



## Information on 2020 Ballot Measures in Boulder, Colorado

Compiled by the League of Women Voters of Boulder County

2B . . . . .	p. 1
2C . . . . .	p. 3
2D . . . . .	p. 5
2E . . . . .	p. 7
2F . . . . .	p. 9

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

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### City of Boulder Ballot Issue 2B NO EVICTION WITHOUT REPRESENTATION

SHALL THE CITY OF BOULDER'S TAXES BE INCREASED ANNUALLY BY ONE MILLION, NINE HUNDRED THOUSAND (\$1,900,000.00) (FIRST FULL FISCAL YEAR INCREASE) COMMENCING ON JANUARY 1, 2021, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER FROM AN EXCISE TAX TO BE PAID BY LANDLORDS ON DWELLING UNITS WITH RENTAL LICENSES IN THE AMOUNT OF \$75 PER YEAR, WITH THE TAX RATE INCREASING EVERY YEAR THEREAFTER AT A RATE THAT DOES NOT EXCEED THE COLORADO CONSUMER PRICE INDEX ON EACH RENTAL LICENSE FOR A DWELLING UNIT THAT IS ISSUED BY THE CITY; AND IN CONNECTION THEREWITH, SHALL ALL OF THE REVENUES COLLECTED BE USED TO FUND: THE ADMINISTRATIVE COST OF THE TAX, AND THEREAFTER TO ESTABLISH, RUN AND FULLY FUND A PROGRAM TO PROVIDE LEGAL REPRESENTATION TO TENANTS WHO FACE THE LOSS OF HOUSING IN EVICTION AND ADMINISTRATIVE PROCEEDINGS; PROVIDE A TENANT'S LEGAL SERVICES AND ASSISTANCE COORDINATOR TO ADMINISTER THE PROGRAM; CREATE A TENANTS' COMMITTEE COMPRISED OF FIVE MEMBERS PAID A \$1,000 PER YEAR STIPEND; AND PROVIDE RENTAL ASSISTANCE FOR PERSONS THAT ARE VULNERABLE TO EVICTION; AND SHALL THE FULL PROCEEDS OF SUCH TAXES AT SUCH RATES AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF BOULDER UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

#### Major Provisions

This issue proposes an excise tax on landlords who are licensed to rent residential property. The tax of \$75 per year per license begins in 2021 and can increase with inflation. A building with 4 apartments typically requires 4 rental licenses, meaning an excise tax of \$300 for the apartment building. The tax revenue provides funds for the administration - including a coordinator and

paid tenant supervisory committee, rental assistance and/or legal representation for tenants vulnerable to eviction.

The amount of the revenue generated is based on charging the tax to the approximately 25,000 dwelling units that require a rental license.

The five-member supervisory committee is made up of Boulder residents who are renters and do not own real property.

The coordinator is responsible for contracting and supervising legal service providers and the administration of the rental assistance program for tenants vulnerable to eviction.

## **Background**

This issue began as a citizen initiative by the group No Evictions Without Representation (NEWR) which proposed a \$75 annual fee per rental unit to pay for tenants' legal representation in case of eviction. On July 6, 2020, the City Clerk determined that NEWR had gathered enough signatures to put their proposal on the ballot.

City Council at its August 18 meeting amended the ordinance based on the petition, Council changed the fee to a tax and added rental assistance to the uses of the revenue, Council thought that changing the fee to a tax would reduce the likelihood of legal challenges, and that rental assistance could reduce the need for legal assistance. After the August 18 meeting, NEWR agreed to withdraw the initial petition in exchange for this ballot issue being placed in front of voters.

### **Those IN FAVOR say:**

- Programs like NEWR which create access to legal counsel have been proven to reduce evictions. San Francisco's right-to-counsel program saw a 10% drop in evictions in a single year.
- Evictions can cause long term harm and lead to homelessness. Access to legal counsel is a proven way to reduce evictions. A recent study found that only 2% of tenants showed up to court with an attorney, compared to 88% of landlords - creating an imbalance of power. In Colorado an eviction stays on a tenant's record for at least seven years. This makes the ability to obtain housing more difficult as landlords may refuse to rent to tenants that have been evicted.
- By providing both rental and legal assistance this ballot issue will give tenants the means to work through financial hardships and hopefully stay housed

### **Those OPPOSED say:**

- Landlords will pass the \$75 tax increase on to tenants, making the Boulder rental market even more expensive.
- Protecting tenants in this manner could encourage irresponsible behavior. For example, a tenant knowing that they were leaving Boulder for good, could decide not to pay their last few months rent. In this case the landlord would have to pay for an attorney in an attempt to regain lost rental income while the tenant has free representation.
- Requiring all landlords to pay the tax which funds the program is unfair. A suggested alternative would be to have those landlords who file for evictions float the cost of providing legal representation to tenants.

