

# AGENDA ITEM SUMMARY

February 19, 2019

City Council

## STAFF

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Delynn Coldiron, City Clerk  
John Duval, Legal

## SUBJECT

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Possible Consideration, by City Council, of a Motion to Amend Resolution 2019-022 Related to the Ballot Language for the Renewal of the City's Current "Keep Fort Collins Great" .85% Sales and Use Tax.

## EXECUTIVE SUMMARY

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The purpose of this item is to give Council the opportunity to consider a Motion to Amend Resolution 2019-022 in response to any contest filed in the courts to challenge under City Code Section 7-156 and Section 1-11-203.5 of the Colorado Revised Statutes (CRS) the form or content of the ballot question submitted in Resolution 2019-022 to the City's electors at the April 2, 2019, regular City election.

## STAFF RECOMMENDATION

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Staff recommends consideration by Council of a Motion to Amend if an amendment is desired in light of a timely-filed contest in court.

## BACKGROUND / DISCUSSION

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At its February 12, 2012 meeting, the City Council adopted Resolution 2019-022 (**Attachment 1**) in which it submitted to the City's electors a ballot question for the renewal of the City's current "Keep Fort Collins Great" .85% sales and use tax. At that meeting the Council considered two protests to the ballot question that were filed with the City under City Code Section 7-156. Although the Council denied both protests, it did make some changes to the ballot question suggested by one of the protestants.

Code Section 7-156 provides that any legal challenge or contest to the form or content of a Council adopted ballot question must be filed in the City's Municipal Court or in Larimer County District Court using the contest procedures set forth in CRS Section 1-11-203.5. While these procedures provide for an expedited process for these contests to be heard and decided by the courts, the filing of a contest has the potential for interfering with the City's schedule to print and mail the ballots and the election notice required under Colorado's Taxpayer's Bill of Rights.

This item is therefore being presented to Council to give it the opportunity to consider any changes to the ballot question in Resolution 2019-022 if a contest has been timely filed by the time of this Council meeting (February 19).

Under the Council's adopted Rules of Procedure, the Council may make a "Motion to Amend Something Previously Adopted" at any time to amend a previously adopted resolution provided no actions have been taken under that resolution that cannot be undone (see, Section 3 of "Restorative Motions" on page 10 of Council's Rules of Procedure). No actions have been taken concerning the ballot question in Resolution 2019-022 that cannot be undone.

**ATTACHMENTS**

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1. Resolution 2019-022 (PDF)

RESOLUTION 2019-022  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
SUBMITTING A BALLOT ISSUE QUESTION TO THE CITY'S REGISTERED  
ELECTORS AT THE CITY'S REGULAR ELECTION ON APRIL 2, 2019,  
ASKING THEM TO RENEW WITH MODIFICATONS THE "KEEP FORT COLLINS  
GREAT" .85% SALES AND USE TAX APPROVED BY VOTERS IN 2010 AND  
REPLACING AND SUPERSEDING RESOLUTION 2019-019

WHEREAS, on February 5, 2019, City Council adopted Resolution 2019-019 ("Resolution 2019-019") submitting to the City's registered electors at the City's regular election on April 2, 2019, a ballot issue question concerning the renewal of the "Keep Fort Collins Great" .85% sales and use tax approved by voters in 2010 ("KFCG Tax"); and

WHEREAS, the KFCG Tax was adopted to begin on January 1, 2011, and to end on December 31, 2020, and for its revenues to be spent for these purposes:

- (a) 33% for street maintenance and repair,
- (b) 17% for other street and transportation needs,
- (c) 17% for police services,
- (d) 11% for fire protection and other emergency services,
- (e) 11% for parks maintenance and recreation services, and
- (f) 11% for other community priorities as determined by the City Council; and

WHEREAS, since 2011, the KFCG Tax has funded basic City operations and enabled the City to maintain a desired level of services and respond to community desires in an environment of population growth and annual inflation; and

WHEREAS, in anticipation of the sunset of the KFCG Tax at midnight on December 31, 2020, and its potential effect on the City's budget in future years, the City has engaged the community in the decision of how to best fund current service levels in upcoming years and, after a year-plus effort, including multiple City Council discussions, Board and Commission outreach and public engagement, the Council determined in Resolution 2019-019 this could best be accomplished by asking the City's electors to extend the KFCG Tax; and

WHEREAS, in considering Resolution 2019-019, the City Council made several modifications to the language of the ballot issue question in its Section 2; and

WHEREAS, in doing so, City Council acknowledged that staff may have recommendations for additional changes to the ballot issue question, given Council's modifications, to be considered by Council at its adjourned February 12, 2019, meeting; and

