

RESOLUTION NO. 2013-80

A RESOLUTION DESCRIBING A PROPOSAL FOR A BALLOT ISSUE FOR THE NOVEMBER 2013 GENERAL ELECTION AUTHORIZING THE FORMATION OF THE BOULDER COUNTY NEDERLAND ECO PASS PUBLIC IMPROVEMENT DISTRICT AND THE IMPOSITION OF A MILL LEVY WITHIN THE DISTRICT TO PAY THE COSTS OF PROVIDING AN ECO PASS TO ALL PERMANENT RESIDENTS IN THE DISTRICT; AND MODIFYING THE BALLOT TITLE

WHEREAS, the Board of County Commissioners desires to modify the proposed ballot title for the ballot issue which it adopted August 13, 2013 by Resolution No. 2013-65; and

WHEREAS, Part 5, Article 20, Title 30, Colorado Revised Statutes, as amended, provides that a public improvement district may be formed for the imposition of a district-wide ad valorem property tax upon approval of a majority of the registered electors of the district on such question; and

WHEREAS, a petition has been filed with the office of the clerk of the Board of County Commissioners (the "Board") which, among other things, requests the organization of the "Boulder County Nederland Eco Pass Public Improvement District" to pay the costs of providing an Eco Pass to all permanent residents in the district; and

WHEREAS, for 2012 and 2013 all full-time residents of the proposed district have been eligible to receive a free Eco Pass, which provides unlimited Regional Transportation District bus and light rail access (with a \$2.50 surcharge for buses headed to and from Denver International Airport, Special Services not included: Buff Bus and Rockies Ride); and

WHEREAS, for 2012 and 2013 the program has cost approximately \$85,000 per year and been funded through a combination of DRCOG CMAQ (Congestion Mitigation and Air Quality) grant funding and Boulder County local match funds, but the grant funding expires at the end of 2013 and a new funding source must be created in order to pay for the program on an annual, on-going basis; and

WHEREAS, if funding permits after all the costs of providing an Eco Pass to permanent residents in the district are paid, remaining revenues may pay for additional or expanded transit service hours of existing bus routes, or transit related amenities, including but not limited to: bus stop pads, benches, bicycle racks and shelters, and sidewalk improvements; and

WHEREAS, the Nederland Board of Trustees has requested that the Board place the district formation and taxation questions on the November 5, 2013 ballot; and

WHEREAS, the proposed district will include the same properties as are currently in the Nederland Library District: those properties wholly located within that portion of Boulder County within a five mile radius of the Nederland Town Hall, with the exception of properties that have been excluded from the Library District. This area shall include the Town of Nederland; Highway 72 north to approximately the University of Colorado Research Station

Road (County Road 116); the Glacier Lake area, portions of upper Sugarloaf Road to approximately Silver Springs and Switzerland Park; Caribou Ranch; Cold Springs; Ridge Road, St. Anton Highlands and Bonanza Estates; portions of upper Magnolia Road and Lazy Z; portions of south Highway 72 to approximately Pinecliffe; Haul Road; Eldora and Eldora Ski Resort; Hessie and Fourth of July Road; Caribou Road and Beaver Valley Estates.

WHEREAS, the present estimated cost of providing the proposed service for property owners within the district boundaries is \$110,000 per year for 10 years, including the cost to provide the Eco Pass and the cost to administer the Eco Pass program (including taking photos, distributing passes, maintaining rosters, etc); and

WHEREAS, the Board desires to refer to the registered electors of the district, to be determined by a majority voting thereon, the question of whether the district shall be formed and whether such taxes shall be approved or disapproved; and

WHEREAS, the election shall be conducted a coordinated election in Boulder County in accordance with articles 1 to 13 of title 1, C.R.S. (the "Uniform Election Code"); and

WHEREAS, the Clerk and Recorder of Boulder County (the "County Clerk") is the coordinated election official for the election pursuant to the Uniform Election Code, and is responsible for mailing the notice of election required by Article X, Section 20(3)(b) of the Colorado Constitution (the "TABOR Notice"); and

WHEREAS, the County will assist the County Clerk in providing necessary information and notices for the conduct of the election; and

WHEREAS, pursuant to the criteria for ballot titles required pursuant to §30-11-103.5, C.R.S. and set forth at §31-11-111, C.R.S., in fixing this ballot title, the Board finds that the title set forth in Appendix A is not misleading, clearly identifies the effect of a "yes" or "no" vote, does not conflict with title of any other measure that will appear on the Boulder County ballot, and correctly and fairly expresses the true intent and meaning of the measure; and

WHEREAS, Resolution No. 2013-65 set the ballot title for purposes of ballot title challenges pursuant to Section 1-11-203.5, C.R.S.; and

WHEREAS, the Board has determined to make an insubstantial modification to the ballot title for the ballot issue to be submitted at the election called by this Resolution.

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY:

1. An election shall be held on Tuesday, November 5, 2013 (the "Election Date") at which there shall be submitted to the eligible electors of the district the ballot issue which shall be in substantially the form attached hereto as Appendix A.

2. The cost of the election shall be paid from the general fund of the County.

3. The conduct of the election shall conform so far as is practicable to the general election laws of the State of Colorado.