## **City of Boulder Ballot Issue 2C Public Service Company Franchise**

Shall the City of Boulder grant a franchise to Public Service Company of Colorado to furnish, sell, and distribute gas and electricity to the City and to all persons, businesses, and industries within the City and the right to make reasonable use of all streets and other public places and public easements as may be necessary as described in Ordinance 8410?

### **Major Provisions**

Referred to voters by the City Council, the question is whether to grant a 20-year franchise, January 1, 2021, through December 31, 2040, to Public Service Company of Colorado (PSCo, a subsidiary of Xcel Energy) to provide gas and electricity in the city using city streets and other public places and public easements. The franchise suspends the city's efforts to create a municipal electric utility.

The franchise fee would be 3% of Xcel's gross revenues in the city. Boulder customers would pay a surcharge on their Xcel bill which would be passed on to the city each month. Street lighting, traffic signal lighting, and other city purchases of utilities would be exempt from the franchise fee.

The Settlement Agreement package is detailed in several public documents: the Franchise Agreement (attached to Ordinance 8410 which put the question on the ballot), the Settlement Agreement, Energy Partnership Agreement, and Load Interconnection Agreement. If ballot question 2C passes, the City Council will pass an ordinance that grants the franchise.

The lengthy documents include standard material for utility franchises, citations of state law, and provisions negotiated with the city of Boulder in particular.

- Xcel will reduce its greenhouse-gas emission levels by 80% from 2005 levels by 2030, and help Boulder achieve its goal of 100% renewable energy by 2030.

- With approval of a two-thirds of City Council or a majority of the voters, the city can terminate the franchise at six opt-out points, three of them at its own discretion (2026, 2031, 2036) plus three if Xcel does not meet stated benchmarks for reducing greenhouse-gas emissions (2023, 2025, 2028).

- The city and Xcel will settle any current disputes, including the city's effort to condemn Xcel's assets in an attempt to acquire them for municipalization. The pending condemnation case will be dismissed by both parties; Boulder will withdraw a settlement offer from the Federal Energy Regulatory Commission; Xcel will dismiss its pending award of attorneys' fees; and neither Xcel nor Boulder will seek or receive any award of cost or attorneys' fees arising from pending litigation.

- Xcel will allow the city to use its trenches and poles for municipal broadband cables.

- Xcel will invest \$33 million in the undergrounding of overhead electrical lines for improved reliability and aesthetics.

- The settlement includes a partnership agreement whereby the city collaborates with Xcel on local projects and initiatives that support clean energy, such as updating Boulder's electric grid.

- Xcel will help Boulder pursue statewide energy-related legislative change, such as lifting the cap on energy that can be generated from solar panels.

- The city's Utility Occupation Tax, levied on Xcel in lieu of a franchise fee, will end.

A **yes** vote on 2C means that the city grants the franchise and suspends municipalization efforts. Xcel collects a franchise fee and passes it on to the city. The city's Utility Occupation Tax (UOT) ends.

A **no** vote on 2C means that the city continues municipalization efforts and Xcel continues to provide service. Xcel continues through 2022 to collect the UOT and pass it on to the city.

## **Background**

The City Charter requires franchises to be approved by City Council by ordinance and submitted to a vote of the city electors. In 2010, City Council voted not to negotiate a new PSCo franchise but to let the 20-year agreement expire at the end of 2010. Xcel continued to provide service, as mandated by the Colorado Public Utility Commission. In November, 2010, to replace the lost franchise fee revenue, voters approved Council's proposal of a Utility Occupation Tax collected by Xcel and passed on to the city's general fund. In November, 2011, voters approved exploring the creation of a municipal electric utility and increasing the UOT by an amount dedicated to municipalization. The UOT is set to expire on December 31, 2022.

## **Those IN FAVOR say**

- The proposed franchise and settlement agreements are the best offer the city has received from Xcel and the city's best chance of achieving its renewable-energy goals. They include opt-out opportunities should Xcel not meet the stated goals.
- After ten years of effort and close to a \$30 million investment we are no closer to the tactical goal of municipalization.
- Xcel has made great strides in transitioning to clean energy; the proposed franchise codifies a meaningful transition. We should let Xcel manage distribution while Boulder focuses on acquiring renewable energy as the franchise permits.
- Because of the pandemic and decreased sales tax revenue, the city's finances no longer support pursuing municipalization. Fundamental city services suffer. If the city continues to fight, its legal fund will be used up in 2022 and Council will need to ask voters to approve more taxes.
- Our tax dollars are better spent lobbying for state-wide efforts than on attorneys' fees and an uncertain outcome should the issues go to trial.
- Experience teaches that neither a muni nor a regulated utility is "better" than the other. The grass is not always greener, and a muni won't solve all problems. In a pandemic, a municipal utility would have to raise rates.
- Instead of municipalization, which means paying for and dealing with old wires and poles and transformers, Boulder should focus on direct benefits of renewables, efficiency in buildings, and clean transportation.
- There is plenty of time for the details to be aired before the election.

## **Those OPPOSED say**

- The complicated documents (100 pages of fine print) need to be evaluated by Boulder's business community like any other business deal. Xcel is not a normal business but rather a monopoly which protects its own interests.

- Granting the franchise would mean abandoning a decade of work toward municipalization and an investment of \$20 million or more.
- Xcel's goal of reducing its carbon emissions by 80% by 2030 (Colorado state law) is incompatible with Boulder's goal of being 100% renewable (wind, solar) by the same time. It is unclear how many non-renewable energy sources that don't release carbon Xcel would pursue.
- The franchise agreements weaken Boulder's energy autonomy and free-market access, locking the city into a bad deal and monopoly control. Colorado cities with municipal electric utilities get better deals. The proposed franchise does not get us to our climate change and equity goals in the most efficient and environmentally friendly way.
- Voters are not able to compare costs of Xcel with other, cleaner, possibly less expensive suppliers. Xcel currently sources 30% of electricity from renewables, and projects 53% by 2024.
- Boulder already has sufficient offers for inexpensive solar and wind energy to meet our carbon reduction goals should we choose to move forward. In 2018, Boulder received good-faith estimates that offered 89% renewables by 2024 for two-thirds Xcel's price. The city received two more bids in August 2020.
- If Colorado deregulated its energy industry, Boulder might be able to get a better deal.
- Voters do not have enough time to understand and discuss the proposed settlement and franchise agreements. The proper process, including cost comparison, is being short-circuited.

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## **City of Boulder Ballot Issue 2D Repurpose the Utility Occupation Tax**

Without raising the tax rate shall the existing utility occupation tax, which in 2021 and 2022 will be in the amount of \$2,076,181, be extended from a current expiration date of December 31, 2022 to December 31, 2025 and be repurposed to pay all costs associated with the formation of a municipal electric utility and to be used to fund projects, pilots, initiatives, and research that support the city's clean energy goals in the context of the city's racial equity goals and the community's commitment to the Paris Climate Agreement, such as: Providing energy-related assistance to disadvantaged members of the community, including support for utility bill payments and access to renewable energy; Improving system reliability and modernizing, and supporting clean energy-related businesses, including, without limitation, new approaches in electrification of buildings and transportation, enhancement of resilience; Implementing a partnership agreement with Public Service Company of Colorado; and Increasing access to energy efficiency and renewable energy solutions; only if a majority of registered electors approve a franchise agreement with Public Service Company of Colorado at the November 3, 2020 election, and shall the extended portion of the tax be subject to the same terms and conditions as the original tax and all earnings thereon (regardless of amount) constitute a voter approved revenue change, and an exception to the revenue and spending limits of Article X, Section 20 of the Colorado Constitution?

### **Major Provisions**

Referred to the voters by City Council , this issue proposes that if question 2C, the franchise proposal, passes, then the portion of the Utility Occupation Tax (UOT) dedicated to exploring the creation a municipal electric utility, \$2,076,181, will be extended by three years, through

2025. It will be repurposed to fund working with Public Service Co. of Colorado (PSCo, a subsidiary of Xcel Energy) for clean energy, climate action, and racial equity. City efforts would include helping disadvantaged members of the community with utility bill payments and increasing access to energy efficiency and renewable energy.

- If ballot question 2C, the franchise question, passes and issue 2D fails, Xcel customers will pay a franchise tax and not the UOT.
- If ballot question 2C passes and issue 2D passes, the municipalization portion of the UOT will be repurposed beginning in 2021 and extended through 2025.
- If ballot question 2C fails, then whether issue 2D passes or fails nothing changes. Both portions continue through 2022.

