

RESOLUTION NO. 2003 - 91

A RESOLUTION DESCRIBING A PROPOSAL FOR THE EXTENSION OF AN EXISTING 0.05% COUNTY-WIDE SALES AND USE TAX FOR FUNDING REHABILITATIVE ALTERNATIVES TO JAIL, INCREASED JAIL CAPACITY AND OPERATION THEREOF, A NEW ADDICTION RECOVERY CENTER FACILITY; FOR THE ISSUANCE OF CAPITAL IMPROVEMENT BONDS TO FINANCE INCREASING THE CAPACITY OF THE JAIL BY REMODELING THE EXISTING JAIL FACILITY AND BUILDING A NEW RESIDENTIAL ADDICTION DETOXIFICATION, TREATMENT, AND TRANSITION FACILITY, THROUGH A MULTIPLE-FISCAL YEAR COMMITMENT OF REVENUES FROM SUCH TAX, AND FROM GENERAL FUND MONEYS AND OTHER LEGALLY AVAILABLE FUNDS; AND A VOTER-APPROVED REVENUE CHANGE.

WHEREAS, Article 2, Title 29, Colorado Revised Statutes, (hereinafter the "Article") as amended, provides for the imposition of a county-wide sales and use tax upon approval of a majority of the registered electors of the County voting on such question; and

WHEREAS, on August 14, 2001, the Board of County Commissioners adopted Resolution 2001-109, proposing and placing on the November 2001 election ballot the approval of a 0.05% county-wide sales and use tax, the proceeds of said tax to be spent in accordance with the terms of said Resolution to acquire, construct, and improve fire training centers in Boulder County; and

WHEREAS, the voters of the County of Boulder approved the county-wide sales and use tax proposal described in said Resolution 2001-109, and said county-wide sales and use tax is currently being collected and the revenues therefrom expended in accordance with the terms of said Resolution, which revenues upon expiration of said tax on December 31, 2004 will be sufficient to complete the projects funded thereby; and

WHEREAS, the population of Boulder County has risen from approximately 200,000 people in 1988 to approximately 275,000 people in 2002; and

WHEREAS, the current jail, built in 1988, was designed to house 287 inmates, was expected to be adequate only until 1998, and the jail population is now greater than 400 on a regular basis because of double bunking; and

WHEREAS, the Sheriff began to transport and board both male and female prisoners at other jails at significant cost to the County's taxpayers in February, 2003, and the Chief Judge has been required to release prisoners early in order to manage the jail population; and

WHEREAS, when the Sheriff transports and boards 10 inmates in other jails, the cost to the taxpayers is greater than the annual cost of repaying construction bonds used to build a small addition to the Boulder County Jail;

WHEREAS, when the Sheriff transports and boards 42 inmates in other jails, the cost to the taxpayers is greater than the annual cost of operating 42 beds in the Boulder County Jail;

WHEREAS, state budget cuts to prison, parole, and probation staff will cause a further increase in jail population; and

WHEREAS, all criminal justice system managers have worked diligently to keep the jail population down by substantial use of alternatives to jail such as home detention, day reporting, and work release, such that one-third to one half of those who would otherwise be in jail are serving their sentences in jail alternatives, which is more than three times the national average; and

WHEREAS, all criminal justice system managers have worked diligently to develop rehabilitation programs that reduce the number of defendants who are required to serve jail time; and

WHEREAS, jail alternatives and rehabilitation programs not only reduce the jail population, but also allow people to obtain or maintain jobs, to pay taxes, to support their families, to develop a law-abiding lifestyle, and to remain connected to their families, their religious institutions, and their community organizations, all of which increases their chances of success in treatment and rehabilitation programs; and

WHEREAS, state budget cuts have reduced funding available to jail alternatives, so that certain alternatives risk the loss of funding; and

WHEREAS, federal grants will not longer be available to fund certain effective jail alternative programs, such as Partnership for Active Community Engagement a specialized probation program for mentally ill defendants, which has dramatically reduced the number of days mentally ill defendants have spent in jail; and

WHEREAS, a current crisis exists with regard to jail overcrowding that requires the immediate construction of a sixty-four (64) bed addition to the jail facility; and

