



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 5, 2014**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt Ordinance No. 7980 submitting to the registered electors of the City of Boulder at the special municipal coordinated election to be held on Tuesday, November 4, 2014, the question of affirming the city’s right to provide high-speed internet services (advanced services), telecommunications services, and/or cable television services to residents, businesses, schools, libraries, nonprofit entities and other users of such services and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Bob Eichen, Chief Financial Officer  
Don Ingle, Director of Information Technology  
Carl Castillo, Policy Advisor

**EXECUTIVE SUMMARY**

At its June 17, 2014 meeting, City Council approved on first reading a proposed measure (Ordinance No. 7980) to reinstate the city’s right to invest public resources in the provision of telecommunication systems and services as existed prior to the 2005 passage of Colorado Senate Bill 05-152. Two ballot language options were presented at this meeting with Council agreeing to continue only the full exemption option for further consideration (see **Attachment A**).

Immediately following first reading approval of this measure, staff published an informational website titled “Boulder Broadband Matters” (<https://bouldercolorado.gov/information-technology/boulder-community-telecommunications>) that includes background and educational information on this initiative. The website will continue to be updated during the council deliberation process on this measure.

## **STAFF RECOMMENDATION**

Staff recommends council approve the placement of a measure on the November ballot reaffirming city autonomy in how it invests in community telecommunication services currently limited by Senate Bill 05-152. If council does not make any changes to the language of the ordinance on second reading, it is recommended that a vote on this item be continued until council's August 19th meeting.

**Suggested Motion Language:** Motion to approve, on second reading, Ordinance No. 7980 submitting to the registered electors of the City of Boulder at the special municipal coordinated election to be held on Tuesday, November 4, 2014, the question of affirming the city's right to provide high-speed internet services (advanced services), telecommunications services, and/or cable television services to residents, businesses, schools, libraries, nonprofit entities and other users of such services and setting forth related details..

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic** - Provision of higher speed telecommunication services at a lower price, could be expected to support a diverse and sustainable economy that supports needs of all segments of the community.
- **Environmental** - Provision of more accessible, higher speed telecommunication services is likely to increase the availability of local services and information on-line, resulting in trip reduction on lower carbon emissions.
- **Social** - Provision of higher speed telecommunication services at a lower price, could be expected to support the needs of a diverse community, especially those that would not otherwise have access to such services.

## **OTHER IMPACTS**

- **Fiscal** - No budgetary impacts at this time.
- **Staff time** – Much of the staff time required is within normal work-plans for the departments tasked with supporting this type of vendor project. Less than 40 hours of additional staff time outside the scope of normal business duties may be expended on this project.

## **BOARD AND COMMISSION FEEDBACK**

No Board and Commission feedback has been received on this matter.

## **PUBLIC FEEDBACK**

While no public feedback has been solicited on this matter, the city has been contacted by several organizations with offers to support the measure, including: the Boulder Chamber, Zayo Group, and Colorado Common Cause.

## **BACKGROUND**

The proposed ballot measure, if approved by voters, would exempt the city from the provisions of Colorado Senate Bill 05-152 (SB-152). This 2005 law significantly limits the ability of municipal government to engage in the provision of telecommunication services, including partnerships with private entities. Current legislative reform efforts aimed at amending SB-152 have been preempted by other telecommunications-related priorities in the legislature.

SB-152 includes a provision allowing Colorado local government to exempt themselves from the law's provisions via a public vote. Boulder remains a community that would significantly benefit from more economical, higher-capacity telecommunication services given its tech-savvy demographic, readiness for "next gen" broadband services, and available public fiber optic infrastructure. While no definitive plans are in place to create a telecommunications utility or engage in new public-private partnerships in Boulder, the planning and execution of new public initiatives would be unencumbered by the significant limitations in state law if an exemption measure was passed.

## **ATTACHMENTS**

Attachment A: Ordinance No. 7980, with Proposed Broadband Ballot Language

This Page Intentionally Left Blank

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDINANCE NO. 7980

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, THE QUESTION OF AFFIRMING THE CITY'S RIGHT TO PROVIDE HIGH-SPEED INTERNET SERVICES (ADVANCED SERVICES), TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS AS EXPRESSLY PERMITTED BY ARTICLE 27, TITLE 29, OF THE COLORADO REVISED STATUTES, WITHOUT LIMITING ITS HOME RULE AUTHORITY AND SETTING FORTH RELATED DETAILS.

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

Section 1. A special municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 4, 2014, between the hours of 7:00 a.m. and 7:00 p.m.

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 re-establishing the city's right to provide high-speed internet services (advanced services), telecommunications services or cable television services as stated below.

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

Ballot Question NO. \_\_\_\_

**Affirming the City's Right to Provide Telecommunication Services**

1 Shall the City of Boulder be authorized to provide high-speed  
2 Internet services (advanced services), telecommunications  
3 services, and/or cable television services to residents, businesses,  
4 schools, libraries, nonprofit entities and other users of such  
5 services, either directly or indirectly with public or private sector  
6 partners, as expressly permitted by §§ 29-27-101 to 304,  
7 “Competition in Utility and Entertainment Services,” of the  
8 Colorado Revised Statutes, without limiting its home rule  
9 authority?

10 For the Measure \_\_\_\_\_ Against the Measure \_\_\_\_\_

11 Section 4. If a majority of all the votes cast at the election on the question  
12 submitted shall be for the question, the question shall be deemed to have passed and shall  
13 be effective upon passage.

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

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

21 Section 7. If any section, paragraph, clause, or provision of this ordinance shall  
22 for any reason be held to be invalid or unenforceable, such decision shall not affect any  
23 of the remaining provisions of this ordinance.

24 Section 8. This ordinance is necessary to protect the public peace, health and  
25 property of the residents of the City, and covers matters of local concern.

26 Section 9. The City Council deems it appropriate that this ordinance be published  
27 by title only and orders that copies of this ordinance be made available in the office of the  
28 city clerk for public inspection and acquisition.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 17<sup>th</sup> day of June, 2014.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

PUBLISHED BY TITLE ONLY this 5<sup>th</sup> day of August, 2014.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk