the provisions of this charter, the council by ordinance may create and provide for such advisory commissions as it may deem advisable; provided, that a library commission is hereby created, and the council shall, within ninety days from its organization, appoint the members thereof.

Each of such commissions, including the library commission, shall be composed of five electors, appointed by the council, not all of one sex, well known for their ability, probity, public spirit, and particular fitness to serve on such respective commissions. . . .

The requirement that Board and Commission members be “electors” precludes participation by non-U.S citizens and others not permitted to vote, including individuals incarcerated or on parole for felony convictions.

Council changed the proposed ordinance on first reading to eliminate a change to section 185 adding a provision to allow out of city customers to serve on the electric utility board. Council decided that such an addition was not appropriate in this ordinance. This proposal has been included in the alternative ballot measure that council considered on first reading on July 24. (see proposed Ordinance No. 7920) This was the only change council considered on first reading.

ATTACHMENTS

Attachment: Ordinance 7914

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ORDINANCE NO. 7914

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF AMENDING SECTION 130 OF THE CITY CHARTER RELATING TO THE QUALIFICATIONS OF APPOINTEES TO CITY BOARDS AND COMMISSIONS; AMENDING SECTIONS 74, 157, 172, 185 IN A RELATED MANNER; SETTING FORTH THE BALLOT TITLE; AND 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 general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of making the following amendment to the City Charter (material to be added to the Charter is shown as underlined while material to be deleted from the Charter is shown stricken through with solid lines):

Sec. 130. General provisions concerning advisory commissions.

At any time after the organization of the council elected under the provisions of this charter, the council by ordinance may create and provide for such advisory commissions as it may deem advisable; provided, that a library commission is hereby created, and the council shall, within ninety days from its organization, appoint the members thereof.

Each of such commissions, including the library commission, shall be composed of ~~five electors~~ city residents, appointed by the council, not all of one sex, who are well known for their ability, probity, public spirit, and particular fitness to serve on such respective commissions and who are at least eighteen years old and who have resided in the city of Boulder for at least one year immediately prior to their appointment to serve on the commission.

1 When first constituted, the council shall designate the terms for which each
 2 member is appointed so that the term of one commissioner shall expire on
 December 31 of each year; ...

3

4 **Sec. 74. Planning board.**

5 There shall be a city planning board which shall consist of seven members
 6 appointed by the city council. The appointive members ~~shall be qualified electors~~
 7 ~~of the city, shall be qualified to serve on an advisory commission pursuant to~~
Section 130, shall not hold any other office under this charter except as provided
 in Section 84A, shall serve without pay, and shall be removable by the council for
 cause.

8

9 **Sec. 157. Creation of the parks and recreation advisory board.**

10 There shall be a parks and recreation advisory board consisting of seven members
 11 appointed by the city council. The members of the board shall be ~~residents of the~~
 12 ~~city, qualified to serve on an advisory commission pursuant to Section 130~~, shall
 not hold any other office in the city, and shall serve without pay. The council may
 appoint such ex-officio members to the board for such terms as it deems
 advisable.

13

14 **Sec. 172. Creation of the open space board of trustees.**

15 There shall be an open space board of trustees consisting of five members
 16 appointed by the city council. The members of the board shall be ~~residents of the~~
 17 ~~city, be qualified to serve on an advisory commission pursuant to Section 130~~,
 shall not hold any other office in the city, and shall serve without pay.

18

19 **Sec. 185. Creation of the electric utilities board**

20 (b) Board qualifications: Board members shall be ~~selected from the registered~~
 21 ~~electors of the city be qualified to serve on an advisory commission pursuant to~~
Section 130 ~~or from~~ the owners or employees of a business or governmental entity
 22 that is a customer of the electric utility, provided, however, that a majority of the
 23 board shall be qualified to serve on an advisory commission pursuant to Section
130 ~~registered electors of the city~~. Board members shall be well known for their
 24 ability, probity, public spirit, and particular fitness to serve on the electric utilities
 board. At least three board members shall be owners or employees of a business
 or governmental entity that is a customer of the electric utility

25

1 The official ballot shall contain the following ballot title, which shall also be the
2 designation and submission clause for the measure:

3 Ballot Question No. _____

4 Qualifications for Appointment to City Commissions

5 Shall section 130 of the Charter be amended pursuant to Ordinance
6 No. 7914 to provide that city residents may be appointed to serve on
7 city commissions even if they are not city electors, if they are at least
8 eighteen years old and if they have resided in the city of Boulder for at
9 least one year immediately prior to their appointment, and shall related
changes be made to Charter sections 74, 157, 172 and 185 so that
10 qualifications for service on the Planning Board, the Parks and
11 Recreation Advisory Board, the Open Space Board of Trustees and
12 the Electric Utilities Board be consistent in this respect?

13 FOR THE MEASURE _____ AGAINST THE MEASURE _____

14 Section 3. If a majority of all the votes cast at the election on the measure submitted are
15 for the measure, the measure shall be deemed to have passed and the Charter shall be amended as
16 provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be
17 so amended, and the City Council may adopt any necessary amendments to the Boulder Revised
18 Code to implement this change.

19 Section 4. The election shall be conducted under the provisions of the Colorado
20 Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this
21 ordinance.

22 Section 5. The officers of the City are authorized to take all action necessary or
23 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to
24 conduct the election for the City.
25



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM 5B**

MEETING DATE: August 5, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 7915 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, the question of extending Ordinance No. 7907, the moratorium on accepting and processing applications for drilling permits on City of Boulder open space properties and on any city permits or use review of new mining industry uses involving oil and gas extraction and setting forth related details.

PRESENTER:

Thomas A. Carr, City Attorney
Claybourne M. Douglas, Senior Assistant City Attorney

EXECUTIVE SUMMARY

On June 4, 2013, City Council adopted Ordinance No. 7907, imposing a moratorium until June 3, 2014, on application for any city permit that results in oil or gas exploration or for any application for use review under Title 9 of the Boulder Revised Code for new “Mining Industries” uses involving oil and gas extraction or exploration.

On June 18, 2013, council directed the city attorney to prepare an ordinance for a referendum on extending the moratorium, finding it both useful and compelling to have a vote of the people on such matters of new and controversial public policy, having the potential to affect the public peace, health and property.

Accordingly, the city attorney has prepared the attached ordinance. If approved by the electors of the City of Boulder, the ordinance will extend the current moratorium until June 3, 2018, unless the City Council, after June 3, 2016, by a two-thirds majority vote of the council members present, finds, by ordinance, that credible scientific studies of the public health and safety effects of oil and gas exploration and development, or settled legal authority support or require lifting the moratorium earlier.

STAFF RECOMMENDATION

Suggested Motion Language:

Motion to adopt Ordinance No. 7915 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, the question of extending Ordinance No. 7907, the moratorium on accepting and processing applications for drilling permits on City of Boulder open space properties and on any city permits or use review of new mining industry uses involving oil and gas extraction.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Oil and gas exploration is an important part of the economy of the state of Colorado, but has no recent substantial impact on Boulder. Neither the city nor the Open Space and Mountain Parks Department have had any applications for new oil or gas exploration in over ten years.
- Environmental – Oil exploration using hydraulic fracturing may have significant environmental impacts, including water pollution, air pollution and destruction of the natural environment.
- Social – Destruction of the environment and pollution of oil and water could significantly impair the social fabric of the City of Boulder. Much of the city's appeal derives from the natural setting, including the mountain backdrop and high plains that surround the city. Impairment of these features would significantly affect the community.

OTHER IMPACTS

- Fiscal – None at this time. Responding to a legal challenge would affect the city's budget.
- Staff time – The moratorium entails additional, unplanned but minor workload for the city attorney's office. Litigation would require either a substantial commitment of staff time or retention of outside counsel.

BOARD AND COMMISSION FEEDBACK

None

PUBLIC FEEDBACK

At the June 18, 2013 City Council meeting, several people spoke in favor of extending the moratorium. One person spoke in opposition to any such moratorium. Most of those in favor sought a 5-year moratorium. After discussion, council directed the city attorney to draft a "hybrid" proposal that would extend the moratorium for 5 years unless a two-thirds majority of the council members present found that an earlier end to the moratorium would be advantageous to the city.

BACKGROUND

In recent years, there has been a significant increase in unconventional methods to extract additional oil and gas from existing fields. These methods include horizontal drilling, where a well is drilled vertically and then horizontally to reach deposits that previously were not accessible. They also include hydraulic fracture. Hydraulic fracturing was used in the United States as early as 1947, but only very recently has it been employed on the current scale involving directional and horizontal wells. The dispute today arises not necessarily from the technique itself, but from its proximity to urban areas and the volume of water, chemicals and sand necessary to produce oil and gas at the depths and from the rock formations currently being explored. The United States Environmental Protection Agency explains hydraulic fracturing as follows:

Fluids, commonly made up of water and chemical additives, are pumped into a geologic formation at high pressure during hydraulic fracturing. When the pressure exceeds the rock strength, the fluids open or enlarge fractures that can extend several hundred feet away from the well. After the fractures are created, a propping agent is pumped into the fractures to keep them from closing when the pumping pressure is released. After fracturing is completed, the internal pressure of the geologic formation cause the injected fracturing fluids to rise to the surface where it may be stored in tanks or pits prior to disposal or recycling. Recovered fracturing fluids are referred to as flowback. Disposal options for flowback include discharge into surface water or underground injection.¹

Hydraulic fracture combined with horizontal drilling are considered unconventional drilling techniques. The use of unconventional drilling techniques in combination with more intensive hydraulic fracture has created a great deal of concern in our community and our region. The City of Longmont and Boulder County, both of which have many active oil exploration sites, have been at the forefront of those addressing these issues.

On February 2, 2012, Boulder County imposed a temporary moratorium on land use applications requesting approval to conduct oil and gas development activities within the unincorporated territory of the county. The County Commissioners extended the temporary moratorium three times. It will now expire on January 10, 2015. The area covered by the Boulder County moratorium includes lands owned by OSMP.

On July 17, 2012, the City of Longmont adopted oil and gas regulations to protect its citizens' health and safety. Included in these regulations were several provisions that are analogous to provisions currently in effect in the City of Boulder or others that the city may be interested in adopting after careful consideration. Almost immediately, on July 30, 2012, the Colorado Oil and Gas Conservation Commission ("COGCC") sued the City of Longmont seeking to invalidate portions of the newly adopted regulations.

¹ U.S. E.P.A., Hydraulic Fracturing Background Information, available at: http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/wells_hydrowhat.cfm

On November 6, 2012, the people of the City of Longmont passed a ballot measure prohibiting hydraulic fracturing in the City of Longmont. On December 17, 2012, the Colorado Oil and Gas Association (“COGA”) sued the City of Longmont seeking to invalidate the fracking prohibition. COGA also joined the COGCC suit against Longmont. The complaints brought by the COGCC and COGA are both pending before the Boulder County District Court. At issue in both lawsuits is the nature and extent of the power of a home rule city to regulate oil and gas exploration under its police power and to protect the health of its citizens and the environment.

The final resolution of these two lawsuits will provide necessary legal guidance regarding the nature and extent of regulation that a home rule city may exert under its land use authority and to protect the health and safety of its environment and citizens from the dangers associated with hydraulic fracturing using its land use and police powers.