WHEREAS, the current Addiction Recovery Center, which was built twenty years ago is small, inadequate, out-dated, and unsafe;

WHEREAS, an adequate residential facility for detoxification, treatment, and transition services is a critical resource for law enforcement and provides an alternative to jail, thus reducing the need for jail beds;

WHEREAS, additional rehabilitation programs designed to meet the needs of persons with mental illness and other psychological disorders, substance addictions, life skills and cognitive deficits, and propensities for violence will slow the need for new jail beds; and

WHEREAS, the Board finds that the most appropriate response to this crisis is to seek a continuation of the 0.05% sales and use tax in order to construct space for adding 64-beds and

related space at the current jail facility, to increase staff to operate jail with the new space, to construct an Addiction Recovery Center facility for detoxification, treatment, and transition services, to fund certain jail alternative programs that would otherwise be terminated because of loss of grant, state, or federal funding, and to fund new jail alternatives and rehabilitation programs that will reduce the need for further jail beds; and

WHEREAS, the existing sales tax was intended to increase public safety and the extension will also serve the purpose of increasing public safety; and

WHEREAS, if such extension is approved, revenues collected from the imposition of said 0.05% county-wide sales and use tax would be expended for the purposes and in accordance with the limitations set forth herein, and Resolution No. 2001-109 would be superceded by this Resolution effective for revenues collected from the imposition of said 0.05% county-wide sales and use tax on and after January 1, 2005; and

WHEREAS, due to the immediacy of the need, capital improvement trust fund bonds as authorized by law in a maximum principal amount of \$4,255,000 should be issued in order to allow such capital improvements to take place as soon as possible, said revenue bonds to be repaid through a multiple-fiscal year commitment of revenues received from the extended 0.05% county-wide sales and use tax and moneys transferred to the Boulder County Offender Management and Services Capital Improvement Trust Fund from the County's general fund and other legally available funds; and

WHEREAS, due to the revenue limitations contained in Colo. Const., Art. X, Section 20, even where the voters of the County have approved such a sales and use tax, and the issuance of revenue bonds, the uneven flow of revenues of such taxes and bonds and the earnings from such tax and bond revenues from year to year, could cause significant problems in the funding and provision of County programs and services in any future year; therefore, it is necessary to obtain a voter-approved revenue change; and

WHEREAS, this Board finds that the extension of the existing fire training center county-wide sales and use tax in the existing amount of 0.05%, removing its current expiration date of December 31, 2004, to be effective in perpetuity or until repealed or revised by further vote of the citizens of Boulder County, the issuance of up to \$4,255,000 in capital improvement trust fund bonds, with proceeds of such extended tax and bonds to be utilized for jail capital construction purposes, jail staffing and other operating costs, for building a new Addiction Recovery Center detoxification, treatment, and transition services facility, and for bond issuance costs, and the exemption of such tax revenues, bond proceeds and the interest thereon from the fiscal year spending limitations of article X, section 20 of the Colorado Constitution, would provide additional revenues to be utilized now to meet the critical jail and addiction recovery center facility needs; and

WHEREAS, said Article provides for the submission of such a county-wide sales and use tax proposal to the registered electors of the County at a general election scheduled within 120 days after adoption of such resolution, or if no general election is to be held within 120 days, at a special

election to be held for the purpose of voting thereon; and

WHEREAS, Article X, Section 20 of the Colorado Constitution requires that such election be held on the first Tuesday in November in an odd-numbered year, which this year is November 4, 2003; and

WHEREAS, Boulder County, with voter approval, is statutorily authorized to issue bonds to finance jail and other capital facilities and improvements, and to repay those bonds from any revenue source available to the County; and

WHEREAS, the Board of County Commissioners of the County of Boulder, State of Colorado, desires to refer to the registered electors of the County of Boulder, State of Colorado, to be determined by a majority of voters voting thereon, the question of whether such taxes, bonds and voter-approved revenue change shall be approved or disapproved; and

WHEREAS, the said Article provides that the County Clerk and Recorder shall publish the text of such tax proposal four separate times, a week apart, in the official newspaper of the County and of each city and incorporated town within the County; and