### **Background**

The UOT that the city levies on Xcel is a surcharge on city customers' Xcel bills that is passed on to the city. (Xcel bills list it as the Boulder Occupation Tax.) It originated after City Council voted in 2010 not to negotiate a new PSCo franchise but to let the 20-year agreement expire at the end of the year. In November 2010, to replace the franchise fee revenue, Council proposed and voters approved a five-year UOT for 2011–2015, the revenues going to the city's general fund. In November 2011, Council proposed and voters approved adding to the UOT a portion dedicated to municipalization efforts, and extending the entire UOT through 2017. In 2015 and 2017, voters approved extending the general fund and municipalization portions of the UOT through 2022.

For 2020, 2021, and 2022, the UOT is set at \$6,556,362. The municipalization portion, \$2,076,181, is about 32% of the total UOT. The rest goes to the general fund.

The proposed franchise agreement documents in ballot question 2C include a partnership agreement with Xcel for collaboration on local projects and initiatives to support the vision of “energy-related emissions reductions by increasing accessibility to local renewable energy, improving resilience and reliability and designing solutions that are accessible and equitable.” Issue 2C proposes repurposing the municipalization portion of the UOT to fund such future “projects, pilots, initiatives, and research.”

#### **Those IN FAVOR say**

- The city's municipalization effort has been costly. The pandemic has hurt the city financially. Extending the UOT would put the city on better financial footing.
- Boulder should do its part to solve the climate crisis, the existential threat of our time, and be a model for the rest of Boulder County.

#### **Those OPPOSED say**

- If the franchise is granted, it is appropriate for the UOT, both portions, to end.
- If more funds are needed for working in partnership with Xcel toward cleaner energy generation, a new tax should be proposed, even a sales tax or property tax.

## **City of Boulder Ballot Issue 2E**

### **Charter Amendments Related to Direct Election of the Mayor**

Shall Article II, Sections 3, 4, 5, 7, 8, 14, and 15 of the Boulder City Charter be amended to provide for the direct election of the mayor by ranked choice (instant runoff) voting?

#### **Major Provisions:**

The Boulder City Council currently consists of 9 members, 5 elected every 2 years with the top 4 vote-getters serving 4-year terms and the 5<sup>th</sup> vote-getter serving a 2-year term. The City Council chooses the mayor from among its members. Boulder's "weak" mayor is a member of Council with additional administrative and ceremonial roles, as opposed to strong mayors who act as full-time chief executives.

If approved by voters, this ballot measure would create a separate mayoral election on the ballot beginning in 2023. The duties and powers of the mayor would not change. The mayor would serve a 2-year term, as contrasted with the 4-year terms of Council members. This measure introduces an 8-year term limit for mayor or a 4-year term limit when the mayor previously served 3 terms as a Council member. A Council member with two years remaining on their term may be elected mayor, with the fifth highest vote-getter taking the vacant Council seat of the new mayor.

If more than two candidates run for mayor, the ballot would ask voters to rank candidates, #1 for the first choice, #2 for the second choice and so on. The tabulation method is known as instant-runoff voting (IRV), a form of ranked choice voting (RCV). Upon counting the first-choice votes, if one candidate has a majority, that candidate is the winner. If no candidate gets a majority, then the candidate with the fewest votes is eliminated. Any ballot marked for the eliminated candidate has the vote go toward the second-choice candidate (if one is marked). The elimination-and-transfer rounds continue until one candidate is declared a winner.

- A VOTE "YES" MEANS that Boulder would directly elect its mayor and use instant-runoff voting if more than 2 mayoral candidates are on the ballot.
- A VOTE "NO" MEANS that City Council would continue to choose the mayor from among the City Council members elected by the voters of Boulder.

#### **Background**

Organizers collected a substantial number of signatures and then worked with the city attorney's office to modify the measure to provide for filling all the seats on Council. Council members requested and approved other modifications in the length of the mayor's term and the election year for the mayor. The City Council referred this measure to the ballot on a 5 to 4 vote in Ordinance 8420.

The Boulder County Clerk told City Council that the county is not authorized to conduct an IRV election, and that the city should plan to conduct its own IRV election. The city is not currently prepared financially or logistically to do so.