ANALYSIS

Legal authority supports moratoria of this sort, based on the need for "stop-gap" regulations, of limited duration, designed to maintain the status quo pending study and governmental decision-making. Colorado courts have upheld moratoria lasting up to 10 months. Based on that authority, the city attorney considers the risk of a successful legal challenge to the current one-year moratorium (Ordinance 7907) relatively low. The draft referendum ordinance for an extended moratorium invokes the legal rationale summarized above, but would extend the moratorium to at least 3 years and perhaps up to 5 years. Defensibility of such an extended moratorium would depend on a number of factors including economic effect on a particular landowner, the extent to which the moratorium interferes with reasonable investment-backed expectations, and the character of the government action. Because this analysis depends on a fact-specific inquiry in each particular case, it is difficult to advise whether a particular claimant could successfully challenge an extended moratorium. It is safe to say, however, that a 3 or 5 year moratorium presents significantly greater legal risk than a 1 year moratorium.

Ordinance 7907 identified numerous unresolved scientific and legal issues regarding the effects of oil and gas exploration, including directional drilling and hydraulic fracturing, on public peace, health and property and the legal authority of a home rule city, such as Boulder, to protect the health and safety of its environment and citizens from dangers associated with those processes using its police powers. It may require 3 to 5 years before completion of those studies provides sufficient analysis of the public health and safety effects of oil and gas exploration and to resolve pending litigation involving the legal authority of Colorado home rule cities to regulate oil and gas exploration.

Based on the this scientific and legal uncertainty, the draft ordinance would, if approved by City of Boulder electors extend the current moratorium until June 3, 2018 unless the City Council, after June 3, 2016, by a two-thirds majority vote of the council members present, finds, by ordinance, that credible scientific studies of the public health and safety effects of oil and gas exploration and development, or settled legal authority support or require lifting the moratorium earlier.

ATTACHMENTS:

Attachment A –Ordinance 7915

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ORDINANCE NO. 7915

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF EXTENDING ORDINANCE NO. 7907, THE MORATORIUM ON ACCEPTING AND PROCESSING APPLICATIONS FOR DRILLING PERMITS ON CITY OF BOULDER OPEN SPACE PROPERTIES AND ON ANY CITY PERMITS OR USE REVIEW OF NEW MINING INDUSTRY USES INVOLVING OIL AND GAS EXTRACTION IN THE CITY OF BOULDER, AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

- A. On June 4, 2013, the City Council adopted Ordinance No. 7907 an emergency ordinance imposing a moratorium until June 3, 2014, on application for any city permit that results in oil or gas exploration or for any application for use review under Title 9 of the Boulder Revised Code for new "Mining Industries" uses involving oil and gas extraction or exploration;
- B. Ordinance 7907, recited numerous unresolved scientific and legal issues regarding the effects of oil and gas exploration, including directional or horizontal drilling and hydraulic fracturing, on public peace, health and property and the legal authority of a home rule city, such as Boulder, to protect the health and safety of its environment and citizens from dangers associated with those processes using its land use and police powers;
- C. Several important scientific studies, including a study by the University of Colorado, are currently underway regarding the public health and safety effects of oil and gas exploration;
- D. It may require 3 to 5 years before completion of those studies provides sufficient analysis of the public health and safety effects of oil and gas exploration;
- E. It may also require 3 to 5 years to resolve pending litigation involving the legal authority of Colorado home rule cities to regulate oil and gas exploration; and
- F. It is both useful and compelling to have a vote of the people on such matters of new and controversial public policy, having the potential to affect the public peace, health and property.

1 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
2 OF BOULDER, COLORADO:

3 Section 1. A general municipal coordinated election will be held in the City of
4 Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013,
5 between the hours of 7 a.m. and 7 p.m.
6

7 Section 2. At that election, there shall be submitted to the electors of the City of
8 Boulder entitled by law to vote the question of extending the oil and gas exploration
9 moratorium of Ordinance 7907 as stated below.
10

11 Section 3. The official ballot shall contain the following ballot title, which shall
12 also be the designation and submission clause for the question:

13 Ballot Question NO. ____

14 **Oil and Gas Exploration Moratorium Extension**

15 Shall Ordinance No. 7907 be amended to extend the current
16 moratorium on new oil and gas exploration until June 3,
17 2018 and to set legal standards and the council voting
18 requirements for lifting the moratorium amended pursuant to
19 Ordinance 7915?

FOR THE MEASURE____ AGAINST THE MEASURE____

20 Section 4. If a majority of all the votes cast at the election on the question
21 submitted shall be for the question, the question shall be deemed to have passed and shall
22 be effective upon passage, and sections 2 and 3 of Ordinance 7907 shall be amended to
23 read as follows:
24

25 Section 2. Commencing immediately and continuing until 8 a.m. on June 3, ~~2014~~
26 2018, the city manager and city staff shall neither accept nor process any
27 application for a new oil and gas exploration permit under the Oil and Gas
28 Regulations of the City of Boulder, Colorado Open Space Board of Trustees

1 unless the City Council, after June 3, 2016, by a two-thirds majority vote of the
2 council members present, finds, by ordinance, that credible scientific studies of
3 the public health and safety effects of oil and gas exploration and development, or
4 settled legal authority support or require earlier acceptance and processing of such
5 applications.

6
7 Section 3. Commencing immediately and continuing until 8 a.m. on June 3, ~~2014~~
8 2018, the city manager and city staff shall neither accept nor process any
9 application for any city permit that results in oil or gas exploration or for any
10 application for use review under Title 9 of the Boulder Revised Code for new
11 “Mining Industries” uses involving oil and gas extraction or exploration unless
12 the City Council, after June 3, 2016, by a two-thirds majority vote of the council
13 members present, finds, by ordinance, that credible scientific studies of the public
14 health and safety effects of oil and gas exploration and development, or settled
15 legal authority support or require earlier acceptance and processing of such
16 applications.

17
18
19 Section 5. The election shall be conducted under the provisions of the Colorado
20 Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981 and
21 this ordinance, and all contrary provisions of the statutes of the State of Colorado are
22 hereby superseded.

23
24 Section 6. The officers of the City are authorized to take all action necessary or
25 appropriate to effectuate the provisions of this ordinance and to contract with the county
26 clerk to conduct the election for the City.
27
28



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: AUGUST 5, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt the following:

Ordinance No. 7912 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the question of whether the City of Boulder should extend and dedicate to open space, transportation and general government services a 0.33 cent sales tax;
and

Ordinance No. 7913 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the issue of whether the City of Boulder should impose a new 0.15 cent sales tax to be dedicated to transportation; and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Bob Eichem, Chief Financial Officer

EXECUTIVE SUMMARY

At the July 16, 2013 City Council meeting, council members considered on first reading three proposed ordinances. The staff proposal was to renew both the 0.33 cent and 0.15 cent open space taxes and to impose a new 0.25 cent tax to fund transportation and acquisition of a property interest in Long's Gardens. At the conclusion of council's discussion, council approved a motion as follows:

- To amend and approve on first reading ordinance number 7912 to renew the 0.33 cent open space tax; allocating 0.22 cent to open space and the remainder to general government expenses. The 0.22 cent would be reduced to 0.10 cent in 2030.

- To amend and approve on first reading ordinance number 7913 to impose a 0.15 cent sales tax for five years, dedicated to transportation funding.

Further, council members have asked questions about the city's ability to finance open space property purchases. Traditionally, that has been done through two approaches: municipal bonds or lease-purchase arrangements.

Municipal Bonds

Municipal bonds are debt obligations; promises to pay holders specified amounts and on their face are general obligations of the municipality. 15 *McQuillin Mun. Corp.* § 43:1 Definitions (3d ed.) The Colorado Constitution and Revised Statutes and the Boulder Charter require voter approval for general obligation debt

In 1994, the voters authorized the issuance of approximately \$50 million dollars of revenue bonds payable from the open space sales and use tax. Pursuant to Ordinance No. 7673, in 2009, the voters approved changing this bonding authority from revenue bonds to general obligation bonds. Of this bonding authority, the city still has approximately \$33 million in bonding authority. Given the higher costs of issuing bonds, they tend to be issued in larger amounts and the final maturity is often 20 to 30 years. Eighty-five per cent of the proceeds of the bond sale need to be spent within three years of issuance (to meet Internal Revenue Service (IRS) guidelines for tax exempt debt). In order to issue bonds, there has to be an available revenue sources for the period of payback, and with general obligation bonds, a pledge to use available revenues and increase property taxes, if necessary to make payments as required by the bonds.

Lease-Purchase Arrangements.

Lease purchase arrangements provide some additional flexibility for the city. They are done on a property-by-property basis. Since the transaction is based on a lease purchase arrangement, where the city gets value from each year of the lease, it is not subject to the voter approval requirements of the Taxpayer Bill of Rights (TABOR), because it does not constitute debt.

In an effort to implement lease-purchase arrangements as an alternative to bonded debt, the Boulder Municipal Property Authority, a Colorado non-profit corporation ("BMPA") was created in 1988 (See Ordinance No 5103). In a typical BMPA lease-purchase transaction, BMPA purchases property, paying some or the entire purchase price by giving the seller a promissory note, secured by a deed of trust on the property. BMPA then leases the property to the city for a term of years. Bond counsel has opined that to meet IRS requirements, the lease should be for no less than ten years. BMPA makes note payments to the seller equal in amount and limited to revenue from the city's annual lease payments. Lease purchases are usually ten years in length though they may be longer. Leases are often used when landowners do not want to receive lump sum payments for their properties. For tax purposes some sellers prefer to receive the payments over a longer period of time.

Because the city has no legal obligation to make lease payments beyond a given year's annual City Council appropriation, lease purchase agreements do not constitute debt of the city. After making the final lease payment, the city exercises its option, under the lease, to purchase the property by paying the nominal "amount ... necessary to discharge the Note."

When the city approves BMPA lease purchase transactions or the issuance of bonds, the financial analysis is fundamentally the same. The city identifies potential revenue capacity that will be, in future years, appropriated for the purpose of paying the obligation. In the case of bonds, the city is making a pledge by way of an ordinance which is irrevocable until the entire debt obligation is paid. See City Charter § 97. With respect to lease purchase arrangements, each annual lease payment is subject to a prior appropriation by the City Council through the annual budget process.

The interest paid to bond holders or those receiving lease payments are tax exempt from both federal and state income tax if they meet all requirements and are properly executed. Usually the rule of thumb is that the shorter the final payoff the lower the interest rate that will be paid. However, since lease-purchase arrangements have a non-appropriation clause they can require a higher interest rate. Therefore, each situation has to be individually analyzed to determine if it would be better to use bonds or a lease purchase.

When issuing additional bonds there is a requirement that no new bonds can take a position in front of bonds currently outstanding. They may have the same status so they are known as parity bonds. This means that there is a parity test, also known as an additional bonds test, that must be met before additional bonds can be issued. At this time it means that there must be a debt coverage ratio of at least 135 percent before additional bonds can be issued. This same test does not apply to lease-purchase payments.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance No. 7912 regarding the question of whether the City of Boulder should extend and dedicate to open space, transportation and general government services a 0.33 cent sales tax

and

Motion to adopt Ordinance No. 7913 regarding the issue of whether the City of Boulder should impose a new 0.15 cent sales tax to be dedicated to transportation

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The renewal of the 0.33 cent sales taxes will not create any incremental economic impact on any businesses or individuals since the programs the tax currently supports are already absorbed within the macro economy of the city. This tax does not expire until 2018. Imposition of the temporary 0.15 cent sales tax could have some detrimental effect on the economy. However, job creation and efficiencies derived from additional funding for transportation improvements, maintenance and support of transit should significantly offset any detrimental effect.
- Environmental – The existing tax funds open space acquisition, maintenance and operations. Renewal of a portion of these taxes for open space will support land management activities such as weed and wildlife management and environmental education. Investing in transportation infrastructure and supporting transit will reduce congestion and support alternative transportation modes.
- Social – The sales taxes fund the maintenance of mountain parks and natural lands that are accessible to all members of the community, foster a sense of place and provide opportunities for recreation. Transportation improvements support the social fabric of the community.

