

RESOLUTION NO. 2017-88

A Resolution of the Board of County Commissioners of Boulder County describing a proposal to authorize the formation of the Burgundy Park Public Improvement District of Boulder County; impose a mill levy within the District to pay the costs of resurfacing county roads within the District; authorize the District to enter a no-interest multiple-fiscal year obligation to the County; authorize a voter-approved revenue change; and other matters related thereto.

Recitals

- A. Part 5, Article 20, Title 30 of the Colorado Revised Statutes (“C.R.S.”), 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 eligible electors in the district on such question.
- B. Pursuant to C.R.S. § 30-20-512(1)(e), a public improvement district may incur debt to fund its purposes, to be repaid from property tax revenues.
- C. A petition was filed (the “Petition”) with the office of the clerk of the Board of County Commissioners of Boulder County (the “Board”) which, among other things, requests the organization of the “Burgundy Park Public Improvement District of Boulder County” (the “District”). The purposes of the District will be to pay the costs of resurfacing of county roads within the District, including the repaving and/or reconstruction of asphalt roads; sidewalk improvements; concrete curb, gutter and cross-pans directly associated with road resurfacing; and other costs directly associated with resurfacing work. The initial work will begin within two years after an election forming the District and approving the mill levy (the “Initial Work”) and subsequent repair and repaving will be conducted as necessary in the future (the “Future Work”).
- D. County staff estimates the Initial Work will cost \$548,000. The useful life of the improvements undertaken as part of the Initial Work is estimated to be 20 years, at which time the Future Work may be undertaken.
- E. Under the proposal in the Petition, the County will fund 30% of the Initial Work and lend the remaining 70% of the cost of the Initial Work, at 0% interest, to the District. The County’s loan to the District will be repaid by the property tax revenues described herein, with 100% of such revenues going to pay back the County until such loan has been fully repaid. Repayment to the County is expected to take approximately ten years, but in no instance longer than the useful life of the Initial Work. Once the District has finished reimbursing the County for its 70% share of the cost of the Initial Work, District tax revenues will accrue so that the Future Work may be paid for in cash.
- F. The total costs to the District for the Initial Work and the Future Work in the next 20 years is estimated to be \$918,000. At the current Residential Adjustment Rate of 7.20%, the adjusted assessed value of all property within the District (for 2017) is \$2,200,000. To meet the funding requirements for the Initial Work and Future Work, a mill levy of 16.597 mills is requested, equivalent to \$119.50 per \$100,000 in current, actual home value as determined by the Boulder County Assessor.

- G. The mill levy is proposed to remain in place in perpetuity or until adjusted by the Board of Directors for the District. The County intends to reevaluate the costs of the Future Work in 10 years from the date of the election forming the District and every 10 years thereafter.
- H. The signers of the Petition have requested that the Board place the questions of district formation, mill levy taxation, and the no-interest, multi-fiscal year obligation to the County on the November 7, 2017 ballot.
- I. The District will include all of those properties listed on the attached Exhibit A.
- J. A duly noticed public hearing was held on August 15, 2017, at which the Board reviewed the Petition and the public was given the opportunity to comment on the question of formation of the District, the proposed mill levy to fund the District, and the loan from the County for 70% of the cost of the Initial Work.
- K. After review of the Petition, material presented by County staff, and testimony from the public at the public hearing, the Board desires to refer to the electors of the District, to be determined by a majority voting thereon, the question of whether the District shall be formed, whether the ad valorem taxes shall be approved or disapproved, and whether the District shall be authorized to incur a no-interest, multi-fiscal year obligation to the County in the amount of 70% of the Initial Work.
- L. The Board further desires to refer to the electors of the District, to be determined by a majority voting thereon, the question of whether the revenues from the ad valorem taxes, loan proceeds, and any other revenues legally available to the District shall be exempted from the fiscal year revenue and spending limitations, and be a voter-approved revenue change and property tax revenue change for purposes of the revenue limitations set forth in Article X, Section 20, of the Colorado Constitution (“TABOR”) and in C.R.S. § 29-1-301 et seq. and any other law.
- M. Pursuant to C.R.S. § 30-20-508(4)(a), the Board may order that the question of the organization of the District and such other matters for which voter approval is required under TABOR be submitted to the electors at an election to be held for that purpose in accordance with Articles 1-13 of Title 1, C.R.S. (the “Uniform Election Code”).