WHEREAS, Colo. Const., Art. X, Section 20(3)(b), requires certain election notices to be mailed to all registered voters of the County; and

WHEREAS, the said Article provides that the proposal shall contain certain provisions concerning the amount, levying and scope of said tax; and

WHEREAS, it is the intent of the Board of County Commissioners that, should the proposal to extend the existing county-wide 0.05% sales and use tax, issue new bonds, and obtain a voter-approved revenue change for such tax, bond and earnings proceeds, not be approved by the electorate in November, the existing tax and existing voter-approved revenue change, shall not in any way be affected by such failed extension and shall continue in full force and effect as if this Resolution had not been adopted.

NOW, THEREFORE, BE IT RESOLVED that the existing county-wide fire training center 0.05% sales and use tax and revenue change proposal as originally stated in Resolution 2001-109 shall be amended as set forth below upon the approval of a majority of registered electors voting thereon.

BE IT FURTHER RESOLVED THAT there shall be referred to the registered electors of the County of Boulder at a special election to be held on Tuesday, November 4, 2003, the following proposal:

1. THAT the county-wide one-twentieth of one percent (0.05%) sales tax in accordance with the provisions of Article 2, Title 29, Colorado Revised Statutes, as amended, is imposed on the sale of tangible personal property at retail or the furnishing of services in the County of Boulder as

provided in Paragraph (d) of Subsection (1) of Section 29-2-105, Colorado Revised Statutes, as amended, and as is more fully hereinafter set forth. For the purposes of this sales tax proposal, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of the County of Boulder or to a common carrier for delivery to a destination outside the limits of the County of Boulder. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, Colorado Revised Statutes, as amended, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the County of Boulder or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by this proposal shall be determined by the provisions of Article 26 of Title 39, Colorado Revised Statutes, as amended, and by rules and regulations promulgated by the Department of Revenue. The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, Colorado Revised Statutes, as amended. The tangible personal property and services taxable pursuant to this proposal shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, Colorado Revised Statutes, as amended, and subject to the same exemptions as those specified in Section 39-26-114, Colorado Revised Statutes, as amended, and further subject to the exemption for sales of food specified in Section 39-26-114(1)(a)(XX), Colorado Revised Statutes, as amended, the exemption for purchases of machinery and machine tools specified in Section 39-26-114(11), Colorado Revised Statutes, as amended, and the exemption of sales and purchases of those items in Section 39-26-114(1)(a)(XXI), Colorado Revised Statutes, as amended. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the sales tax imposed by the County of Boulder when such sales meet both of the following conditions:

- (a) The purchaser is a non-resident of or has his principal place of business outside of the County of Boulder; and
- (b) Such personal property is registered or required to be registered outside the limits of the County of Boulder under the laws of the State of Colorado.

The county-wide sales tax shall not apply to the sale of construction and building materials, as the term is used in Section 29-2-109, Colorado Revised Statutes, as amended, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the County evidencing that a local use tax has been paid or is required to be paid.

The county-wide sales tax will not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule county equal to or in excess of that sought to be imposed by the County of Boulder. A credit shall be granted against the sales tax imposed by the County of Boulder with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule county. The amount of the credit shall not exceed the sales tax imposed by the County of Boulder.

The sales tax imposed shall be collected, administered and enforced by the Executive Director of the Department of Revenue in the same manner as the collection, administration and enforcement of the Colorado State sales tax, as provided by Article 26 of Title 39, Colorado Revised Statutes, as amended.

