

Election — November 4, 2008

## City of Boulder Ballot Questions



### League of Women Voters® of Boulder County

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

***ALL 2008 CITY OF BOULDER BALLOT QUESTIONS HAVE BEEN REFERRED TO VOTERS BY CITY COUNCIL. BALLOT ISSUES 201 AND 202 ARE PROPOSED CHANGES TO CITY TAX CODE. BALLOT QUESTIONS 2A, 2B, 2C, 2D AND 2E ARE PROPOSED AMENDMENTS TO THE CITY CHARTER.***

#### **BALLOT ISSUE 201**

##### CITY RETENTION OF PROPERTY TAX FUNDS

WITHOUT RAISING TAXES, AND IN ORDER TO PAY FOR NECESSARY CITY PURPOSES SUCH AS REPLACEMENT OF FIRE APPARATUS, INFORMATION TECHNOLOGIES, ENERGY COSTS, FACILITY MAINTENANCE AND CITY SERVICES, SHALL THE CITY OF BOULDER, PURSUANT TO ORDINANCE NO. 7608, BE ALLOWED TO RETAIN AND SPEND PROPERTY TAX FUNDS COLLECTED IN TAX COLLECTION YEARS 2009 AND BEYOND, AND RETAIN AND SPEND ANY EARNINGS THEREFROM, WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF BOULDER, UNDER

ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

AND IN CONNECTION THEREWITH,

(1) SHALL ANY INCREASE IN RETAINED TAXES STARTING IN TAX COLLECTION YEAR 2009 THAT IS AUTHORIZED BY THIS MEASURE BE LIMITED TO .5 MILLS PER YEAR, AND (2) SHALL ANY TAX MONIES THAT ARE COLLECTED ABOVE THOSE THAT THE CITY MAY RETAIN BE CREDITED TO PROPERTY OWNERS AS AN OFFSET AGAINST THE SUBSEQUENT YEAR'S TAXES?

A Yes vote would allow the city to keep more property tax revenue, up to 0.5 mills more per year.

A No vote would require the city to continue to refund property tax revenue that exceeds TABOR.

##### BACKGROUND

In 1992 voters approved the Taxpayers Bill of Rights or TABOR, an amendment to Colorado's state constitution. TABOR requires that tax revenue that exceeds certain limits be returned to taxpayers.

However, TABOR also allows local governments to retain those revenues upon an affirmative vote of their citizens. Voters in Boulder have already eliminated TABOR restrictions on sales and use tax, but on the small portion (about 13%) of their property taxes that goes to the city, TABOR restrictions remain. This year the TABOR refund appeared as a 2.78-mill credit on residential property tax bills.

The city's Blue Ribbon Commission on Revenue Stabilization proposed elimination of the TABOR refund (tax credit) to help the city fund identified deficiencies. The city council proposed that the TABOR refund be reduced gradually, at the rate of 0.5 mills per year. In six years, based on current, assessed valuations, when the refund has been eliminated, the city would be allowed to retain an estimated additional \$6.7 million per year. For the taxpayer, the increase (loss of tax credit) will total approximately \$22 per \$100,000 of market valuation.

##### MAJOR PROVISIONS

The city will not be required to refund property tax revenues that exceed TABOR limits. Passage of this proposal will complete the city's "de-Brucing" (after TABOR's sponsor, Douglas Bruce). If property values and assessments increase, the city may collect property taxes up to state or local limits that may exist independent of TABOR. The Colorado Supreme Court has held that this type of "de-Brucing," because the revenue can be collected by the city and then credited back, is a change in tax policy that does not increase taxes.

##### THOSE IN FAVOR SAY

- Rising energy and other costs are outstripping growth in city revenue. Adequate provision of basic services, such as fire protection, is at risk.
- TABOR refunds in question would be so small as to be insignificant to most families. When pooled together, they can make all the difference in the world.

##### THOSE OPPOSED SAY

- In approving TABOR, the voters made clear their desire to limit growth in government spending. The city should reallocate funds it already has, rather than collect more in property taxes.
- Property taxes have already been increasing as a result of increased valuation, placing a significant burden upon the taxpayer.

#### **BALLOT ISSUE 202** SALES AND USE TAX EXTENSION

WITHOUT RAISING ADDITIONAL TAXES, SHALL THE CITY OF BOULDER, PURSUANT TO ORDINANCE NO. 7607, HAVE AUTHORITY TO EXTEND INDEFINITELY, BEYOND ITS CURRENT EXPIRATION DATE OF DECEMBER 31, 2011, THE EXISTING 0.38% CITY SALES AND USE TAX THAT IS DESCRIBED IN SECTION 3-2-5

OF THE BOULDER REVISED CODE, 1981. THESE REVENUES WILL CONTINUE TO FUND GENERAL FUND SERVICES SUCH AS POLICE, FIRE, LIBRARY, PARKS AND HUMAN SERVICES. AND IN CONNECTION THEREWITH, SHALL THE FULL PROCEEDS OF THE TAX AND ANY EARNINGS THEREFROM, BE COLLECTED AND SPENT WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF BOULDER, UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW'?