### **Those IN FAVOR say**

- All the Colorado cities larger than Boulder and several smaller than Boulder directly elect their mayor. Boulder has an antiquated system.
- Being directly elected could increase the stature of the mayor when dealing with other cities.
- Many people will run for the prestigious mayor position.
- This is not a drastic measure. It doesn't change any of the duties or powers of the mayor, but it introduces people to a better voting method. Enacting IRV may pave the way for proportional representation on City Council via single transferable vote, which uses the same ballot design as IRV.
- IRV lets voters rank candidates rather than be limited to the choose-one voting method typically used for single-winner elections, and IRV addresses the problem of spoilers. (A spoiler candidate draws votes from the supporters of a similar candidate resulting in a dissimilar candidate winning with a plurality.)
- By putting this on the ballot and passing it, Boulder will put pressure on the state to pass legislation enabling county coordination of IRV municipal elections.
- Boulder can go back to the voters and ask for a delay in IRV implementation if neither the city nor the county can run the election in 2023.
- IRV is in use for mayoral elections in Basalt, Telluride, and Carbondale, as well as other US cities such as Santa Fe, San Francisco and Minneapolis.

### **Those OPPOSED say**

- The relationship of an elected mayor with a city manager can be confusing due to the two conflicting sources of power – a mayor selected by electors and a city manager by Council. Having the City Council choose the mayor makes sense because the mayor runs the City Council meetings; Council is most affected by the mayoral decision and would choose someone they respect and believe would do the best job.
- This proposal is unlikely to attract the best candidates to run for mayor. The mayoral candidates vie for a single seat with a 2-year term. Other candidates running for Council can win one of several seats and a 4-year term.
- This is a solution in search of a problem. During the signature collection process, many Boulderites expressed surprise that the electorate doesn't directly elect a mayor, but such lack of knowledge indicates that people haven't been clamoring to directly elect a mayor.
- Overall, 2E takes us in the wrong direction - towards a single winner contest and a complicated ranking ballot. Boulder's election problem is electing Council without ensuring a diversity of perspectives. A ranked ballot is not necessary for achieving "proportional representation." Changing from a multi-winner Council election to a single-winner mayoral election is not an improvement.
- Neither the city nor the county is prepared to conduct an IRV election – in the case of the city because of the expense and training required. Approval voting, for example, could be implemented with almost no added cost or training and also addresses the spoiler problem.
- IRV auditing is not supported by Colorado's risk-limiting auditing (RLA) software.



- The places in Colorado that have conducted IRV elections have had one tenth the population of Boulder, manually counted the ballots and did not conduct RLAs. Telluride has no plans to continue their IRV experiment in future years.
  - Voters in Burlington, VT, repealed IRV after their 2009 IRV election for mayor did not elect the most preferred candidate. Burlington also showed that an IRV winner is NOT always chosen by a majority of the voters.
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## **City of Boulder Ballot Issue 2F**

### **Charter Amendment Related to the Boulder Arts Commission**

Shall new Sections 135 and 136 be added to the City Charter pursuant to Ordinance 8405 to increase the size of the Boulder Arts Commission to seven members, allow for continued service by existing Arts Commission members, provide for staggered terms for the new members and for filling of vacancies?

#### **Major Provisions**

Referred to the voters by City Council, the proposal would add new Sections 135 and 136 to the Boulder City Charter to increase the number of members of the Boulder Arts Commission to seven, from five. It also provides for the appointment and terms of office for newly appointed Commissioners and addresses ways to fill vacancies on the Commission. In March 2021, in addition to filling vacancies or expired terms, the Council will appoint one new member for a five-year term and one new member for a three-year term.

#### **Background**

Over the last few years, the City Council has increased arts funding substantially. The Boulder Arts Commission is charged with funding arts in the community in a fair and equitable manner while encouraging and supporting a diverse arts community. The work requires a substantial time commitment from Arts Commission members, who work as unpaid volunteers. In its 2020 message to the City Council, the Arts Commission, by unanimous vote, asked Council to consider increasing the size of the Commission from five to seven members to better distribute the increased work load.

#### **Those IN FAVOR say**

The current Arts Commissioners are hoping that two additional members will help to broaden representation within the community, especially regarding equity and inclusion, and help spread the workload among seven instead of five Commissioners. Their work includes scoring arts grants applications, serving on public art selection panels and deliberating over budget and policy matters. Each Commissioner sometimes serves 40 or more hours per month beyond their public meetings. Arts Commissioners attend many arts summits and workshops help by the Office of Arts and Culture, serve as liaisons with the 37 arts organizations that receive general operating funds, and attend many exhibits, performances, and art tours. With an increasing

work load resulting from Council having recently appropriated more funds to the Arts Commission, having seven instead of five Arts Commission members will reduce the amount of work required by each unpaid volunteer Commissioner.

**Those OPPOSED say**

There is no record of opposition comments.

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