

Type of Meeting: Administrative Matters

Name of requestor: Laurie Stolen [970-980-2670](tel:970-980-2670)

Department: Alternative Sentencing

Preferred appearance date: 8/2/2016 Time required: 15 minutes

Date decision needed: 8/2/2016

Objective: Behavioral Health Initiative-Request to refer initiative to the Ballot

Situation: The time has arrived. We have generated extraordinary support and interest from the community on this topic. Prepped from the Work Session on July 27th, we are here now to ask you to refer the initiative to the ballot.

Proposal: As written and approved by the County Attorney, we offer you this resolution to consider for referral to the 2016 November ballot.

Advantages: Enhanced behavioral health in our community through a secured funding source.

Disadvantages:

Requested action: We request that you approve a Resolution proposing the imposition of a 0.25% county-wide sales and use tax for the construction, improvement, maintenance, and operations of a mental health, detox and substance abuse treatment facility and related community services; referring a ballot issue to the 2016 General Election ballot for the approval of such proposal and calling an election.

Potentially Affected Interest: The citizens of Larimer County

Level of Public Interest and Participations: Extraordinary

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION DESCRIBING A PROPOSAL FOR THE IMPOSITION OF A 0.25% COUNTY-WIDE SALES AND USE TAX FOR THE CONSTRUCTION, IMPROVEMENT, MAINTENANCE, AND OPERATIONS OF A MENTAL HEALTH, DETOX AND SUBSTANCE ABUSE TREATMENT FACILITY AND RELATED COMMUNITY SERVICES; REFERRING A BALLOT ISSUE TO THE 2016 GENERAL ELECTION BALLOT FOR THE APPROVAL OF SUCH PROPOSAL AND CALLING AN ELECTION.**

WHEREAS, Article 2 of Title 29, Colorado Revised Statutes, as amended, authorizes referral of a county-wide sales and use tax to the registered electors of a county either by resolution adopted by the Board of County Commissioners of such county or by petition initiated and signed by five percent of the registered electors of such county; and

WHEREAS, pursuant to § 29-2-104(3), Colorado Revised Statutes, as amended, the Board of County Commissioners of Larimer County ("County") in the State of Colorado ("State") desires to refer to the registered electors of the County a proposal for a county-wide sales and use tax at the next general election on November 8, 2016, a day which is within the next succeeding 120 days after the adoption of this Resolution; and

WHEREAS, § 29-2-105, Colorado Revised Statutes, as amended, requires that a proposal for a county-wide sales and use tax contain certain provisions concerning the amount, levying and scope of such tax; and

WHEREAS, Article X, Section 20 of the State Constitution requires voter approval of the proposed county-wide sales and use tax;

WHEREAS, Section 29-2-103.9 Colorado Revised Statutes authorizes a County to levy a sales tax for providing mental health care to residents of the county;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY that there shall be referred to the registered electors of the County at the general election to be held on November 8, 2016, the following proposal:

**Section 1.** THAT a county-wide twenty-five hundredths of one percent (0.25%) sales tax beginning January 1, 2017 in accordance with the provisions of Article 2, Title 29, Colorado Revised Statutes, as amended, and ending December 31, 2041, shall be imposed on the sale of tangible personal property at retail and the furnishing of services in the County, as provided in § 29-2-105(d)(1), Colorado Revised Statutes, as amended, and as is more fully hereinafter set forth.

- (a) 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 or to a common carrier for delivery to a destination outside the limits of the County. 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. If a retailer has no permanent place of business in the County 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 State Department of Revenue.

- (b) 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.
- (c) 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 § 39-26-104, Colorado Revised Statutes, as amended, and subject to the same exemptions as those specified in Part 7, Article 26, Title 39, Colorado Revised Statutes, as amended, and further subject to the exemptions for:
  - (1) The exemption for sales of machinery or machine tools specified in Section 39-26-709 (1), C.R.S.;
  - (2) The exemption for sales of electricity, coal, wood, gas, fuel oil, or coke specified in Section 39-26-715 (1)(a)(II), C.R.S.;
  - (3) The exemption for sales of food for home consumption specified in Section 39-26-707 (1)(e), C.R.S.;
  - (4) The exemption for vending machine sales of food specified in Section 39-26-714 (2), C.R.S.;
  - (5) The exemption for occasional sales by a charitable organization specified in Section 39-26-718 (1)(b), C.R.S.;
  - (6) The exemption for sales of farm equipment and farm equipment under lease or contract specified in Section 39-26-716 (2) (b) and (2)(c), C.R.S.;
  - (7) The exemption for sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in Section 39-26-719(1), C.R.S.;
  - (8) The exemption for sales of pesticides specified in Section 39-26-716(2)(e), C.R.S.; and