OTHER IMPACTS

- Fiscal – The fiscal impact to the city was covered in the analysis section of the first reading agenda item.
- Staff time – The staff time needed to complete the background work for the ballot item is included within the departmental work plans.

BOARD AND COMMISSION FEEDBACK

The Transportation Advisory Board supported a transportation maintenance fee.

During its June 12, 2013 meeting the Open Space Board of Trustees voted unanimously to extend one of the two sunseting Opens Space and Mountain Parks sales taxes. During its deliberation the board discussed the prospect for a new tax of at least 0.20 cent and was generally supportive. However, they eventually decided the extension of an existing tax would be easier to understand by voters and decided to focus on one of the two existing taxes.

The board subsequently split its vote in support of continuation of one of the taxes; two members each supporting the 0.15 cent and 0.33cent. One member was not in attendance but submitted a letter endorsing the 0.33cent for extension.

The motion from the Open Space Board of Trustees is included below.

Motion

Tom Isaacson moved the Open Space Board of Trustees recommend that City Council place on the November 2013 ballot a vote for a dedicated 20-year tax extension for the Open Space and Mountain Parks Department. Shelley Dunbar seconded. This motion passed unanimously.

Tom Isaacson moved the Open Space Board of Trustees inform City Council that two members present support extension of the 0.33 cent tax; two members present support extension of the 0.15 cent tax; and one member who was absent supports the 0.33 pcent tax extension. Shelley Dunbar seconded. This motion passed unanimously. Frances Hartogh was not present.

ANALYSIS

1. Transportation

Ordinance No. 7913 would dedicate all of a 0.15 cent sales tax to transportation. The proposed 0.15 cent tax would expire in 2018. Council intends to explore more appropriate means of funding transportation maintenance, expansion and mass transit to replace the interim tax.¹

2. Open Space

Ordinance No. 7912 would ask voters to renew the 0.33 cent sales taxes that currently are dedicated to open space: 0.22 cent would remain dedicated as it is today, until 2030. Council reasoned that the bulk of the remaining acquisitions should be completed by 2030. The 0.10 cent tax after 2030 would be dedicated to upkeep and maintenance of the more mature system at that time.

3. General Government Operations

There remains a need to fund general government operations. The funding gap persists and is projected to increase over time. Accordingly, council would allocate 0.11 cent of the 0.33 cent sales tax to general government operations. This would increase to 0.23 cent in 2030.

| 0.33 Cent | 2019 | 2030 |
|--------------|------|------|
| Open Space | 0.22 | 0.10 |
| General Fund | 0.11 | 0.23 |
| TOTAL | 0.33 | 0.33 |

¹ Information regarding the need for additional funding for transportation can be found at bouldercolorado.gov/transportation/transportation-maintenance-fee-faq
The April 9, 2013 Study Session Memorandum can be found at <https://documents.bouldercolorado.gov/WebLink8/DocView.aspx?id=121327&dbid=0>

4. Long's Gardens

Council decided not to place any matter relating to Long's Gardens on the ballot.

ADDITIONAL POSSIBLE ORDINANCES

At the Council Agenda Committee meeting on July 22, 2013, Council Member Morzel asked staff to prepare proposed ordinances dividing the 0.33 cent tax measure into two separate ballot measures. This would allow voters to consider the open space measure separately from the funding for police, fire and other general fund services. Draft proposed ordinances are attached as attachments C and D to this memorandum.

Suggested Motion Language:

If council wishes to consider this option, the following motion would be appropriate:

Motion to adopt two ordinances submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the questions of whether the City of Boulder should: 1) extend and dedicate to open space 0.22 cent of the 0.33 cent sales tax; and 2) extend and dedicate to general government services 0.11 cent of the existing 0.33 cent sales tax.

Attachments:

Attachment A Ordinance 7912

Attachment B Ordinance 7913

Attachment C Suggested Ordinance as proposed by Councilmember Morzel (0.22)

Attachment D Suggested Ordinance as proposed by Councilmember Morzel (0.11)

ORDINANCE No. 7912

(Extension and dedication of 0.33 cent sales and use tax for open space mountain parks purposes and general fund purposes)

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF, WITHOUT RAISING ADDITIONAL TAXES, EXTENDING THE EXISTING 0.33 CENT CITY SALES AND USE TAX APPROVED BY THE VOTERS BY ORDINANCE NO. 7673, BEYOND THE CURRENT EXPIRATION DATE OF DECEMBER 31, 2018 UNTIL DECEMBER 31, 2038; AND BEGINNING JANUARY 1, 2019, 0.22 CENT OF EVERY DOLLAR OF THE REVENUES COLLECTED TO FUND THE ACQUISITION AND PRESERVATION OF OPEN SPACE, AND 0.11 CENT OF EVERY DOLLAR OF THE REVENUES COLLECTED TO GENERAL FUND SERVICES SUCH AS FIRE, POLICE, LIBRARIES, PARKS, RECREATION, HUMAN SERVICES AND OTHER GENERAL FUND PURPOSES; AND BEGINNING JANUARY 1, 2030 0.10 CENT OF EVERY DOLLAR OF THE REVENUES COLLECTED TO FUND THE ACQUISITION AND PRESERVATION OF OPEN SPACE, AND 0.23 CENT OF EVERY DOLLAR OF THE REVENUES COLLECTED TO FUND SERVICES SUCH AS FIRE, POLICE, LIBRARIES, PARKS, RECREATION, HUMAN SERVICES AND OTHER GENERAL FUND PURPOSES AS A VOTER APPROVED REVENUE CHANGE; AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The voters of the City have earmarked sales and use taxes for the acquisition of interests in real property for open space purposes by approval of a sales and use tax in the amount of 0.33 cents on each dollar sales, which tax expires at the end of 2018.

B. The electorate should consider authorizing the City Council to continue the collection of a 0.33 cents on each dollar sales and use tax from its present expiration date of December 31, 2018 to December 31, 2038 and beginning January 1, 2019 designate the revenue generated to fund open space purposes and other general funds purposes;

1 C. It is appropriate for voters to approve of the continued collection, retention and
2 expenditure of the full tax proceeds and any related earnings from this portion of the sales and
3 use tax; and

4 D. The purposes that will be served by the continued collection of the tax are critical
5 for the continued provision of essential general fund city services.

6 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
7 BOULDER, COLORADO:

8 Section 1. A general municipal coordinated election will be held in the City of Boulder,
9 County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

10 Section 2. At that election, there shall be submitted to the electors of the City of Boulder
11 entitled by law to vote the question of authorizing the City Council, by duly passed ordinance, to
12 amend that portion of section 3-2-5, "Rate of Tax," B.R.C. 1981, that pertains to the open space
13 tax that is currently set to expire at midnight on December 31, 2018 by extending the tax beyond
14 its current sunset date to December 31, 2038.

15 The official ballot shall contain the following ballot title, which shall also be the
16 designation and submission clause for the measure: (*see following page*)
17
18
19
20
21
22
23
24
25

BALLOT QUESTION NO. _____

SALES AND USE TAX EXTENSION

Without raising additional taxes, shall the existing 0.33 cent City sales and use tax for the acquisition and preservation of open space land, approved by the voters by Ordinance No. 7673, be extended beyond the current expiration date of December 31, 2018 until December 31, 2038; and beginning January 1, 2019 designating 0.22 cent of every dollar of the revenues collected to fund the acquisition and preservation of open space land; 0.11 cent of every dollar of the revenues collected to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes; and beginning January 1, 2030 designating .10 cent of every dollar of the revenues collected to fund the acquisition and preservation of open space land; and 0.23 cent of every dollar of the revenues collected to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes as a voter approved revenue change?

FOR THE MEASURE _____ AGAINST THE MEASURE _____

Section 3. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed, and the City Council authorized to make amendments to the Boulder Revised Code, 1981, to implement this measure.

Section 4. 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 5. 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.

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. The tax established by this measure is intended to be authorized

1 under any lawful means of taxation, including license taxation pursuant to city of Boulder
2 Charter Section 122.

3 Section 7. This ordinance is necessary to protect the public health, safety, and welfare of
4 the residents of the city, and covers matters of local concern.

5 Section 8. The City Council deems it appropriate that this ordinance be published by title
6 only and orders that copies of this ordinance be made available in the office of the city clerk for
7 public inspection and acquisition.

8 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
9 TITLE ONLY this 16th day of July 2013.

10
11
12 .
13 Attest: _____
Mayor

14
15 _____
City Clerk

16
17 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED
18 BY TITLE ONLY this 5th day of August 2013.

19
20 .
21 Attest: _____
Mayor

22
23 _____
City Clerk

ORDINANCE NO. 7913

(new 0.15 cent sales and use tax for transportation purposes for five years)

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF, SHALL CITY OF BOULDER TAXES BE INCREASED BY \$4,482,200 EACH YEAR FOR THE PERIOD OF JANUARY 1, 2014 UNTIL DECEMBER 31, 2018 WITH 100 PERCENT OF THE REVENUES COLLECTED TO FUND TRANSPORTATION CONSTRUCTION AND SERVICES WITHOUT LIMITATION, SUCH AS MAINTENANCE OF PAVEMENT, CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE, TRANSIT SERVICE AND OTHER TRANSPORTATION PURPOSES, AS A VOTER APPROVED REVENUE CHANGE; AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The funding challenges faced by the Transportation Department have been examined by two Blue Ribbon Commissions, the Transportation Advisory Board, and two community task forces. Additional funding is needed to maintain our transportation infrastructure and provide capital projects to meet the objectives of the community's Transportation Master Plan (TMP).

B. In 2012, operation and maintenance costs accounted for 84 percent of transportation funding and it is estimated that operation and maintenance costs will consume all of transportation funding by 2020, leaving little capacity to do capital projects due to increased costs. The decision to continue funding capital project in the face of rising construction costs, has in a sense forced the city to defer maintenance of pavement, transportation infrastructure, and transit service. Without additional funding, routine maintenance of sidewalks, bicycle paths, medians, signage, striping, etc. will continue to be deferred at greater costs in the long term.

C. The electorate should consider authorizing the City Council to increase the amount of tax levied on each dollar by 0.15 cents for the next five years with the revenue of that

1 tax increase to fund transportation services such as maintenance of pavement, construction of
2 transportation infrastructure, transit service and other transportation purposes.

3 D. The purposes that will be served by the collection of the tax are critical for the
4 continued provision of essential transportation services to the residents and visitors to the city of
5 Boulder.

6 E. It is appropriate for voters to approve collection, retention, and expenditure of the
7 full amount collected from the tax proposed by the ballot issue described below.

8 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
9 OF BOULDER, COLORADO:

10 Section 1. A general municipal coordinated election will be held in the City of Boulder,
11 County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

12 Section 2. At that election, there shall be submitted to the electors of the City of Boulder
13 entitled by law to vote, the question of authorizing the City Council, by duly passed ordinance, to
14 amend that portion of section 3-2-5, "Rate of Tax," B.R.C. 1981, that pertains to the 3.41 cents
15 per dollar tax to increase the amount of tax levied to 3.56 cents per dollar of the purchase price of
16 tangible personal property or taxable services sold or purchased at retail for the period of January
17 1, 2014 until December 31, 2018.

