

Subdivision road maintenance

Boulder County staff: Road maintenance fund transfer would violate state law

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A proposal to ask voters to have Boulder County transfer as much as \$5.5 million a year into a new budget account — with part of that money then earmarked to pay for increased spending on rehabilitating rural residential subdivisions' roads — would violate state law, according to the county commissioners' staff.

If you go

What: During their regular Thursday business meeting, Boulder County commissioners are to decide whether to schedule a public hearing on a ballot proposal that would ask voters to transfer funds into a new budget account that would be tapped for increased spending on rehabilitating rural residential subdivision roads.

When: 10:30 a.m. Thursday

Where: Commissioners' third-floor meeting room, Boulder County Courthouse, 1325 Pearl St., Boulder

Further Information: The commissioners' regular business meetings are open to the public but do not include public-hearing opportunities for people to comment on the items on the agenda.

"There is no legal mechanism to transfer money from existing sources with(in) the county budget for road and bridge purposes as required by this ballot measure," Michelle Krezek, the county commissioners' staff deputy, said in a Wednesday memo to commissioners.

"Because the ballot proposal would require current and future county commissioners to violate state law on a yearly basis, it would be invalid and unenforceable," Krezek wrote.

"County ballot issues cannot override state law."

Even if it were legal, the proposal — which the subdivision homeowners' organization Boulder County Fairness in Road Maintenance has asked county commissioners to put on November's ballot — "incorrectly assumes Boulder County has excess funds that are not dedicated to (other) specific uses or purposes," Krezek said.

Krezek also wrote that BoCo FIRM's budget-funds-transfer proposal, if approved by voters, would take away future commissioners' budget discretion by binding them to making annual decisions "to reduce funding for other programs."

Krezek said that could include reductions in future budgets' general-fund spending by the sheriff's office, jail, district attorney's office, human services and sustainability programs, among others, and could affect the emergency reserves the county keeps in case of natural disasters such as fires and floods.

Chuck Wibby, co-chairman of Boulder County Fairness in Road Maintenance, disagreed Wednesday with Krezek's report of the county staff's analysis of his organization's budget proposal.

"We think they have misinterpreted the state statute" about the legality of transferring revenues from the county budget's general fund into the road and bridge fund, Wibby said Wednesday.

On Aug. 11, Boulder County Fairness in Road Maintenance wrote the commissioners asking them to put an item on this fall's ballot to transfer about \$5.5 million or more each year, for 15 years, from "cash on hand, cash in (the) bank and/or investment general fund accounts" into a new "supplemental road fund."

About 42 percent of the money shifted annually into that new county budget account — as much as \$2.3 million a year, starting in 2017 — would then be passed along to Boulder County's cities and towns to spend on their own street, road and bridge work. The other 58 percent, starting with \$3.2 million next year, would have to be spent on rehabilitating about 150 miles of paved county roads inside Boulder County's residential subdivisions, under the ballot proposal.

Wibby maintained on Wednesday that the county has adequate funds on hand to cover the \$5.5 million annual transfer and fix the subdivision roads without reducing spending elsewhere in its budget.

Earlier this month, the commissioners [agreed with another subdivision homeowners group's request](#) to put a 0.785-mill countywide property tax increase proposal on the ballot to help fund municipal and unincorporated county street, road and bridge projects. That tax — sought by a group of subdivision property owners led by Peter King-Smith, chairman of the Pine Brook Hills Homeowners Association's roads committee — would be collected for 15 years, would also generate about \$5.5 million a year.

Boulder County Fairness in Road Maintenance submitted its Aug. 11 ballot request as an alternative to that tax-hike proposal.

The "bottom line," Wibby said Wednesday, is that "we believe the commissioners are afraid to let county residents express their true opinion on how to fix the subdivision road problem."

Wibby said the commissioners should put both questions — the other subdivision homeowners group's tax-increase proposal, and Boulder County Fairness in Road Maintenance's proposed budget-funds shift — on the ballot.

"Let us vote and resolve this issue once and for all," Wibby said.

Wibby predicted that Boulder County voters will reject the proposed property-tax hike, leaving the commissioners "once again without a plan to fix this problem."

The commissioners are to decide during their Thursday morning business meeting whether to schedule a public hearing on BoCo FIRM's ballot proposal, or to decide — as the commissioners' staff has recommended — against taking any further steps toward advancing that proposal to the ballot.

Wibby said he plans to attend Thursday's meeting even though it won't include a public-hearing opportunity for him to speak. He said Boulder County Fairness in Road Maintenance members believe the ballot proposal can still be adjusted to address the county staff's legal concerns and that the organization may submit a revised ballot proposal to the commissioners by next Tuesday afternoon.

The commissioners have until Sept. 9 to make final decisions about what they'll have on Boulder County voters' fall ballots, and the language of each of those questions.

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