#### BACKGROUND

Voters approved the 0.38 percent tax in 1987, to be in effect from 1988 through 2011, to fund debt payments on the library capital construction program; any excess was to be used for any general fund purpose. During 2008, approximately \$9.7 million will be collected from this tax, of which \$1.1 million is used for the annual payments on the library. The last of these debt payments will be made in 2011 prior to the expiration of the tax. Currently the tax funds about 10.3 percent of the city's operations.

In January 2008 the city's Blue Ribbon Commission on Revenue Stabilization advised the city council that this proposal, even more than issue 201, is crucial to help bridge the increasing gap between revenue and the costs of city services. (It is estimated that even with the tax, the level of city services will continue to decline.) The proposal commits revenues to the general fund and eliminates a sunset date. It would be exempt from TABOR (see issue 201, above) and other limits on revenue and spending.

#### THOSE IN FAVOR SAY

- Continuation of this tax is necessary if the city is to be able to continue to provide essential services.'

- Funds are not earmarked and thus provide flexibility in budgeting to reflect changing conditions and priorities.

#### THOSE OPPOSED SAY

- The proposal is only a piecemeal approach to the city's dire financial situation, not part of an overall plan for financial stability.
- Three years ahead of expiration is too early to consider continuation, especially in this economic climate.

### **BALLOT ISSUE 2A**

#### CITY COUNCIL COMPENSATION

SHALL SECTION 7 OF THE CHARTER BE AMENDED PURSUANT TO ORDINANCE NO. 7599 TO PROVIDE THAT STARTING IN 2009, CITY COUNCIL MEMBERS WILL BE COMPENSATED AT THE RATE OF \$1000 PER MONTH, ADJUSTED IN THE FUTURE BY REFERENCE TO THE CONSUMER PRICE INDEX?

#### MAJOR PROVISIONS

The proposal would delete existing language that currently compensates city council members at \$174.31 per meeting attended, not to exceed four meetings per calendar month. The proposal does not depend upon meeting attendance but rather compensates members for the whole range of their responsibilities in office.

#### BACKGROUND

Voters in 2007 narrowly defeated a proposal to raise 'council members' compensation per meeting attended.

#### THOSE IN FAVOR SAY

- This proposal considers the value of council members' time and contributions to the city.
- This proposal might help attract a broader range of people to serve.

- Other cities in the region provide compensation at higher rates that are not tied to attendance at meetings.

#### THOSE OPPOSED SAY

- This proposal is not worded precisely and does not address matters such as compensation of members on leave.
- Timing is not good, when voters have two tax proposals to consider.
- Council members need secretarial assistance and office space more than compensation.

### **BALLOT ISSUE 2B**

#### CITY COUNCIL EXECUTIVE SESSIONS

SHALL SECTION 9 OF THE CHARTER BE AMENDED PURSUANT TO ORDINANCE NO. 7600 IN ORDER TO ALLOW CITY COUNCIL TO MEET IN EXECUTIVE SESSION TO DISCUSS SENSITIVE MATTERS WHERE PREMATURE DISCLOSURE WOULD BE CONTRARY TO THE PUBLIC INTEREST'?

EXECUTIVE SESSIONS WILL ONLY BE HELD IN CONFORMITY WITH LOCALLY ENACTED PROCEDURAL RULES THAT ARE AT LEAST AS RESTRICTIVE AS THOSE SET FORTH IN THE LAWS OF THE STATE OF COLORADO AND ONLY UPON A 2/3 VOTE OF COUNCIL MEMBERS PRESENT AT A MEETING. NO FINAL ACTION WILL BE ALLOWED AT EXECUTIVE SESSIONS.

THE ONLY SUBJECTS THAT WILL BE DISCUSSED IN EXECUTIVE SESSIONS ARE:

- (1) CONFIDENTIAL ISSUES ASSOCIATED WITH THE PURCHASE, ACQUISITION, LEASE, TRANSFER OR SALE OF PROPERTY.
- (2) CONFIDENTIAL LEGAL ADVICE;
- (3) CONFIDENTIAL SECURITY MATTERS OR INVESTIGATIONS;
- (4) CONFIDENTIAL ISSUES RELATING TO ON-GOING NEGOTIATIONS AND NEGOTIATING STRATEGY; OR

(5) HIRING AND PERSONNEL MATTERS PERTAINING TO ONE OF THE COUNCIL'S THREE EMPLOYEES, SO LONG AS THE SUBJECT COUNCIL EMPLOYEE IS ABLE TO REQUIRE THAT THE DISCUSSION BE HELD IN PUBLIC.