18 The official ballot shall contain the following ballot title, which shall also be the
19 designation and submission clause for the measure:

20 BALLOT ISSUE NO. _____

21 **SALES AND USE TAX**

22 SHALL CITY OF BOULDER TAXES BE INCREASED
23 (\$4,482,200 first full fiscal year dollar increase annually) BY
24 INCREASING THE SALES AND USE TAX BY 0.15 CENTS
25 FOR THE PERIOD OF JANUARY 1, 2014 TO DECEMBER
31, 2018 WITH ALL OF THE REVENUES COLLECTED
USED TO FUND TRANSPORTATION CONSTRUCTION
AND SERVICES SUCH AS MAINTENANCE OF

1 PAVEMENT, CONSTRUCTION OF TRANSPORTATION
2 INFRASTRUCTURE, TRANSIT SERVICE AND OTHER
3 TRANSPORTATION PURPOSES?

4 AND IN CONNECTION THEREWITH,

5 SHALL THE FULL PROCEEDS OF SUCH TAX AT SUCH
6 RATE AND ANY EARNINGS THEREON BE COLLECTED,
7 RETAINED, AND SPENT, AS A VOTER-APPROVED
8 REVENUE CHANGE WITHOUT LIMITATION OR
9 CONDITION, AND WITHOUT LIMITING THE
10 COLLECTION, RETENTION, OR SPENDING OF ANY
11 OTHER REVENUES OR FUNDS BY THE CITY OF
12 BOULDER UNDER ARTICLE X SECTION 20 OF THE
13 COLORADO CONSTITUTION OR ANY OTHER LAW?

14 FOR THE MEASURE ____ AGAINST THE MEASURE ____

15 Section 3. If a majority of all the votes cast at the election on the measure submitted are
16 for the measure, the measure shall be deemed to have passed, and the City Council authorized to
17 make amendments to the Boulder Revised Code, 1981, to implement the measure.

18 Section 4. The election shall be conducted under the provisions of the Colorado
19 Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this
20 ordinance.

21 Section 5. The officers of the City are authorized to take all action necessary or
22 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to
23 conduct the election for the City.

24 Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any
25 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining
provisions of this ordinance. The tax established by this measure is intended to be authorized
under any lawful means of taxation, including license taxation pursuant to city of Boulder
Charter Section 122.

ORDINANCE No. __

(Extension and dedication of 0.22 cent of the existing 0.33 cent sales and use tax for open space mountain parks purposes)

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF, WITHOUT RAISING ADDITIONAL TAXES, EXTENDING 0.22 CENT OF THE EXISTING 0.33 CENT CITY SALES AND USE TAX APPROVED BY THE VOTERS BY ORDINANCE NO. 7673, BEYOND THE CURRENT EXPIRATION DATE OF DECEMBER 31, 2018 UNTIL DECEMBER 31, 2038; AND BEGINNING JANUARY 1, 2019 DEDICATING 100 PERCENT OF THE REVENUES COLLECTED TO FUND THE ACQUISITION AND PRESERVATION OF OPEN SPACE; AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The voters of the City have earmarked sales and use taxes for the acquisition of interests in real property for open space purposes by approval of a sales and use tax in the amount of 0.33 cents on each dollar sales, which tax expires at the end of 2018.

B. The electorate should consider authorizing the City Council to continue the collection of a 0.22 cents of the 0.33 cents on each dollar sales and use tax from its present expiration date of December 31, 2018 to December 31, 2038 and beginning January1, 2019 designate the revenue generated to fund open space purposes;

C. It is appropriate for voters to approve of the continued collection, retention and expenditure of the full tax proceeds and any related earnings from this portion of the sales and use tax; and

D. The purposes that will be served by the continued collection of the tax are critical for the continued provision of essential general fund city services;

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

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED

2 BY TITLE ONLY this 5th day of August 2013.

3
4 _____
5 Mayor

6 Attest:

7 _____
8 City Clerk

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ORDINANCE No. __

(Extension of 0.11cent of the existing 0.33cent sales and use tax)

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF, WITHOUT RAISING ADDITIONAL TAXES, EXTENDING 0.11 CENT OF THE EXISTING 0.33 CENT CITY SALES AND USE TAX APPROVED BY THE VOTERS BY ORDINANCE NO. 7673, BEYOND THE CURRENT EXPIRATION DATE OF DECEMBER 31, 2018 UNTIL DECEMBER 31, 2038; AND BEGINNING JANUARY 1, 2019 DEDICATING 100 PERCENT OF THE REVENUES COLLECTED TO FUND SERVICES SUCH AS FIRE, POLICE, LIBRARIES, PARKS, RECREATION, HUMAN SERVICES AND OTHER GENERAL FUND PURPOSES AS A VOTER APPROVED REVENUE CHANGE; AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The voters of the City have earmarked sales and use taxes for the acquisition of interests in real property for open space purposes by approval of a sales and use tax in the amount of 0.33 cents on each dollar sales, which tax expires at the end of 2018.

B. The electorate should consider authorizing the City Council to continue the collection of a 0.11 cents of the 0.33 cents on each dollar sales and use tax from its present expiration date of December 31, 2018 to December 31, 2038 and beginning January1, 2019 designate the revenue generated to fund open space purposes;

C. It is appropriate for voters to approve of the continued collection, retention and expenditure of the full tax proceeds and any related earnings from this portion of the sales and use tax; and

D. The purposes that will be served by the continued collection of the tax are critical for the continued provision of essential general fund city services;

1 Section 4. The election shall be conducted under the provisions of the Colorado
2 Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this
3 ordinance.

4 Section 5. The officers of the City are authorized to take all action necessary or
5 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to
6 conduct the election for the City.

7 Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any
8 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining
9 provisions of this ordinance. The tax established by this measure is intended to be authorized
10 under any lawful means of taxation, including license taxation pursuant to city of Boulder
11 Charter Section 122.
12

13 Section 7. This ordinance is necessary to protect the public health, safety, and welfare of
14 the residents of the city, and covers matters of local concern.

15 Section 8. The City Council deems it appropriate that this ordinance be published by title
16 only and orders that copies of this ordinance be made available in the office of the city clerk for
17 public inspection and acquisition.
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1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 5th day of August, 2013.

3
4
5 Attest: _____ Mayor
6
7 _____
8 City Clerk

9
10 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED
11 BY TITLE ONLY this ____ day of _____ 201__.

12
13 Attest: _____ Mayor
14
15 _____
16 City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 5, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 7916 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, the issue of whether City of Boulder taxes should be increased by an excise tax of up to 10 percent of the average market value of unprocessed recreational marijuana from a recreational marijuana cultivation facility and a sales and use tax of up to 10 percent on recreational marijuana and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul Fetherston, Deputy City Manager
Bob Eichen, Chief Financial Officer
Karen Rahn, Human Services Director
Kathy Haddock, Senior Assistant City Attorney
Mishawn Cook, Tax and Licensing Manager

EXECUTIVE SUMMARY

At the June 18, 2013, City Council meeting, council members discussed various approaches to addressing the need to fund the impacts of the use of recreational marijuana and operation of recreational marijuana businesses within the city. Council requested that the city attorney prepare an ordinance that approved an excise tax of up to 10 percent and a sales and use tax of up to 10 percent, with the actual levy being at 5 percent. The proposed ordinance also adopts the changes to the Boulder Revised Code that would be required to levy both taxes at 5 percent. The ordinance is referred to by reference in the ballot measure.

Future councils could reduce the tax or increase either or both taxes up to the maximum of 10 percent. The ballot measure also provides for up to 15 percent of the revenues collected from the excise and sales and use tax to be dedicated for programs designed to

address the effects of marijuana on the community. At the Council Agenda Committee, the council members present requested an option to approve the ordinance without dedicating funds. Staff has provided this option by printing in bold language dedicating funding. If council prefers to approve the ordinance on first reading without the dedication language, the motion should specify that the text in bold is excluded.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance No.7916 submitting to the registered electors the issue of whether City of Boulder taxes should be increased by an excise tax of up to 10 percent of the average market value of unprocessed recreational marijuana from a recreational marijuana cultivation facility and a sales and use tax of up to 10 percent on recreational marijuana. (Without the bold language as contained in the ballot measure ordinance and new code provisions).

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

See July 16, 2013 packet

<https://documents.bouldercolorado.gov/WebLink8/0/doc/121298/Electronic.aspx>

EXECUTIVE SUMMARY

The attached ordinance submits to the voters a ballot issue to approve an excise tax of up to 10 percent on unprocessed marijuana transferred from a recreational marijuana cultivation facility and a sales and use tax of up to 10 percent. The state has a similar ballot issue on the statewide ballot for such taxes at the state level. The ordinance includes the code sections that would be adopted to implement the tax if it is approved by the voters. The ordinance provides for the rate of each tax to be imposed. The rates can be set within the maximums approved by the voters. The code sections can be amended in the future by council. The ballot title and the legislative intent section of the ordinance specify the intent of council that up to 15 percent of the revenues from the additional recreational marijuana taxes be used for purposes related to comprehensive substance abuse programs, including without limitation, prevention, treatment, education, intervention, responsible use, enforcement and research.

BACKGROUND AND ANALYSIS

See agenda memo for July 16, 2013

<https://documents.bouldercolorado.gov/WebLink8/0/doc/121290/Electronic.aspx>

Attachment A: Proposed Ordinance

The attached ordinance contains the specifications about use of the tax in bold so that council can determine whether to leave it in or remove it from the ordinance and the ballot question. Staff will have options prepared for consideration that remove either the excise tax or the sales and use tax in the event that council determines to obtain voter approval of, or levy, only one of the taxes.

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ORDINANCE NO.7916

(Recreational Marijuana Excise and Sales Tax)

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE ISSUE OF WHETHER THE CITY OF BOULDER TAXES SHOULD BE INCREASED BY AN EXCISE TAX OF UP TO 10 PERCENT AND A SALES AND USE TAX ON RECREATIONAL MARIJUANA OF UP TO 10 PERCENT AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

- A. Section 16 of Article XVIII of the Colorado Constitution authorizes a system of state and local licensing for businesses engaged in the cultivation, testing, manufacturing and retail sale of marijuana.
- B. City Council has determined to allow recreational marijuana businesses within the city.
- C. There are indirect costs to the city of the use of marijuana that are not covered by the license and application fees paid by the marijuana businesses. Many of those costs are related to the fact that marijuana is illegal at the federal level and the state has not been able to fully fund enforcement of laws adopted at the state level, leaving enforcement of marijuana laws to the city. Further, there are not comprehensive substance abuse programs related to the legal use of marijuana.
- D. Imposing the tax contemplated by the constitutional amendment legalizing recreational marijuana would provide the resources necessary for the city to be able to pay the indirect costs, including education and programs, related to the use of marijuana.
- E. It is appropriate for voters to approve collection, retention, and expenditure of the full amount collected from the tax proposed by the ballot issue described below.

1 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
2 OF BOULDER, COLORADO:

3 Section 1. A general municipal coordinated election will be held in the City of Boulder,
4 County of Boulder and State of Colorado, on Tuesday, November 5, 2013, between the hours of
5 7 a.m. and 7 p.m.

6 Section 2. At that election, there shall be submitted to the electors of the City of Boulder
7 entitled by law to vote the issue of an excise and a sales tax on recreational marijuana.
8

9 Section 3. The official ballot shall contain the following ballot title, which shall also be
10 the designation and submission clause for the issue:
11

12 BALLOT ISSUE NO. ____

13 **RECREATIONAL MARIJUANA TAX**

14 SHALL CITY OF BOULDER TAXES BE INCREASED BY
15 (\$_____ first full fiscal year dollar increase) ANNUALLY
16 AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY
17 THEREAFTER BY THE IMPOSITION OF AN EXCISE TAX
18 OF UP TO 10 PERCENT ON THE CULTIVATION FACILITY
19 AT THE AVERAGE MARKET RATE AT THE POINT OF
20 TRANSFER FROM THE CULTIVATION FACILITY AND AN
21 ADDITIONAL SALES AND USE TAX OF UP TO 10
22 PERCENT ON RECREATIONAL MARIJUANA AS
23 PROVIDED IN ORDINANCE NO. 7916 COMMENCING
24 JANUARY 1, 2014 **WITH UP TO 15 PERCENT OF THE
25 REVENUES FROM THE EXCISE AND SALES AND USE
26 TAX TO BE USED FOR COMPREHENSIVE SUBSTANCE
27 ABUSE PROGRAMS INCLUDING WITHOUT LIMITATION
28 PREVENTION, TREATMENT, EDUCATION,
RESPONSIBLE USE, INTERVENTION, ENFORCEMENT,
AND RESEARCH, AND THE REMAINDER USED BY THE
GENERAL FUND;**

AND IN CONNECTION THEREWITH,

1 SHALL THE FULL PROCEEDS OF SUCH TAXES AT
 2 SUCH RATES AND ANY EARNINGS THEREON BE
 3 COLLECTED, RETAINED, AND SPENT, AS A VOTER-
 4 APPROVED REVENUE CHANGE WITHOUT LIMITATION
 5 OR CONDITION, AND WITHOUT LIMITING THE
 6 COLLECTION, RETENTION, OR SPENDING OF ANY
 7 OTHER REVENUES OR FUNDS BY THE CITY OF
 8 BOULDER UNDER ARTICLE X SECTION 20 OF THE
 9 COLORADO CONSTITUTION OR ANY OTHER LAW?

10 FOR THE MEASURE ____ AGAINST THE MEASURE ____

11 Section 4. If a majority of all the votes cast at the election on the measure submitted are
 12 for the measure, the measure shall be deemed to have passed, and the City Council authorized to
 13 make amendments to the Boulder Revised Code as provided below, effective January 1, 2014,
 14 and City Council may adopt amendments to these provisions and adopt other amendments to the
 15 Boulder Revised Code to implement these excise and sales and use taxes as may be necessary to
 16 implement the intent and purpose of this ordinance.

17 Section 5. If approved by the voters, effective January 1, 2014, the Boulder Revised
 18 Code is amended as follows:

19 Chapter 3-14 Recreational Marijuana Taxes

20 3-14-1 Legislative Intent.

21 The City Council intends that an additional excise tax be imposed on the first sale
 22 or transfer of recreational marijuana by a retail cultivation facility within the city
 23 and an additional sales tax imposed on every retail sale of recreational marijuana
 24 or recreational marijuana-infused product. The purpose of this tax is to increase
 25 the revenue base for the city to provide municipal improvements and services
 26 related to the introduction of a new marijuana industry to the city. Revenues from
 27 the tax shall be deposited in the general fund and shall be available to pay for the
 28 general expenses of government. **However, although the City Council recognizes that it cannot bind future City Councils, it nonetheless declares its intention that up to 15 percent of the revenues generated by this tax be appropriated by future City Councils for purposes of comprehensive substance abuse programs including without limitation prevention, treatment, education, responsible use, intervention, enforcement and research with the introduction of legal recreational marijuana into the city.**

1
2 3-14-2 Imposition and Rate of Tax.

- 3 (a) Excise Tax. There is levied and shall be paid and collected an excise tax
4 of five percent on the average market rate of unprocessed recreational
5 marijuana that is sold or transferred from a recreational marijuana
6 cultivation facility.
- 7 (b) Sales and Use Tax. There is hereby levied and there shall be collected and
8 paid a sales and use tax, in addition to the sales and use tax levied in
9 chapter 3-2, "Sales and Use Tax," B.R.C. 1981, of five percent on the full
10 purchase price paid or charged for tangible personal property and taxable
11 services purchased or sold at retail by every recreational marijuana
12 business exercising a taxable privilege in the city by the sale or use of such
13 property or services. The sales tax is levied on all sales of tangible
14 personal property or taxable services, except those specifically exempted
15 and is collected by the vendor and remitted to the city. The use tax is
16 levied upon the privilege of using in the city, personally or as part of
17 rendering a service, tangible personal property or taxable services upon
18 which a municipal sales and use tax has not been paid and is paid by either
19 the recreational marijuana business in the city or the consumer.

20 3-14-3 Vendor Liable for Tax.

- 21 (a) Excise Tax. Each recreational marijuana cultivation facility shall pay the
22 tax imposed in section 3-14-2(a) on every sale or transfer of recreational
23 marijuana from the cultivation facility.
- 24 (b) Sales and Use Tax. Each recreational marijuana center shall pay the tax
25 imposed in section 3-14-2(b) on every sale or transfer of recreational
26 marijuana or a recreational marijuana product from the recreational
27 marijuana center.
- 28 (c) The burden of proving that any transaction is not subject to the tax
imposed by this chapter is upon the person upon whom the duty to collect
the tax is imposed.

3-14-4 Taxes Collected are Held in Trust.

All sums of money paid by a person as the additional excise or sales and use tax on recreational marijuana tax imposed by this chapter are public monies that are the property of the city. The person required to collect and remit the additional recreational marijuana excise or sales and use tax shall hold such monies in trust for the sole use and benefit of the city until paying them to the city manager.

3-14-5 Definition.

As used in this chapter, "average market rate" means the amount determined by the State of Colorado pursuant to § 39-28.8-101(1) C.R.S. or such alternate amount as may be determined by the city manager as the average price of

1 unprocessed recreational marijuana that is sold or transferred from a cultivation
2 facility to a retail marijuana center or manufacturer.

3 3-14-6 Licensing and Reporting Procedure.

- 4 (a) Every person with a duty to collect the excise or the sales and use tax
5 imposed by this chapter shall obtain the license required by section 3-2-11,
6 "Sales and Use Tax License," B.R.C., 1981 to collect the tax and shall
7 report such taxes collected on forms prescribed by the city manager and
8 remit such taxes to the city on or before the twentieth day of the month for
9 the preceding month or months under report.
- 10 (b) Each recreational business is required to obtain a license pursuant to
11 section 3-2-11 "Sales and Use Tax License," B.R.C., 1981. Such license
12 is valid so long as:
13 (1) the business remains in continuous operation, and
14 (2) the sales and use tax license is not canceled by the licensee or
15 revoked by the city, and
16 (3) so long as the business holds a valid recreational marijuana
17 business license from the city.
- 18 (c) Whenever a business entity that is required to be licensed under this
19 chapter is sold, purchased, or transferred, so that the ownership interest of
20 the purchaser or seller changes in any respect, the purchaser shall obtain a
21 new sales tax license.
- 22 (d) The sales tax license may be revoked as provided in section 3-2-13,
23 "Revocation of License," B.R.C. 1981.

24 3-14-7 Maintenance and Preservation of Tax Returns, Reports, and Records.

- 25 (a) The city manager may require any person to make such return, render such
26 statement, or keep and furnish such records as the manager may deem
27 sufficient and reasonable to demonstrate whether or not the person is
28 liable under this chapter for payment or collection of the tax imposed
hereby.
- (b) Any person required to make a return or file a report under this chapter
shall preserve those reports as provided in section 3-2-18, "Taxpayer Duty
to Keep Records, Provide Information and File Returns," B.R.C. 1981.
- (c) The city manager shall maintain all reports and returns of taxes required
under the chapter as provided in section 3-2-20, "Preservation of Tax
Returns and Reports," B.R.C. 1981.

3-14-8 Interest and Penalties for Failure to File Tax Return or Pay Tax.

- (a) Penalties for failure of a person to collect the additional recreational
marijuana excise or sales and use tax or to make a return and remit the

1 correct amount of tax required by this chapter and procedures for
 2 enforcing such penalties are as prescribed in section 3-2-22, "Penalties for
 3 Failure to File Tax Return or Pay Tax (Applies to Entire Title)," B.R.C.
 1981.

- 4 (b) Interest on overpayments and refunds is as prescribed in section 3-2-24,
 5 "No Interest on Overpayments and Refunds (Applies to Entire Title),"
 B.R.C. 1981.

6 3-14-9 Refunds.

7 Refunds of taxes paid under this chapter are as prescribed in section 3-2-23,
 8 "Refunds (Applies to Entire Title)," B.R.C. 1981.

9 3-14-10 Enforcement of Tax Liability.

- 10 (a) The additional recreational marijuana excise and sales and use tax
 11 imposed by this chapter, together with all interest and penalties pertaining
 12 thereto, is a first and prior lien on tangible personal property in which the
 13 person responsible to collect and remit the tax has an ownership interest,
 subject only to valid mortgages or other liens of record at the time of and
 prior to the recording of a notice of lien, as provided in subsection 3-2-
 27(c), "Tax Constitutes Lien," B.R.C. 1981.
- 14 (b) The provisions of sections 3-2-27, "Tax Constitutes Lien," 3-2-29, "Sale of
 15 Business Subject to Lien," 3-2-30, "Certificate of Discharge of Lien," 3-2-
 16 31, "Jeopardy Assessment," 3-2-32, "Enforcing the Collection of Taxes
 Due (Applies to Entire Title)," 3-2-33, "Recovery of Unpaid Tax by
 17 Action at Law," 3-2-34, "City May be a Party Defendant," 3-2-35,
 "Injunctive Relief," 3-2-36, "Obligations of Fiduciaries and Others," 3-2-
 18 37, "Violations of Tax Chapter," and 3-2-38, "Limitations," B.R.C. 1981,
 govern the authority of the city manager to collect the taxes, penalties and
 19 interest imposed by this chapter.

20 3-14-11 Duties and Powers of City Manager.

21 The city manager is authorized to administer the provisions of this chapter and
 22 has all other duties and powers prescribed in section 3-2-17, "Duties and Powers
 of City Manager," B.R.C. 1981.

23 3-14-12 City Employee Conflicts of Interest Prohibited.

24 No deputy, agent, clerk or other officer or employee of the city engaged in any
 25 activity governed by this chapter shall engage in the business or profession of tax
 26 accounting or accept employment with or without compensation from any person
 27 holding a sales tax license from the city for the purpose, directly or indirectly, of
 preparing tax returns or reports required by the city, the State of Colorado, its
 28 political subdivisions, any other state or the United States, or accept any
 employment for the purpose of advising, preparing materials or data or auditing
 books or records to be used in an effort to defeat or cancel any tax or part thereof
 that has been assessed by the city, the State of Colorado, its political subdivisions,
 any other state, its political subdivisions or the United States.

1 3-14-13 Prohibited Acts.

2 It is unlawful for any recreational marijuana business to sell or transfer retail
3 marijuana without the sales tax license required by section 3-2-11, "Sales and Use
4 Tax License," B.R.C. 1981, and the recreational marijuana business license
5 required by chapter 6-14, "Medical Marijuana," B.R.C. 1981, and any other
6 license required by law, or to willfully make any false or fraudulent return or false
7 statement on any return, or to willfully evade the payment of the tax, or any part
8 thereof, as imposed by this chapter.

9 Section 6. The election shall be conducted under the provisions of the Colorado
10 Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this
11 ordinance, and all contrary provisions of the statutes of the State of Colorado are hereby
12 superseded.

13 Section 7. The officers of the City are authorized to take all action necessary or
14 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to
15 conduct the election for the City.

16 Section 8. If any section, paragraph, clause, or provision of this ordinance shall for any
17 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining
18 provisions of this ordinance. The tax established by this measure is intended to be authorized
19 under any lawful means of taxation, including license taxation pursuant to city of Boulder
20 Charter Section 122.

21 Section 9. This ordinance is necessary to protect the public health, safety and welfare of
22 the residents of the City, and covers matters of local concern.

23 Section 10. The City Council deems it appropriate that this ordinance be published by
24 title only and orders that copies of this ordinance be made available in the office of the city clerk
25 for public inspection and acquisition.
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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 16th day of July 2013.

Mayor

Attest:

City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY

TITLE ONLY this 5th day of August 2013.

Mayor

Attest:

City Clerk

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED

BY TITLE ONLY this ____ day of _____ 2013.

Mayor

Attest:

City Clerk

Council Working Agreements

Council Process:

- The Council will work on general discipline in being prepared to ask questions and make comments.
- The Council asks the Mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The Mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously clean between members of boards and members of council, like expressing ideas to board members on things coming before the Board, and carefully disclose or recuse themselves when they're involved with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, the a hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The Council will find ways to support majority council decisions and adequately inform the public, through response letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

Council Committees

- Council goal committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each goal committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

An updated Council Master
Calendar will be provided again
beginning August 20.

City Council Goals – 2013

Top Priorities:

1. Boulder's Energy Future

The top priority for the City in 2013 is the development of a framework for planning the energy future for the city of Boulder. This framework will focus on the idea of localization, the overarching goal of which is:

To ensure that Boulder residents, businesses and institutions have access to energy that is increasingly clean, reliable and competitively priced.

2. Climate Action Plan

Outline the next generation of climate action efforts in Boulder

Consider extension of CAP tax

3. Affordable Housing

Receive report of the Task force created in 2010 to evaluate goals and the approach to affordable housing and Based on Council review and discussion of these recommendations, develop an action plan to improve the availability of affordable housing in the city

Consider policies regarding inclusionary housing for rental units

4. Civic Center Master Plan

Study and develop a master plan for the area between 15th and 9th Streets, with a focus on Farmer's Market and area between Broadway and 15th Street.

Next Tier Priorities:

1. University Hill Revitalization

Continue work of Ownership Group to develop comprehensive revitalization strategy

Investigate formation of a general improvement district, including the commercial area and part of the residential area to control trash and other problems

Change boundaries of BMS land use to coincide with UHGID through BVCP process

Support private development and investment in Hill area

Partner with CU to consider opportunities for properties in the Hill area

Provide an opportunity to explore big ideas

2. Homelessness

Participate in Ten Year Plan to Address Homelessness

Balance long term and short term approaches to address needs

Invest new resources in Housing First model

Work with partners, such as BOHO, to address approaches to immediate needs

3. Boulder Junction Implementation

Work with RTD and selected developer of site to maximize mixed use urban center

Invest in planned infrastructure

Achieve goals of plan while ensuring flexibility in working with developers

Prioritize city actions to facilitate private investment

Focus additional planning work on reconsidering use for Pollard site



**City Council
2013 Work Plan by Council Goal**

TOP PRIORITIES

| GOAL: Boulder's Energy Future | | | |
|---|---|---|---|
| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| <ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Recommended strategies to achieve community's energy goals - Study Session and Public Hearing | <ul style="list-style-type: none"> ▪ Boulder's Energy Future – based on the strategies approved by Council in 1st Quarter, ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Municipalization Exploration Project Work Plan Phase 2 – Study Session | <ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session | <ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session |

| GOAL: Climate Action Plan | | | |
|---|---|---|---|
| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| <ul style="list-style-type: none"> ▪ Boulder Canyon Hydroelectric Project ▪ Climate Commitment – RFQ for consulting assistance for targets and goal setting, development of new GHG inventory, and tracking and reporting tools ▪ Energy Efficiency: <ul style="list-style-type: none"> ○ Launch of 2013 program priorities ○ Upgrades in City Buildings – employee education and outreach project (IP) ▪ Disposable Bag Fee – implementation plan and revised budget (IP) ▪ Transportation Master Plan (TMP) – | <ul style="list-style-type: none"> ▪ Commercial Energy Efficiency Strategy (CEES) - feedback on options (Study Session) ▪ Climate Commitment – Study Session to review program annual targets, short/ long term goals, tracking and reporting systems ▪ Electric/ Hybrid vehicles – project closeout ▪ Energy Efficiency – finalize Market Innovations approach (Study Session) ▪ Solar/ Wind Generation Facility Code Changes ▪ SmartRegs – code changes | <ul style="list-style-type: none"> ▪ CEES – adopt Energy Rating and Reporting Ordinance ▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency – launch Market Innovations competition ▪ Zero Waste Master Plan (ZWMP) – draft | <ul style="list-style-type: none"> ▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency <ul style="list-style-type: none"> ○ Upgrades in City Buildings – results of employee education and outreach (IP) ▪ SmartRegs – options for quality control of rental housing inspections |



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| initial results of Transportation Funding Task Force (Study Session) | | | |
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GOAL: Affordable Housing

| 1 st Quarter | 2 nd Quarter | 3 rd Quarter | 4 th Quarter |
|---|---|--|--|
| <ul style="list-style-type: none"> ▪ ADU/ OAU – study results (IP) ▪ Comprehensive Housing Strategy issues - stakeholder engagement process ▪ Density and Distribution of affordable and special needs housing - report ▪ Inclusionary Housing Rental Policy – consideration of ordinance changes following stakeholder engagement process ▪ Mobile Homes Parks – legislative agenda | <ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy <ul style="list-style-type: none"> ○ Stakeholder engagement process ○ Study Session | <ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy issues - stakeholder engagement process | <ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy issues - stakeholder engagement process |

GOAL: Civic Area Plan

| 1 st Quarter | 2 nd Quarter | 3 rd Quarter | 4 th Quarter |
|---|--|--|-------------------------|
| <ul style="list-style-type: none"> ▪ Board and community input ▪ Council participation in Ideas Competition | <ul style="list-style-type: none"> ▪ Council direction on preferred option(s) and strategies ▪ Draft plan <ul style="list-style-type: none"> ○ Development ○ Community input ○ Study Session ▪ Municipal Space Study Final Report | <ul style="list-style-type: none"> ▪ Boulder Civic Area vision and plan <ul style="list-style-type: none"> ○ Study session ○ Public hearings on adoption | |



NEXT TIER PRIORITIES

| GOAL: University Hill Revitalization | | | |
|--|--|--|-------------------------------|
| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| <ul style="list-style-type: none"> ▪ 2013 action priorities confirmed by Council at January retreat ▪ Hill Residential Service District – update ▪ Innovation District - update | <ul style="list-style-type: none"> ▪ Action on other priorities ▪ Hill Residential Service District – 1st reading of petition | <ul style="list-style-type: none"> ▪ Capital infrastructure improvements for the residential and commercial areas – consider during CIP process | |

| GOAL: Addressing Homelessness | | | |
|---|--|--|--|
| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| <ul style="list-style-type: none"> ▪ City and Community Efforts – Denver sleeping ordinance (IP) ▪ Housing First (1175 Lee Hill Road) – Statement of Operations (IP) ▪ Work plan check in and priority – Council retreat | <ul style="list-style-type: none"> ▪ Analysis of funding for homeless services and alignment with the Ten Year Plan and unmet needs ▪ Ten Year Plan to Address Homelessness – progress update (IP) | <ul style="list-style-type: none"> ▪ Analysis and recommendations regarding banning panhandling on street corners | <ul style="list-style-type: none"> ▪ Ten Year Plan to Address Homelessness – progress update (IP) |

| GOAL: Boulder Junction Implementation | | | |
|---|--|--|-------------------------------|
| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| <ul style="list-style-type: none"> ▪ Depot Square implementation – update ▪ MU-4 zone change - consideration ▪ TDM District Implementation Update (IP) ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) | <ul style="list-style-type: none"> ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) | <ul style="list-style-type: none"> ▪ Boulder Junction Access District Parking – update ▪ TDM Access District implementation - IP | |



OTHER

| GOAL: Other City Goals and Work Plan Items | | | |
|--|--|--|---|
| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| <ul style="list-style-type: none"> ▪ 13th Street Plaza - IP ▪ 28th Street Multi-use Path and Bikeable Shoulders Iris to Yarmouth CEAP – potential call up ▪ Acquisition Plan Update - OSMP ▪ Alcohol/ Land Use Code Changes – options and recommendations ▪ Boating on Barker Reservoir ▪ Burke Park/ Thunderbird Lake – recommendations on lake water levels and enhancing park facilities ▪ BVCP Area III Planning Reserve Amendments (if approved by County) ▪ Chautauqua Guiding Principles, Next Steps –update on progress ▪ Civic Use Task Force – update from Council members ▪ Cultural Master Plan ▪ Design and Construction Standards Update – consideration of minor updates ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Hogan Pancost – annexation and site review ○ Wonderland Creek Townhouses – potential call up ○ 28th and Canyon (Eads/ Golden Buff) – potential call up ○ Landmark Lofts II (970 28th Street) – potential call up ▪ East Arapahoe Study – potential action on limited zoning changes ▪ Economic Sustainable Strategies – | <ul style="list-style-type: none"> ▪ Access and Parking Management Strategies – study session ▪ Alcohol Land Use Code Changes - action ▪ Baseline Underpass East of Broadway CEAP – Call up ▪ Bike Parking Ordinance Updates ▪ Capital Improvement Bond Projects status update - IP ▪ Capital Projects – carry over and first supplemental ▪ Critical Facilities Ordinance – public hearing and motion ▪ Education Excise Tax – consideration of City Manager funding recommendations ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Human Rights Ordinance – proposed changes regarding age discrimination ▪ Integrated Pest Management Program Changes - IP ▪ International Building and Energy Codes – public hearing ▪ North Boulder Subcommunity Plan - IP ▪ Old Hire Fire and Police Pension Plans – Study Session | <ul style="list-style-type: none"> ▪ 2014 Budget Process ▪ Access and Parking Management strategies (update) ▪ Boulder Reservoir Site Management Plan – status of planning efforts and outcomes of community engagement (IP) ▪ Capital Improvement Program – study session ▪ Carter Lake Pipeline – thru CIP process ▪ Contractor Licensing – proposed changes (IP) ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Blue Spruce Auto (4403 Broadway) – potential call up ○ Boulder Outlook Hotel Redevelopment (800 28th Street) – potential call up ○ Colorado Building Parking Lot (1301 Walnut) - ordinances ○ 1000 Alpine – potential call up ○ 3085 Bluff – potential call up ○ 3390 Valmont (Former Sutherlands Site) – potential call up ▪ Eco Pass- report on results of Joint Study with Boulder County on community-wide Eco Pass Feasibility ▪ FAM Master Plan – study session ▪ Harbeck-Bergheim House – Future Use Options (IP) ▪ North Trail Study Area – study | <ul style="list-style-type: none"> ▪ Access and Parking Management Strategies – update ▪ Agriculture Plan (OSMP) – public hearing ▪ Capital Improvement Program – adoption of CIP; 2nd budget supplemental ▪ Contractor Licensing – consideration of proposed changes ▪ Design and Construction Standards Update – consideration of additional changes ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Village Shopping Center Hotel (26th and Canyon) – potential call up ▪ East Arapahoe Study – check in on project scope and work plan (3/4Q) ▪ Energy Efficiency Upgrades in City Buildings – results of employee education and outreach project (IP) ▪ FAM Master Plan – consideration of acceptance ▪ Fourmile Canyon Creek Violet Avenue to Broadway CEAP – potential call up ▪ Human Relations Commission Work Plan update - IP ▪ Human Services Fund allocations - IP ▪ Light Response Vehicle Pilot Program - IP ▪ OSMP Natural Resources Overarching Issues – Study session |