WHEREAS, staff has recommended to Council that it replace and supersede in all respects Resolution 2019-019 with this Resolution and, in particular, that the ballot issue question in Section 2 of this Resolution be submitted to the City's registered electors at the City's April 2, 2019, election instead of the ballot issue question in Section 2 of Resolution 2019-019; and

WHEREAS, the Council has determined that replacing Resolution 2019-019 with this Resolution better reflects the Council's intent in submitting this ballot issue question to the electorate and adds needed clarification as to how the revenues from this renewed tax will be used; and

WHEREAS, it is the Council's intent in submitting the ballot issue question in this Resolution that of the renewed .85% tax rate, the rate of .25% and its revenues are to be used to fund municipal operations and maintenance and any other public purposes and that this .25% rate is to expire at 11:59 p.m. on December 31, 2030; and

WHEREAS, it is also the City Council's intent that the remaining .60% tax rate be renewed without an expiration date and its revenues be used to help sustain public safety service levels, to fund municipal operations and maintenance, and for any other public purposes, except that 15.6% of these revenues are to be used to continue the City's level of funding now being provided under the KFCG Tax for the fire protection and emergency services provided by the Poudre Fire Authority; and

WHEREAS, Article X, Section 3 of the City's Charter authorizes the City Council to submit any question to a vote of the people at a regular City election.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings in the recitals set forth above.

Section 2. That there is hereby submitted to the City's registered electors at the City's regular municipal election to be held on April 2, 2019, this ballot issue question with the following ballot title and submission clause:

**City-Initiated Ballot Issue Question No. 1**

SHALL CITY OF FORT COLLINS TAXES BE INCREASED BY AN ESTIMATED \$34,000,000 FOR THE FIRST FULL FISCAL YEAR (2021) AND BY ALL AMOUNTS COLLECTED ANNUALLY THEREAFTER, BY RENEWING WITH MODIFICATIONS THE CITY'S CURRENT "KEEP FORT COLLINS GREAT" .85% SALES AND USE TAX, WHICH EXPIRES ON MIDNIGHT DECEMBER 31, 2020, WITH THE .85% TAX RATE IMPOSED COMMENCING MIDNIGHT ON DECEMBER 31, 2020, AND USED AS FOLLOWS:

- THE TAX RATE OF .25% SHALL EXPIRE AT MIDNIGHT ON DECEMBER 31, 2030, AND ITS REVENUES SHALL BE USED TO FUND MUNICIPAL OPERATIONS AND MAINTENANCE AND FOR ANY OTHER PUBLIC PURPOSES; AND
- THE REMAINING TAX RATE OF .60% SHALL NOT EXPIRE AND ITS REVENUES SHALL BE USED TO HELP SUSTAIN PUBLIC SAFETY SERVICE LEVELS AND FUND MUNICIPAL OPERATIONS AND MAINTENANCE, AND TO FUND ANY

OTHER PUBLIC PURPOSES, EXCEPT 15.6% OF THESE REVENUES SHALL BE USED TO FUND THE FIRE PROTECTION AND EMERGENCY SERVICES BEING PROVIDED BY THE POU DRE FIRE AUTHORITY (PFA) UNDER THE CITY'S EXISTING AGREEMENT WITH THE POU DRE VALLEY FIRE PROTECTION DISTRICT (DISTRICT), OR IN SUCH OTHER AMOUNT AS THE CITY AND DISTRICT MAY AGREE, BUT ABSENT AN AGREEMENT BETWEEN THEM FOR PFA'S SERVICES, THESE REVENUES MAY BE USED AS DETERMINED BY CITY COUNCIL;

BUT THE .85% TAX RATE SHALL NOT APPLY TO:

- ITEMS NOW EXEMPT UNDER THE CITY CODE FROM THE CITY'S SALES AND USE TAX;
- FOOD FOR HOME CONSUMPTION; AND
- REGARDING THE USE TAX ONLY, MANUFACTURING EQUIPMENT;

AND WITH ALL THE TAX REVENUES, AND INVESTMENT EARNINGS THEREON, TO BE COLLECTED, RETAINED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE NOTWITHSTANDING THE SPENDING AND REVENUE LIMITATIONS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Yes/For  
 No/Against

Section 3. That this Resolution shall replace and supersede in all respects Resolution 2019-019.

Passed and adopted at an adjourned meeting of the Council of the City of Fort Collins this 12th day of February, A.D. 2019.

  
Mayor

ATTEST:

  
City Clerk