2. THAT a County-wide one-twentieth of one percent (0.05%) use tax in accordance with the provisions of Article 2, Title 29 Colorado Revised Statutes, as amended is imposed for the privilege of using or consuming in the County of Boulder any construction and building materials purchased at retail and for the privilege of storing, using, or consuming in the County of Boulder any motor and other vehicles, purchased at retail on which registration is required. The use tax shall not apply:

(a) To the storage, use, or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the County of Boulder;

(b) To the storage, use, or consumption of any tangible personal property purchased for resale in the County of Boulder either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

(c) To the storage, use, or consumption of tangible personal property brought into the County of Boulder by a non-resident thereof for his own storage, use, or consumption while temporarily within the County; however, this exemption does not apply to the storage, use, or consumption of tangible personal property brought into this state by a non-resident to be used in the conduct of a business in this state;

(d) To the storage, use, or consumption of tangible personal property by the United States government, or the State of Colorado, or its institutions, or its political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions;

(e) To the storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance, or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded, or furnished and the container, label, or the furnished shipping case thereof;

(f) To the storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule county equal to or in excess of that imposed by the County of Boulder. A credit shall be granted against the use tax imposed by the County of Boulder with respect to a person's storage, use, or consumption in the County of Boulder of tangible personal property purchased in another statutory or home rule county. The amount of the credit shall be equal to the tax paid by the person by reason of the imposition of a sales or use tax of the other statutory or home

rule county on the purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this resolution;

(g) To the storage, use, or consumption of tangible personal property and household effects acquired outside of the County of Boulder and brought into it by a non-resident acquiring residency;

(h) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a non-resident of the County of Boulder and he purchased the vehicle outside of the County of Boulder for use outside of the County of Boulder and actually so used it for a substantial and primary purpose for which it was acquired and he registered, titled, and licensed said motor vehicle outside of the County of Boulder;

(i) To the storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to January 1, 1994, or, where applicable to such storage, use or consumption after December 31, 2004, pursuant to a written contract for the purchase thereof entered into prior to November 4, 2003;

(j) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let, or entered into any time prior to January 1, 1994, or, where applicable to such storage, use or consumption after December 31, 2004, pursuant to a construction contract bid, let, or entered into prior to November 4, 2003.

3. THAT except as provided by Section 39-26-208, Colorado Revised Statutes, as amended, any use tax imposed shall be collected, enforced and administered by the County of Boulder. The use tax on construction and building materials will be collected by the County building inspector or as may be otherwise provided by intergovernmental agreement, based upon an estimate of building and construction materials costs submitted by the owner or contractor at the time a building permit application is made.

4. THAT, if the majority of the registered electors voting thereon vote for approval of this County-wide sales and use tax extension proposal, such existing 0.05% County-wide sales and use tax shall continue to be effective throughout the incorporated and unincorporated portions of the County of Boulder in perpetuity and shall not expire, unless and until repealed or otherwise revised by a vote of the citizens of Boulder County.

5. THAT, if the majority of the registered electors voting thereon vote for approval of this County-wide sales and use tax extension proposal, revenues collected from the imposition of said 0.05% county-wide sales and use tax up to and including December 31, 2004 would continue to be expended for the purposes and in accordance with the limitations of Resolution No. 2001-109, and Resolution No. 2001-109 would be superceded by this Resolution effective for revenues collected from the imposition of said 0.05% county-wide sales and use tax on and after January 1,

2005.

6. THAT, if the majority of the registered electors voting thereon vote for approval of this proposal, the Board of County Commissioners may issue up to \$4,255,000 maximum principal amount, net of any premium, of capital improvement trust fund bonds payable from moneys transferred to the Boulder County Offender Management and Services Capital Improvement Trust Fund from moneys from the County's extended 0.05% sales and use tax authorized herein, and to the extent moneys from such tax are not sufficient for the repayment of such bonds, from the County's general fund and other legally available funds, in such amount as is necessary to pay the debt service on the bonds and to otherwise comply with the covenants of the bond issuance resolution or other instruments governing such bonds; and

7. THAT the cost of the election shall be paid from the general fund of the County of Boulder.

8. THAT the County Clerk and Recorder shall publish the text of this sales and use tax proposal four separate times, a week apart, in the official newspaper of the County of Boulder and each city and incorporated town within this County.

9. THAT the County Clerk and Recorder, as election officer, shall undertake all measures necessary to comply with the election provisions set forth in Colo. Const., Art. X, Section 20(3), including but not limited to the mailing of required election notices and ballot issue summaries.