- (9) The exemption for sales of components for production of energy from renewable energy sources specified in Section 39-26-724, C.R.S.
- (d) 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 when such sales meet both of the following conditions:
- (1) The purchaser is a non-resident of or has his principal place of business outside of the County; and
  - (2) Such personal property is registered or required to be registered outside the limits of the County under the laws of the State.
- (e) The county-wide sales tax shall not apply to the sale of construction and building materials, as the term is used in § 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.
- (f) 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 already 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. A credit shall be granted against the sales tax imposed by the County 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.
- (g) The county-wide sales tax will not apply to the sale of food purchased with food stamps. For purposes of this paragraph, "food" shall have the meaning as provided in 7 U.S.C. § 2012(g) as such section existed on October 1, 1987 or as such section is thereafter amended.
- (h) The county-wide sales tax will not apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants and children, 42 U.S.C. § 1786. For purposes of this paragraph, "food" shall have the same meaning as provided in 42 U.S.C. § 1786 as such section existed on October 1, 1987 or as such section is thereafter amended.
- (i) Any person engaging in the business of selling tangible personal property at retail, or the furnishing of certain services as herein specified, is required to obtain a license therefore, which license shall be granted at no cost and issued by a

designated official of the County Financial Administration Division. Such license shall be granted upon application stating the name and address of the person desiring such license, the name of such business and location, and such other facts as the said official may reasonably require. In case business is transacted at two (2) or more separate places by one person, a separate license for each place of business shall be required. Each license shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable. Any license may be revoked for cause as provided in § 39-26-103, Colorado Revised Statutes, as amended, and any amendment thereto enacted before the effective date of this proposal, which provision is incorporated herein by this reference. No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this proposal.

- (j) The vendor (retailer) shall not be entitled as collecting agent to withhold a collection fee unless such a fee, and the amount thereof is established by the Board of County Commissioners as an amendment to this resolution.
- (k) 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 State sales tax, as provided by Article 26 of Title 39, Colorado Revised Statutes, as amended.

**Section 2.** THAT a county-wide twenty-five hundredths of one percent (0.25%) use tax beginning January 1, 2017 in accordance with the provisions of Article 2, Title 29, Colorado Revised Statutes, as amended, and ending December 31, 2041, shall be imposed for the privilege of using or consuming in the County any construction and building materials purchased at retail and for the privilege of storing, using, or consuming in the County 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;
- (b) to the storage, use or consumption of any tangible personal property purchased for resale in the County 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 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, 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. A credit shall be granted against the use tax imposed by the County with respect to a person's storage, use, or consumption in the County 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 proposal;
- (g) to the storage, use, or consumption of tangible personal property and household effects acquired outside of the County and brought into it by a nonresident 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 and he purchased the vehicle outside of the County for use outside of the County 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;
- (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 the effective date of this use tax;
- (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 the effective date of this use tax; or
- (k) to the storage of construction and building materials.

**Section 3.** THAT the use tax provided-for herein shall be applicable to every motor vehicle for which registration is required by the laws of the State of Colorado, and no registration shall be made of any motor or other vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Department of

Revenue or its authorized agents until any tax due upon the use, storage, or consumption thereof pursuant hereto has been paid. The use tax imposed hereby shall be collected by the authorized agent of the Department of Revenue in this county. The proceeds of said use tax shall be paid to the County periodically in accordance with an agreement entered into by and between the County and the Department of Revenue.

**Section 4.** THAT distribution of all sales and use tax collected by the Director of Revenue, pursuant to this proposal, shall be to the County, which shall expend such moneys as described herein.

**Section 5.** THAT except as provided by § 39-26-208 Colorado Revised Statutes, as amended, any use tax imposed shall be collected, enforced and administered by the County:

- (a) Any person required to obtain a building permit within Larimer County and the owner of the real property shall be jointly and severally responsible for paying the Larimer County Sales and Use Tax. Prior to the issuance of a building permit, an amount of tax to be held on deposit shall be estimated by determining the building value for permit purposes and multiplying that value by a percentage prescribed by the Planning and Building Services Director. The County through the owner or contractor shall collect this amount. Upon payment of such sales or use tax deposit, the County shall issue a sales or use tax receipt identifying the address for which the purchase is being made and the county building permit number. It shall be the duty of the owner and/or contractor and subcontractors who are hired to do the stated work or any portion thereof to submit a project cost report to the Financial Officer, on forms authorized by the Financial Officer, stating the actual amounts of any purchases of fixtures or any other construction materials and supplies or tangible personal property for such work and to remit any tax due in excess of the sales or use tax deposit. In any case, the general contractor and/or owner will be held liable for the payment of all taxes for such materials.
- (b) The owner and/or contractor shall keep and preserve all invoices, receipts and statements showing such purchases of construction materials and supplies and tangible personal property for a period of three (3) years after completion of construction. The County may, within that three-year period, conduct an audit of such records of the owner and/or contractor and any other relevant information to verify the actual cost of the construction materials and supplies and tangible personal property used therein to determine the actual tax due. If the actual tax due is more than that paid by the taxpayer, the Financial Officer shall serve a notice of determination, assessment and demand for payment on the taxpayer notifying him or her of the deficiency which may include penalty and interest.