A Yes vote allows closed city council meetings in certain cases.

A No vote keeps the requirement that all city council meetings be public.

#### MAJOR PROVISIONS

The proposal would amend city charter section 9, paragraph 2, which states that all meetings of the council or committees thereof shall be public. It would allow city council to hold closed (that is, executive) meetings to discuss but not take action on matters deemed confidential, and on personnel matters related to the three city employees that city council hires directly (city manager, city attorney and municipal judge). This charter change would be at least as strict as the state's open meetings law.

#### BACKGROUND

The open meeting requirements of the Colorado Sunshine Law (§ 24-6-402, C.R.S.) that apply to local government are extensive and detailed. They include public notice of the topic for discussion, citation to authorizing law, and a 2/3 vote of the members present. Executive sessions can only be held as part of a regular or special meeting. Minutes must be recorded unless the session includes privileged attorney-client communication. No final action may be taken in executive session. State law describes six allowed topics of discussion (almost identical to the five listed in the ballot language).

Most cities in the state, including Longmont and Louisville, allow their elected officials to go into executive session. Under the current system (which city voters approved in 2003), the council appoints a committee of two council members and any number of other persons to screen applications, evaluate performance, and consider disci-

pline for the city manager, city attorney and municipal court judge positions in private, so long as council takes action on committee recommendations in a public meeting.

#### THOSE IN FAVOR SAY

- On matters too sensitive for public airing, the one-on-one discussions, to which council members are currently limited by law, are an inefficient way to arrive at informed decisions.
- The amendment provides safeguards against abuse. The public would be alerted to the topic of discussion.

#### THOSE OPPOSED SAY

- Boulder's long tradition of open business has served the city well. All meetings should continue to be public. There is no need to change.
- The ballot language is vague and deceptive. The public would not know what took place in executive session.

### **BALLOT ISSUE 2C**

#### AMENDMENT OF RECALL ELECTION PROCEDURES

SHALL SECTIONS 56, 58, 59, AND 62 OF THE CHARTER, RELATING TO THE METHOD TO BE UTILIZED TO RECALL HOLDERS OF ELECTIVE OFFICE, BE AMENDED PURSUANT TO ORDINANCE NUMBER 7603 TO:

PROVIDE THAT THE CITY CLERK WILL MAKE FORMS FOR RECALL PETITIONS AVAILABLE AND WILL, WITHIN TWO DAYS OF SUBMISSION OF PROPOSED RECALL PETITION (AND PRIOR TO THEIR CIRCULATION TO THE PUBLIC), REVIEW THE PETITIONS FOR FORM;

LIMIT TO TWO HUNDRED WORDS STATEMENTS OF REASONS SUPPORTING AND OPPOSING A PROPOSED RECALL AND PROVIDE FOR THE POSTING OR PUBLICATION OF THOSE STATEMENTS AT LEAST TWENTY DAYS PRIOR TO A RECALL ELECTION;

ALLOW A RECALL ELECTION TO BE HELD BETWEEN SEVENTY-FIVE AND NINETY DAYS AFTER THE CITY CLERK CERTIFIES THAT A VALID RECALL PETITION HAS BEEN FILED;

PROVIDE FOR THE COORDINATION OF RECALL ELECTIONS WITH OTHER MUNICIPAL ELECTIONS IF SUCH OTHER ELECTIONS ARE TO BE HELD WITHIN NINETY DAYS;

PROVIDE THAT A COUNCIL VACANCY THAT OCCURS AFTER A REMOVAL ELECTION HAS BEEN ORDERED WILL BE FILLED BY THE PROCEDURES FOR FILLING OF VACANCIES THAT APPEAR IN SECTION 8 OF THE CHARTER:

CLARIFY THE REQUIREMENTS FOR RECALL BALLOTS, ALLOWING FOR COORDINATION WITH COUNTY ELECTION PROCEDURES, AND SPECIFY THAT "YES" VOTES WILL BE COUNTED IN FAVOR OF RECALL;

PROVIDE THAT ANY VACANCY CREATED BY A RECALL ELECTION WILL BE FILLED BY AN ELECTION HELD IN THE MANNER SET FORTH FOR FILLING COUNCIL VACANCIES IN SECTION 8 OF THE CHARTER; AND

SPECIFY THAT AN OFFICIAL MAY NOT SERVE ON ANY ELECTED OR APPOINTED OFFICIAL CITY BODY FOR A PERIOD OF ONE YEAR FOLLOWING THE DATE ON WHICH THAT OFFICIAL IS RECALLED FROM OFFICE OR RESIGNS WHILE RECALL PROCEEDINGS ARE PENDING.