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

11. THAT the net proceeds from the sales and use tax received by the County of Boulder during the extended period authorized hereby, as well as the net proceeds from the issuance of capital improvement trust fund bonds, shall be expended by the County of Boulder for the following purposes:

- (a) To pay for the construction of jail addition(s) and remodeling and capital equipment in order to adequately incarcerate inmates and detainees lawfully required to be incarcerated therein.
- (b) To pay for staffing and other operating costs of the jail.
- (c) To pay for all related costs of the construction and staffing set forth in subparagraphs (a) and (b) above.
- (d) To pay for the construction and equipping of a new residential Addiction Recovery Center facility for detoxification, treatment, and transition.
- (e) To pay for alternatives to jail for persons with mental illness and other psychological



disorders, substance addictions, life skills and cognitive deficits, and propensities for violence.

- (f) To pay the costs of issuance and debt service of revenue bonds, including principal, interest, and premium, if any, thereon, as authorized by this resolution.
- (g) To pay the costs of evaluating existing and potential alternatives to jail and planning for new alternatives to jail.

17. THAT capital improvement trust fund revenue bonds may be issued in the aggregate principal amount of \$4,255,000, the proceeds of which shall be used for the purposes and in accordance with the limitations of this resolution, for the repayment of which the monies deposited in the Boulder County Offender Management and Services Capital Improvement Trust Fund shall be pledged, and that, if this ballot measure is approved by a majority of the voters voting thereon, the Board of County Commissioners shall adopt a resolution authorizing the bonds and setting the terms thereof, such bonds being issued in accordance with part 5 of article 26 of title 30, C.R.S., as amended.

18. THAT interest generated from the revenues of the sales and use tax shall be used for the purposes set forth in this Resolution.

19. THAT, for purposes of Colo. Const., Art. X, Section 20, the receipt and expenditure of revenues of the sales and use tax and the proceeds of the revenue bonds and refunding bonds, if any, together with earnings on the investment of the proceeds of the tax and bonds, shall constitute a voter-approved revenue change.

20. THAT, upon the effective date of the extension of the 0.05% county-wide sales and use tax proposed herein, the county-wide total sales and use tax rate of 0.55%\*, when added to state and municipal sales and use tax rates existing as of the date hereof which are non-exempt under the provisions of Section 29-2-108, C.R.S., as amended, results in a total sales and use tax rate in excess of the 6.9 percent limit stated in said statute as follows: Erie: 6.95%; Lafayette: 6.95%; Nederland: 7.2%; Superior 6.91%. \*Assumes 2003 approval of extension of 0.05% "Worthy Cause" county-wide sales and use tax; otherwise, total county-wide sales and use tax would be 0.50%, and municipal figures would each be less 0.05%.

21. THAT if any provision of this resolution or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or applications and to this end, the provisions of this resolution are declared to be severable.

22. THAT the proposal as described in this Resolution shall take effect immediately upon the approval of the electorate.

23. THAT a notice of the adoption of this county-wide sales and use tax extension

proposal by a majority of the registered electors voting thereon shall forthwith be submitted by the County Clerk and Recorder to the Executive Director of the Department of Revenue, together with a certified copy of this Resolution.

24. That, should this proposal to extend the existing fire training center county-wide 0.05% sales and use tax, issue new bonds, and obtain a voter-approved revenue change, not be approved by the electorate in November, the existing tax and existing voter-approved revenue change, shall not in any way be affected by such failed amendment and shall continue in full force and effect as if this Resolution had not been adopted.

25. THAT this Board shall undertake to set a ballot title for this issue at a public hearing held for said purpose.

IT IS HEREBY DECLARED by the Board of County Commissioners of the County of Boulder and State of Colorado that this resolution is necessary for the immediate preservation of the public health, safety and welfare, and that it shall become effective immediately upon its adoption.

ADOPTED this 5<sup>th</sup> day of August, 2003.

BOARD OF COUNTY COMMISSIONERS OF THE  
COUNTY OF BOULDER

(SEAL)

\_\_\_\_\_  
Paul D. Danish, Chair

Attest:

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Ronald K. Stewart, Vice-Chair

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Clerk to the Board

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Tom Mayer, Commissioner