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| <p>study session</p> <ul style="list-style-type: none"> ▪ Education Excise Tax Allocation of Funds – refine RFP criteria ▪ Energy Efficiency Upgrades in City Buildings – employee education and outreach project (IP) ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Hazardous Materials Management IGA ▪ Hydroelectric operations and opportunities - IP ▪ Keep It Clean IGA ▪ Mobile Food Vending – options for ordinance changes ▪ Multi-hazard mitigation plan – possible consent item ▪ Nuisance Mosquito Control Pilot Project Evaluation - IP ▪ OSMP Overarching Issues – discussion and possible action on Voice and Sight Tag Program, Commercial Use Program, Pilot Parking Permit Program; IP on timeline and process for evaluation of remaining topics ▪ Police Department Master Plan – Study Session ▪ State of the Court Presentation ▪ Sustainable Streets & Centers – update on proposed scope options, next steps and integration with TMP, East Arapahoe Area Plan and proposed Economic Sustainability Strategy ▪ Transportation Funding (SS) ▪ TMP Update – additional direction | <ul style="list-style-type: none"> ▪ OSMP natural resources – overarching policy issues <ul style="list-style-type: none"> ○ Temporal Regulations ○ Penalties for violations ○ Multi-modal access and parking opportunities ○ Analysis of trail network and distribution of activities ▪ Parks and Recreation Master Plan ▪ Pearl Street Mall Code Changes ▪ Police Department Master Plan ▪ Randolph Center Condominium Declaration ▪ Recirculation of wastewater – CU Williams Village North (IP if necessary) ▪ Skunk Creek, Bluebell Creek and King’s Gulch Flood Mapping Update – public hearing and motion ▪ Smoking Ban on Pearl Street Mall - IP ▪ Snow and Ice Control Evaluation – study session ▪ Transportation Funding – study session ▪ TMP Update – additional direction ▪ Twomile and Upper Goose Creek Flood Mapping Update – public hearing and motion ▪ Water budgets – commercial, industrial and institutional – Council direction ▪ Water supply status – IP | <p>session or dinner discussion</p> <ul style="list-style-type: none"> ▪ Old Hire Fire and Police Pension Plans – possible discussion during budget process ▪ Parks and Recreation Master Plan ▪ Regional Trail Connections (OSMP) – IP ▪ South Boulder Creek Flood Mitigation Study – public hearing and motion ▪ Transportation Demand Management Toolkit - IP ▪ Valmont Butte Future Use Discussions – study session ▪ Water Conservation Futures Study ▪ Youth Opportunities Funding allocations - IP | <p>on remaining topics</p> <ul style="list-style-type: none"> ▪ Urban Wildlife – Consideration of Wildlife Protection Ordinance ▪ Water budgets – commercial, industrial and institutional – consideration of changes |
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| <ul style="list-style-type: none"> ▪ US36 Bikeway Maintenance – Enhancements IGA (tentative based on if extra community investments are desired) ▪ Urban Wildlife – Black Bear Education and Enforcement pilot program update ▪ Woodland Creek Diagonal to Winding Trail CEAP – potential call up ▪ Zero Waste Master Plan Update | | | |
|---|--|--|--|

KEY

| | |
|----------|--|
| ADU | Accessory Dwelling Units |
| BVCP | Boulder Valley Comprehensive Plan |
| CEAP | Community and Environmental Assessment Process |
| CIP | Capital Improvement Program |
| CU | University of Colorado |
| DUHMD/PS | Downtown and University Hill Management District/ Parking Services (City Division) |
| FAM | Facility and Asset Management |
| ICC | International Code Council |
| IGA | Intergovernmental Agreement |
| IP | Information Packet |
| OAU | Owner Accessory Units |
| OSMP | Open Space/Mountain Parks Department |
| RFQ | Request for Qualifications |
| RFP | Request for Proposals |
| TDM | Transportation Demand Management |
| TMP | Transportation Master Plan |
| ZWMP | Zero Waste Master Plan |



**CITY COUNCIL
ACCOMPLISHMENTS – 1ST AND 2ND QUARTER 2012**

TOP PRIORITIES:

GOAL: BOULDER’S ENERGY FUTURE

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Hiring of Executive Director for Energy Strategy and Electric Utility Development
- Retention of FERC and acquisition legal counsel
- Initial work in developing appraisal of distribution system and preparing legal strategy
- Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling
- Active participation at the PUC to advance Boulder’s energy goals and protect community interests
- Boulder Canyon Hydroelectric Facility Agreement: City Council authorized the dedication of easements to Public Service Company of Colorado to facilitate upgrades to the city’s Boulder Canyon Hydroelectric Facility.

GOAL: CLIMATE ACTION PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Third party review and evaluation of CAP tax funded programs to date
- Preparation of November 2012 CAP tax ballot options for Council consideration
- Initial steps to develop and refine a new Climate Action Framework consisting a renewed climate action commitment, five-year goals, annual targets, integration with appropriate master plans and city operations, and new reporting tools
- Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan)
- Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan)
- Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.)
- Energy Efficiency Upgrades in City Facilities - (a) Energy Performance Contract (EPC) – Phase III; (b) Lease purchase financing for energy conservation measures; and (c) Energy improvements, lease amendments, and payments. - Implemented the third phase of Energy Performance Contracts (EPC) for city facilities, including the installation of another 347 kilowatts of solar photovoltaic



at the Municipal Service Center buildings, Fleet Services, OSMP Annex and The Dairy Center for the Arts.

- Energy Efficiency Upgrades in City Facilities – Employee Education and Outreach Project (Information Packet) - A staff team participated in three workshops with McKinstry, the city’s Energy Performance Contractor, to help develop a new PowerED energy education and outreach program for employees. Program development will continue with other city staff focus groups through the end of December 2012.

GOAL: AFFORDABLE HOUSING

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Added 12 new permanently affordable homes to inventory
- Affordable housing agreement for Gunbarrel Town Center
- Affordable Housing Program Work plan - Council Consideration and Direction; new initiatives identified
- Analysis completed of affordable housing distribution
- Completed funding of major renovations to improve housing quality and economic sustainability of three BHP properties
- Development of voluntary affordable housing agreement for Depot Square project
- Inclusionary Housing Rental Policies – Council Consideration and Direction
- Thistle Community Housing completing fire sprinklers in all of its properties

GOAL: CIVIC CENTER MASTER PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Development of interdepartmental project team and approach; project goals and objectives; and public engagement strategy (reviewed at joint Planning Board / City Council study session in April)
- Detailed design of community visioning process and articulation of key project assumptions (reviewed with Council at June 12 study session)
- Preparation of baseline materials and launch of public engagement in July.
- The Municipal Space Study contract was awarded to StudioTerra on March 23. FAM and the consultants are interviewing city departments and conducting research on industry trends and standards for office space. Preliminary results of the space study, as it relates to the Civic Center Master Plan, will be presented at the July 31 study session.



NEXT TIER PRIORITIES:

GOAL: UNIVERSITY HILL REVITALIZATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Zoning change: Business Main Street (BMS) boundary to coincide with the University Hill General Improvement District boundary; rezoning of UHGID lots to BMS zoning (approved by Planning Board; scheduled for Council consideration in August)
- Continued work of the Hill Ownership Group to develop a comprehensive revitalization strategy.
- In coordination with a volunteer, stakeholder committee completed a proposal for a Residential Service District which includes: boundaries, scope of services, proposed budget, proposed governance structure, agreements for financial participation by tax-exempt sororities and fraternities, and a timeline for a 2013 Petition and Election process.
- Landmarking of Flatirons Theater building (and associated building renovation)
- 955 Broadway (Acacia Fraternity site redevelopment)

GOAL: ADDRESSING HOMELESSNESS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Council Consideration and Direction on: 1175 Lee Hill Project; added 31 permanent housing units for chronically homeless, disabled adults
- Continued Homeless Service Provider Coordination Project to develop action plans for case management, outreach and service coordination
- Continued implementation of Ten year Plan to Address Homelessness

GOAL: BOULDER JUNCTION IMPLEMENTATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Developed and implemented a funding strategy to finance the acquisition of 100 parking spaces by the Boulder Junction Access District – Parking (BJAD-P) in the Depot Square parking garage including a Lease/Purchase Agreement between BJAD-P and the developer, and a City of Boulder/BJAD-P Cooperation Agreement
- Developed a strategy to manage parking in the parking structure through technology and a management agreement among the



users. The arrangement provides for parking spaces to be paid, unbundled, and shared in a manner to meet the needs of the various users of Depot Square (hotel, residential, RTD) and general parking in BJAD-P spaces. Agreement was reached with RTD regarding short term and long term parking management strategies given their current legislative mandate.

- Finalized the ownership structure for five different owners to coordinate management of their units and common areas through a Condominium Declaration for the Depot Square project
- Finalized a renovation agreement and lease consistent with guiding principles with Pedersen Development Corporation for the Depot
- Finalized legal agreements for joint public/private development of Depot Square (RTD facility, shared parking, affordable housing, hotel, public space and rehabilitation of historic depot
- Approved changes to the Transportation Network Plan in support of the Transit Village Area Plan (TVAP)
- Revised Street Design for Pearl Parkway and Connections Plan Revisions (adopted by Council January 17)
- Consistent with the TVAP connections plan and along with private redevelopment, a number of capital improvements are underway, including the installation of underground power lines, preparations for installing a traffic signal at Junction Place and Pearl Parkway, and portions of the Pearl Parkway multi-way boulevard
- Consistent with the TVAP connections plan, design work continues for the bridge over Goose Creek and the multi-use path on the north side of Pearl Parkway between 30th Street and Foothills Parkway
- Received a Federal Hazard Elimination Program grant award through the Colorado Department of Transportation (CDOT) that will allow installation of a traffic signal at 29th Street and Valmont Road, improving safety and implementing improvements identified in the Transit Village Area Plan (TVAP) (project will begin in 2014)
- Completion of engineering and building construction plan review for a 319 unit residential development at 3100 Pearl and the RTD Depot Square transit-oriented development



GOAL: OTHER CITY GOALS AND WORK PLAN ITEMS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

CAPITAL ITEMS

- Anemone Trails (new) – design work completed
- Arapahoe Avenue (Folsom to 30th) - Multimodal Improvements Project Completed construction on the Arapahoe Avenue multi-use path project. The remaining street resurfacing and landscaping work will be completed in 2012.
- Boulder Creek and South Boulder Creek – restoration of grassland and riparian areas continued
- Broadway (Euclid to 18th) - Transportation Improvements Project - Made progress on the Broadway (Euclid to 18th) Transportation Improvements Project. 16th Street opened the first week of May and the Broadway underpass and the four lanes on Broadway (two in each direction) are scheduled for completion by early July.
- Broke ground in January for a new multi-use path on the south side of Baseline, connecting U.S. 36 and the Bear Creek Underpass, including a pedestrian crossing for Baseline Road at Canyon Creek. Completion of the multi-use path on the west end is underway through a redevelopment project.
- Completed a new sidewalk along Gillaspie Drive, connecting Greenbriar Boulevard and Juilliard Street connecting to Fairview High School
- Completed the course bunker renovation/playability project at Flatirons Golf Course by installing 19 new sand bunkers
- Continued work at Valmont City Park, including additional construction at Valmont Bike Park; outreach and design for Valmont Dog Park; and design and construction of the interim disc golf course
- Facility ADA Compliance - An Americans with Disabilities Act (ADA) consultant completed comprehensive ADA assessments for the Park Central and Municipal buildings. Costs for the recommendations are being identified and prioritized, with other buildings planned for assessment.
- Green Bear Trail Re-route – work in progress with one section completed and opened to public
- Gregory Canyon Trailhead Site Plan – initial site plan design work began
- Homestead Trail Re-route – work in progress with one section completed and opened to public
- Library Facility Upgrades and Enhancements (New Children’s Library and New Teen Space): The selection of a design firm is underway
- Linden Avenue Sidewalk Project (Safe Routes to School) - Completed a Safe Routes to School Project, providing a sidewalk on the north side of Linden Avenue between Fourth Street and Broadway.
- New Wildland Fire Facilities - Responses to the request for qualifications (RFQ) for facility designs were received on May 11. Requests for proposals (RFP) to be sent in early June
- Organic farming – agricultural contract written for 47 acres



- Replaced traffic signal incandescent lamps with sustainable, energy-saving light-emitting diode (LED) lamps
- Sanitas Stone Hut Repair – hut was reinforced and stonework repaired
- South Boulder Creek West Trailhead – Parking areas for cars and horse trailers completed and open to public; working through permit process for outhouse and kiosk installations; interpretive signs in production
- South Boulder Recreation Center - The contaminated sub floors from the gymnasium, racquetball court, and Pilates room have been removed and are expected to be replaced with new wood floors by early June 2012.
- Street repair expanded efforts – began the first of three years

OTHER SIGNIFICANT ACTIONS¹

- Boulder B-cycle station at the North Boulder Recreation Center sponsored
- Boulder Community Hospital Expansion Rezoning
- BVCP: Area II study results and potential next steps (IP to City Council in July)
- BVCP Comprehensive Rezoning (scheduled for council consideration in August)
- BVCP 2010 Major Update: planning reserve policy changes (study session discussion with Council on May 29; Council and County Commissioner dinner discussion on June 14)
- Boulder Reservoir Master Plan completed
- Boulder Valley School District Faculty and Staff Eco Pass Program Expansion - Continued partnership with the Boulder Valley School District (BVSD) to expand the BVSD faculty and staff Eco Pass program.
- Chautauqua Stewardship Framework: Draft and Next Steps
- City Website Redesign Kickoff - Kicked off redesign with Vision Internet and the City of Arvada. Gathered a list of key stakeholders and surveyed them regarding elements the new website should contain.
- Code enforcement - reallocation of resources to the Boulder Police Department was fully implemented to ensure efficient and effective service delivery
- Community and Environmental Assessment Process (CEAP) for flood mitigation and transportation improvements along Fourmile Canyon Creek, near Crest View Elementary School completed, including a City Council call-up opportunity.
- Compatible Development implementation - annual report to Council
- Congregate Care code changes (pending further consideration based on Council direction)
- Constituent Relationship Management (CRM) procurement effort - Designed and implemented a staff engagement and procurement initiative to implement a new CRM application resulting in the unanimous selection of Government Outreach. Vendor contract negotiations are currently underway. This initiative is designed to significantly improve our customers' ability to request, track and ultimately receive more timely and effective services while providing staff with automated tools to better



manage these requests.

- Disposable Bag Reduction Ordinance: research and options presented to Council on May 15; work on nexus study underway
- Draft Fire-Rescue Master Plan completed and approved by Planning Board.
- Economic Sustainability Strategy: phase one study of primary employer space needs underway; presentation of results to Council scheduled for August
- Elks neighborhood park planning, outreach and design continued with construction and completion in 2013
- Family Resource Center opened at Manhattan Middle School in partnership with Boulder County Housing and Human Services
- FasTracks' Northwest Rail Plan - Approved guiding principles for developing and designing a hybrid approach to FasTracks' Northwest Rail Plan.
- Fire Master Plan – Council feedback on strategies (April 3, 2012); Planning Board recommendation for acceptance (May 17, 2012); Scheduled for Council consideration (June 19, 2012)
- Heather wood Trail Intergovernmental Agreement (IGA) - City Council authorized the signing of an intergovernmental agreement (IGA) with Boulder County related to the maintenance of a trail that crosses the Wastewater Treatment Facility property.
- Integrated Pest Management Policy Revision and Program Direction (Council provided direction on May 1)
- Landmarking of First Christian Church building (950 28th Street)
- Locomotive #30 narrow gauge historic cosmetic restoration completed
- Mesa Memorial Park design and development initiated
- Mosquito control annual report (Completed report on the IPM web site – link will be provided to council with first weekly mosquito report in June)
- Named number 3 on list of best cities for bicycling by *Bicycling Magazine*, in part due to the Valmont Bike Park and new path connections made possible by the capital improvement bond
- New Transportation Safety Ordinances - Approved ordinance changes to improve transportation safety in the city and initiated education and enforcement efforts to support the ordinance changes
- Organic turf and landscape bed program at six park locations launched
- Received a Safe Routes to School Grant to install a traffic signal at South Boulder Road and Manhattan Drive to create a safe crossing for middle school students taking transit, riding, or walking to and from school.
- RH-2 Zone District Changes (scheduled for council consideration in August)
- *Safe Streets Boulder* report published in February.
- SmartRegs - Continued the successful implementation of SmartRegs and the pilot program for rental housing licensing enforcement. The backlog of rental license compliance cases is almost entirely eliminated.
- Transportation Report on Progress, *Transportation to Sustain a Community* published in February.
- Valmont Butte – VCUP implementation commenced; excavation work began on April 4 with both the tribe-designated native cultural monitor and the city's archaeologist consultant present.



▪ Veterans and active duty military personnel recreation pass program developed

Key:

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| ADA = Americans with Disabilities Act |
| BHP = Boulder Housing Partners |
| BVSD = Boulder Valley School District |
| BMS = Business Main Street |
| CAP = Climate Action Plan |
| CDOT = Colorado Department of Transportation |
| EPC = Energy Performance Contract |
| EET = Education Excise Tax |
| FAM = Facilities and Asset Management (City Division) |
| FERC = Federal Energy Regulatory Commission |
| IGA = Inter-governmental Agreement |
| IP = Information Packet |
| OSMP = Open Space/ Mountain Parks Department |
| PUC = Colorado Public Utilities Commission |
| RFP = Request for Proposals |
| RFQ = Request for Qualifications |
| RTD = Regional Transportation District |
| TVAP = Transit Village Area Plan |
| UHGID = University Hill General Improvement District |
| VCUP = Colorado Voluntary Cleanup Program |

COUNCIL MEMBERS

| | |
|-------------------|----------------|
| Matthew Appelbaum | Mayor |
| Lisa Morzel | Mayor Pro Tem |
| Suzy Ageton | Council Member |
| KC Becker | Council Member |
| Macon Cowles | Council Member |
| Suzanne Jones | Council Member |
| George Karakehian | Council Member |
| Tim Plass | Council Member |
| Ken Wilson | Council Member |

COUNCIL EMPLOYEES

| | |
|-------------------|-----------------|
| Thomas A. Carr | City Attorney |
| Jane S. Brautigam | City Manager |
| Linda P. Cooke | Municipal Judge |

KEY STAFF

| | |
|------------------------|---|
| Bob Eichem | Chief Financial Officer |
| Alisa D. Lewis | City Clerk |
| Patrick von Keyserling | Communications Director |
| David Driskell | Community Planning + Sustainability - Executive Director |
| Paul J. Fetherston | Deputy City Manager |
| Molly Winter | Downtown, University Hill Management & Parking Services Director |
| Heather Bailey | Energy Strategy and Electric Utility Development Executive Director |
| Larry Donner | Fire Chief |
| Mary Ann Weideman | Housing, Assistant City Manager for Human Resources (Acting) Director |
| Karen Rahn | Human Services Director |
| Don Ingle | Information Technology Director |
| Eileen Gomez | Labor Relations Director |
| Valerie Maginnis | Library and Arts Director |
| Lynne C. Reynolds | Municipal Court Administrator |
| Michael Patton | Open Space and Mountain Parks Director |
| Kirk Kincannon | Parks and Recreation Director |
| Mark Beckner | Police Chief |
| Maureen Rait | Public Works - Executive Director |
| Tracy Winfree | Transportation Director |
| Jeff Arthur | Utilities Director |

2013 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

| | |
|--|---|
| Beyond the Fences Coalition | Morzel, Plass |
| Boulder County Consortium of Cities | Karakehian, Wilson (alt) |
| Colorado Municipal League (CML) – Policy Committee | Jones, Appelbaum (Castillo – staff alternate) |
| Denver Regional Council of Governments (DRCOG) | Becker, Jones (Alternate) |
| Housing Authority (Boulder Housing Partners) | Ageton |
| Metro Mayors Caucus | Appelbaum |
| National League of Cities (NLC) | Appelbaum |
| Resource Conservation Advisory Board | Plass, Morzel (at large seat) |
| Rocky Flats Stewardship | Morzel, Plass (1 st alternate), Castillo (2 nd alternate) |
| University of Colorado (CU) / City Oversight | Wilson, Jones, Karakehian |
| US36 Mayors and Commission Coalition | Appelbaum, Ageton (alternate) |
| US36 Commuting Solutions | Ageton, Karakehian (alternate) |
| Urban Drainage and Flood Control District | Morzel |

LOCAL ORGANIZATIONS

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|--|----------------------------|
| Boulder Museum of Contemporary Art (BMoCA) | Cowles, Becker (alternate) |
| Boulder Convention and Visitors Bureau | Becker, Plass (alternate) |
| Dairy Center for the Arts | Karakehian |
| Downtown Business Improvement District Board | Plass, Jones |

INTERNAL CITY COMMITTEES

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|---|------------------------------------|
| Audit Committee | Morzel, Becker, Cowles |
| Boulder Urban Renewal Authority (BURA) Mayoral Appointment | Becker (appointed through 2015) |
| Charter Committee | Morzel, Cowles, Ageton, Karakehian |
| Civic Use Pad/ 9 th and Canyon | Morzel, Jones, Becker |
| Council Budget Action Plan Committee | Ageton, Becker, Plass |
| Evaluation Committee | Karakehian, Morzel |
| Legislative Committee | Ageton, Karakehian, Wilson, Jones |

SISTER CITY REPRESENTATIVES

| | |
|---------------------------|----------------|
| Jalapa, Nicaragua | Jones |
| Kisumu, Kenya | Morzel |
| Llasa, Tibet | Ageton |
| Dushanbe, Tajikistan | Karakehian |
| Yamagata, Japan | Wilson |
| Mante, Mexico | Plass |
| Yateras, Cuba | Cowles |
| Sister City Sub-Committee | Morzel, Cowles |