#### MAJOR PROVISIONS

The proposal would amend the charter provision for removing a city council member by citizen-initiated recall to make it easier to abide by state election laws. The city charter currently requires 'recall elections to be conducted within 40 days after the city clerk certifies that a valid recall petition has been filed. The charter change would extend the period to between 75 and 90 days. It would also clarify procedures for holding a subsequent replacement election.

THOSE IN FAVOR SAY

- The proposed amendment brings the city charter requirements in line with what is logistically possible, given changes in state law, and clarifies technical ambiguities in the current charter language.

THOSE OPPOSED SAY

No organized opposition has been identified.

**BALLOT ISSUE 2D**

PERMIT CITY LEASE UP TO FORTY YEARS

SHALL SECTION 111 OF THE CHARTER BE AMENDED PURSUANT TO ORDINANCE NO. 7604 TO ALLOW THE CITY TO GRANT A LEASE OF STREETS OR PUBLIC PLACES OR PROPERTY FOR A PERIOD OF UP TO FORTY YEARS (RATHER THAN THE CURRENT MAXIMUM OF TWENTY YEARS) UPON APPROVAL BY A TWO-THIRDS VOTE OF ALL COUNCIL MEMBERS?

BACKGROUND

The proposal, which voters defeated in 2007, follows a Charter Commission recommendation that the maximum lease period be increased to 30 years; city council changed it to 40 years, as institutions providing financing for a project might require a longer lease. Private nonprofit organizations lease the city's four major facilities- Chautauqua, Boulder Museum of Contemporary Art, The Dairy Center for the Arts, and A Spice of Life restaurant at the municipal Flatirons Golf Course. They report that the 20-year limit does not support major fund raising campaigns. Other places where public-private partnerships might develop include other city park sites and the municipal airport. The proposal does not apply to franchises or rights to use such as the city's agreements with Xcel Energy, Comcast, and others.

THOSE IN FAVOR SAY

- Allowing a lease up to 40 years long would open up more financing options for public-private partnerships and more fund raising opportunities for nonprofit organizations.
- Requiring approval by a super majority of council members would help protect the public's interest.

THOSE OPPOSED SAY

- A lease of public property for half a lifetime is far too long. Either sell the property or leave it under public control. A 20-year lease is a good compromise.
- The proposal could bind future councils to a lease that is below market rates.

**BALLOT ISSUE 2E**

QUALIFICATIONS FOR APPOINTMENT TO CITY COMMISSIONS

SHALL SECTION 130 OF THE CHARTER BE AMENDED PURSUANT TO ORDINANCE NO. 7605 TO PROVIDE THAT CITY RESIDENTS MAY BE APPOINTED TO SERVE ON CITY COMMISSIONS EVEN IF THEY ARE NOT CITY ELECTORS, IF THEY ARE AT LEAST EIGHTEEN YEARS OLD AND IF THEY HAVE RESIDED IN THE CITY OF BOULDER FOR AT LEAST ONE YEAR IMMEDIATELY PRIOR TO THEIR APPOINTMENT?

MAJOR PROVISIONS

The proposal would remove the city elector requirement for serving on city commissions created under Section 130 of the city charter. (An elector is a U.S. citizen, 18 years of age or older at the time of the next election, who has resided in the state and precinct thirty days prior to the election.) The proposal's effect would be to remove the citizenship requirement for service on commissions, retain the age requirement, and increase the residency requirement to one year.

Advisory commissions created (by ordinance) as Section 130 provides include the library commission, arts commission, human relations commission, beverage licensing authority, downtown management commission, University Hill management commission, landmarks board, transportation advisory board, environmental advisory board, water resources advisory board, and downtown design advisory commission. Eligible persons include U.S. citizens registered to vote elsewhere, as well as non-U.S. citizens who hold a "green card" (permanent U.S. residents) or a visa of some kind (international students, temporary workers, educational and cultural exchange visitors, and many other categories).

THOSE IN FAVOR SAY

- This proposal would allow expanded representation that would reflect the city's diverse population.
- The city would benefit from empowering more people to contribute their ideas.
- Boulder County and many other local governments in the U.S. do not require U.S. citizenship for similar service. Non-citizens without valid documentation are not likely to apply.

THOSE OPPOSED SAY

- This proposal would erode and dilute the concept of U.S. citizenship.
- This proposal would allow those with allegiance elsewhere to influence city government.
- This proposal would allow non-citizens with expired visas to apply, as well as those who entered the U.S. without documentation.

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