4. The ballot title for the ballot issue attached hereto as Appendix A shall be the text of such ballot issue.

5. Michelle Krezek, Intergovernmental Relations Director and Administrative Deputy to the Board is hereby designated as the "Designated Election Official" responsible for the running of the election for the County. The Designated Election Official is hereby authorized and directed to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and comply with the Uniform Election Code, Article X, Section 20 of the Colorado Constitution ("TABOR") and other applicable laws and election rules; provided that all acts required or permitted by the Uniform Election Code relevant to voting by early voters' ballots, absentee ballots and emergency absentee ballots which are to be performed by the designated election official shall be performed by the County Clerk. The election shall be conducted in accordance with the Uniform Election Code, TABOR and all other applicable laws.

6. Not later than 60 days before the Election Date (Friday, September 6, 2013) the Designated Election Official shall certify a copy of the ballot issue set forth in Appendix A hereto to the County Clerk in accordance with §1-5-203, C.R.S. If the County refers more than one ballot issue to the voters at the same election (whether by this Resolution or one or more other resolutions), the order of the ballot shall, as provided by the rules of the Secretary of State, be as follows: first, measures to increase taxes; second, measures to retain revenues in excess of the County's fiscal year spending limit; third, measures to increase debt; fourth, citizen petitions; and fifth, other referred measures. If the County refers more than one ballot issue within any such category, the order within such category shall, unless otherwise determined by the County, be the same as the order of the ballot issues in the resolution of the County that orders that such ballot issues be so referred (with questions set forth in separate resolutions listed in the order in which such resolutions were adopted).

7. No later than 42 days before the Election Date (Tuesday, September 24, 2013), the Designated Election Official shall submit the TABOR Notice to the County Clerk in the form, if any, specified by the County Clerk. Thereafter, at least 30 days before the Election Date (Friday, October 4, 2013) the County Clerk is to mail, at the least cost, the notice required by Article X, Section 20(3)(b) of the Colorado Constitution to the registered voters of the District.

8. No later than 20 days before the Election Date (Wednesday, October 16, 2013), the Designated Election Official shall ensure that the additional posting of financial notice is made on the County's website or, if the County does not maintain a website, at the County's chief administrative office in accordance with the requirements of C.R.S. § 1-7-908. Additionally, no later than 20 days before the Election Date the Designated Election Official shall cause a notice of election to be published (if not otherwise published by the County Clerk) in accordance with §1-5-205, C.R.S.

9. No later than 10 days before the Election Date (Friday, October 25, 2013) the Designated Election Official shall cause a notice of election to be posted in the office of the Designated Election Official in accordance with the §1-5-205, C.R.S.

10. As provided in §1-1-106, C.R.S., if the State Constitution or a State statute requires doing an act “no later than” or “at least” a certain number of days prior to the Election Date, the period is shortened to and ends on the prior business day that is not a Saturday, Sunday or legal holiday.

11. If a majority of the votes cast on the ballot issue attached hereto as Appendix A submitted at the election shall be in favor of such ballot issue, the District acting through the Board shall be authorized to proceed with the necessary action to levy taxes in accordance with the approved ballot issue. Any authority to levy ad valorem property taxes, if conferred by the results of the election, shall be deemed and considered a continuing authority to levy the taxes so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

12. The officers and employees of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

13. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Board and the officers and employees of the County and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

14. All prior acts, orders or resolutions, or parts thereof, by the County in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

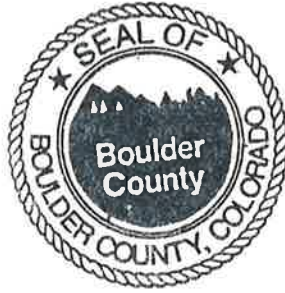
15. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

16. This Resolution 2013-80 supersedes prior Resolution No. 2013-65 in its entirety, except as to ballot title challenges pursuant to Section 1-11-203.5, C.R.S., which are unaffected by the insubstantial modification adopted here.

17. This Resolution shall take effect immediately upon its passage.

ADOPTED AND APPROVED this 3rd day of September, 2013.

(SEAL)



BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY, STATE OF
COLORADO

Cindy Domenico

Cindy Domenico, Chair

ATTEST:

Walter Sydes
Clerk to the Board

Deb Gardner

Deb Gardner, Vice-Chair

Elise Jones

Elise Jones, Commissioner

**APPENDIX A
FORM OF BALLOT ISSUE**

Boulder County Ballot Issue 1B:

SHALL BOULDER COUNTY NEDERLAND ECO PASS PUBLIC IMPROVEMENT DISTRICT TAXES BE INCREASED UP TO \$110,000 ANNUALLY (SUCH DOLLAR AMOUNT REPRESENTING CALENDAR YEAR 2014 TAX COLLECTIONS) FOR A LIMITED TEN YEAR PERIOD THROUGH AN AD VALOREM PROPERTY TAX MILL LEVY IMPOSED AT A RATE NOT TO EXCEED 1.85 MILLS, WITH THE ANNUAL TAX REVENUES FROM SUCH MILL LEVY (REGARDLESS OF DOLLAR AMOUNT) ON AND AFTER CALENDAR YEAR 2014 TO BE USED FOR THE PURPOSE OF PAYING THE COSTS OF PROVIDING AN ECO PASS TO ALL PERMANENT RESIDENTS IN THE DISTRICT; SHALL THE REVENUE FROM TAXES AUTHORIZED BY THIS BALLOT ISSUE CONSTITUTE A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITATIONS SET FORTH IN SECTION 29-1-301 OF THE COLORADO REVISED STATUTES; AND SHALL BOULDER COUNTY NEDERLAND ECO PASS DISTRICT BE ORGANIZED, ALL AS MORE PARTICULARLY SET FORTH IN BOARD OF COUNTY COMMISSIONERS' RESOLUTION NO. 2013-80?

YES

NO