Therefore, the Board resolves:

1. The Petition properly set forth all information required by C.R.S. § 30-20-505.
2. The requirement for a bond set forth in C.R.S. § 30-20-506, is hereby waived.
3. As of the date of the public hearing on the Petition held August 15, 2017, as ascertained from the tax rolls of the County and the last official registration list, the Petition was signed by more than 30% of eligible electors, as required by C.R.S. § 30-20-505(1).
4. The allegations of the Petition are deemed to be true.
5. The Board of County Commissioners has jurisdiction to review and approved the Petition under C.R.S. §§ 30-20-501 et seq.

6. The improvements proposed by the District will confer a general benefit on the District and the estimated costs are not excessive as compared to the value of the property in the District.
7. A mill levy of 16.597 mills will be sufficient and necessary to cover the expected costs of the District's purposes.
8. The County intends to pay 100% of the costs of the Initial Work with the understanding that the District will repay 70% of the costs of the Initial Work from its tax revenues and other legally available funding sources, all to be set forth in a subsequent intergovernmental agreement to be signed by the County and the District.
9. The proposed District shall be called The Burgundy Park Public Improvement District of Boulder County.
10. There shall be referred to the electors of the District at the coordinated election to be held on Tuesday, November 7, 2017, a ballot issue seeking authorization for the formation of the District, imposition of ad valorem taxes, assumption of a multiple-fiscal year obligation, and a voter-approved revenue change.
11. The cost of the election shall be paid from the general fund of the County.
12. The conduct of the election shall conform so far as is practicable to the general election laws of the State of Colorado.
13. The Board shall take further action by subsequent resolution to set a ballot title for the proposal described herein. For purposes of C.R.S. § 1-11-203.5, as amended, such resolution shall serve to set the ballot title for such proposal.
14. No later than September 8, 2017, the Designated Election Official shall certify the order of the ballot and ballot content to the Clerk and Recorder of the County (the "County Clerk"). The "Designated Election Official" shall be Michelle Krezek, Intergovernmental Relations Director and Administrative Deputy to the Board.
15. 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, 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.
16. No later than September 26, 2017, the Designated Election Official shall submit to the County Clerk, in the form, if any, specified by the County Clerk, the notice of election required by Subsection (3)(b) of TABOR. Thereafter, no later than October 6, 2017, the County Clerk is to mail, at the least cost, the notice required by Article X, Section 20(3)(b) of TABOR to the registered voters of the District.

17. No later than October 18, 2017, 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.
18. If a majority of the votes cast at the election are in favor of the organization of the District, the Board shall adopt a resolution declaring the District organized, pursuant to C.R.S. § 30-20-508(4)(b). 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.
19. The Designated Election Official, the County Clerk, and other 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.
20. 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.
21. 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.
22. 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.
23. This Resolution shall take effect immediately upon its passage.

A motion to this effect was made at the August 15, 2017 public hearing by Commissioner _____, seconded by Commissioner _____, and passed by a ___ vote of the Board.

[Signature page follows.]

ADOPTED on this ____ day of _____, 2017.

BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY:

Deb Gardner, Chair

Cindy Domenico, Vice-Chair

Elise Jones, Commissioner

ATTEST:

Clerk to the Board

EXHIBIT A

List of District properties

Lots 1-10, 13, and 15-43 of Johnson Farm Subdivision Replat G; Outlots A, B, E, G, H, J of Johnson Farm Subdivision Replat G; Lots 1K-3K of Johnson Farm Subdivision Replat K.