**Section 6.** THAT if the majority of the qualified electors voting thereon vote for approval of the county-wide sales and use tax, such county-wide sales and use tax

shall be effective throughout the incorporated and unincorporated portions of the County beginning January 1, 2017, and ending December 31, 2041.

**Section 7.** THAT revenues received by the County from the sales and use tax authorized hereby, net of expenses of the County in collecting, administering and enforcing such sales and use tax (the “net sales and use tax revenues”), and earnings from the investment of the net sales and use tax revenues shall be deposited to a fund known as the county Mental Health Care services fund. The fund shall be used only for the purpose of providing detox and behavioral/mental health care facilities and services in accordance with this resolution and in accordance with Section 29-2-103.9 Colorado Revised Statutes.

**Section 8.** THAT for purposes of State Constitution Article X, Section 20, the receipt and expenditure of the sales and use tax revenues and earnings from the investment of sales and use tax revenues shall be accounted for, budgeted and appropriated separately from other revenues and expenditures of the County and outside of the fiscal year spending of the County as calculated under Article X, Section 20, and nothing in Article X, Section 20 shall limit the receipt and expenditure in each fiscal year of the full amount of such revenues, nor shall receipt and expenditure of such revenues affect or limit the receipt or expenditure of any and all other revenues of the County for any fiscal year.

**Section 9.** THAT the ballot title and ballot question on the county-wide sales and use tax proposal that shall be referred to the registered electors of the County at the general election to be held on Tuesday, November 8, 2016, shall be as follows:

**MENTAL HEALTH, DETOX/SUBSTANCE ABUSE FACILITY AND SERVICES**

SHALL LARIMER COUNTY TAXES BE INCREASED \$16,500,000.00 DOLLARS ANNUALLY (ESTIMATED FIRST FISCAL YEAR DOLLAR INCREASE IN 2017), AND BY WHATEVER ADDITIONAL AMOUNT IS RAISED ANNUALLY THEREAFTER, FOR A PERIOD OF 25 YEARS BY THE IMPOSITION OF A .25% (25 CENTS ON 100 DOLLARS) SALES AND USE TAX WITH ALL REVENUE RESULTING FROM SUCH TAX TO BE USED TO CONSTRUCT, IMPROVE, MAINTAIN, AND OPERATE A TREATMENT AND DETOX FACILITY FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND ALCOHOL ABUSE AND TO OPERATE OUT-PATIENT AND SUPPORT SERVICES IN CONNECTION THEREWITH; AND SHALL THE COUNTY BE AUTHORIZED TO COLLECT AND SPEND THE PROCEEDS OF SUCH TAX WITHOUT LIMITATION BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

**Section 10.** THAT the approval of this resolution shall be considered Final Action for setting the ballot title and ballot question and final action for all other purposes under Section 1-11-203.5 Colorado Revised Statutes.

**Section 11.** THAT the conduct of the election shall conform, so far as practicable, to the general election laws of the State. The County hereby adopts the provisions of § 1-11-203.5, Colorado Revised Statutes, as amended, as the exclusive procedure for protesting or contesting the content of the ballot title set forth above.

**Section 12.** THAT the cost of the election shall be paid from the general fund of the County.

**Section 13.** THAT the County Clerk and Recorder is hereby designated as the County's "designated election official," as defined in § 1-1-104(8), Colorado Revised Statutes, as amended, as the person responsible for running the election, and is directed and authorized to take such action as may be necessary to call, hold and canvass the election in accordance with law.

**Section 14.** THAT pursuant to § 29-2-104(5), Colorado Revised Statutes, as amended, the County Clerk and Recorder shall cause to be published the text of the proposal for a county-wide sales and use tax four separate times, a week apart, in the official newspaper of the County and each city and incorporated town within the County.

**Section 15.** THAT the County Clerk and Recorder shall cause to be published, at least ten days before the election and in the form and containing the information required by law, the notice required by § 1-5-205, Colorado Revised Statutes, as amended. Such notice shall also be posted as required by § 1-5-205(1.3), Colorado Revised Statutes, as amended.

**Section 16.** THAT the County Clerk and Recorder shall cause a notice to all registered electors of the County to be mailed in accordance with Article X, Section 20(3)(b) of the State Constitution and other applicable laws. Such notice shall be in the form and contain the information required by law.

**Section 17.** THAT a notice of the adoption of this county-wide sales and use tax proposal by a majority of the registered electors voting thereon shall be submitted by the County Clerk and Recorder to the Executive Director of the Department of Revenue at least 45 days prior to the effective date of such tax, together with a certified copy of this Resolution.

**Section 18.** THAT the County is authorized to adopt such uniform rules and regulations as may be necessary for the administration and enforcement of the sales and use tax; and the Board of County Commissioners or their authorized representatives are hereby empowered to enter into and execute on behalf of the county any agreements

