

Resolution No. 2009 – 9

TOWN OF OPHIR

A RESOLUTION CALLING AN ELECTION ON NOVEMBER 3, 2009 TO AUTHORIZE A MILL LEVY INCREASE FOR THE PURPOSES OF FUNDING GENERAL TOWN OPERATIONS, MAINTENANCE AND ADMINISTRATION COSTS; SETTING THE BALLOT TITLE AND CONTENT FOR THE BALLOT ISSUE; AND PROVIDING OTHER MATTERS RELATING TO THE BALLOT ISSUE

WHEREAS, Colorado Constitution, Article X, Section 20, (3)(a) states that ballot issues involving property tax increases or debt shall be decided in a state general election, biennial local district election, or on the first Tuesday in November of odd-numbered years, and (4)(a) requires, voter approval in advance for any tax rate increase or mill levy above that for the prior year; and

WHEREAS, Ophir Home Rule Charter, Article VIII TAXATION, Section 1, provides that the Town of Ophir shall not collect property tax revenues greater than the preceding year plus seven (7) percent unless approved by voters; and

WHEREAS, the General Assembly finds that the Town of Ophir's property tax revenues are not sufficient to pay for the expense of operations and maintenance, that the Town of Ophir has used real estate transfer tax revenues to pay for operations, maintenance and administration costs, that real estate transfer tax revenues are not a stable, secure or predictable source of revenues, and that reliance on real estate transfer tax revenues for operations, maintenance and administration costs may result in the financial inability of the Town of Ophir to meet basic operation, maintenance and administrative needs; and

WHEREAS, the Town desires to put the ballot issue set forth in Appendix A hereto before the electors at an election on Tuesday, November 3, 2009; and

WHEREAS, the General Assembly has determined to set the ballot title and content for the ballot issue to be submitted to the eligible electors at the election to be held on November 3, 2009; and

WHEREAS, Section 1., of Article II of the Ophir Home Rule Charter states that, "The General Assembly shall be the sole judge of Town elections"

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR, that:

1. An election shall be held on Tuesday, November 3, 2009 at which there shall be submitted to the eligible electors of the Town a ballot issue authorizing an increase in the District's mill levy for operations, maintenance and administration expenses of the Town, which ballot issue shall be in the form attached hereto as Appendix A. Appendix A is hereby incorporated into this Resolution as if set forth in full herein.

2. The election shall be conducted as a coordinated election in San Miguel County in accordance with articles 1 to 13 of title 1, Colorado Revised Statutes, as amended (the "Uniform

Election Code”) and Intergovernmental Agreement between the Town and the San Miguel County Clerk and Recorder.

3. If a majority of the votes cast on the ballot issue submitted at the election shall be in favor of such ballot issue, the Town acting through the General Assembly shall be authorized to proceed with the necessary action to levy taxes in accordance with such ballot issue. Any authority to levy 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.

4. For purposes of C.R.S. § 1-11-203.5, this Resolution shall serve to set the ballot title and content for the ballot issue set forth herein and the ballot title and content for such ballot issue shall be the text of the ballot issue itself.

5. The Town Clerk, Town Treasurer, Town Attorney, Mayor, or their designees, are hereby authorized and directed are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution. All actions not inconsistent with the provisions of this Resolution, heretofore taken by Town Clerk, Town Treasurer, Town Attorney, Mayor, or their designees, directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

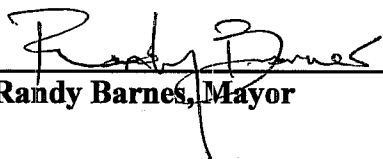
6. Nothing in this Resolution or the ballot title or question shall amend, alter, impair, or affect the prior voter approvals of, and permanent exemptions approved for, the Town’s use tax, property tax, real estate transfer tax, or other revenues.

7. All prior acts, orders or resolutions, or parts thereof, by the Town 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.

8. 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.

9. This Resolution shall take effect immediately upon its passage.

Adopted this 1st day of September, 2009.

By: 
Randy Barnes, Mayor

Attest: 
Rhonda Claridge, Town Clerk

**APPENDIX A
FORM OF MILL LEVY INCREASE BALLOT ISSUE**

Ballot Issue 2A

SHALL TOWN OF OPHIR TAXES BE INCREASED BY \$49,950 ANNUALLY (WHICH DOLLAR AMOUNT REPRESENTS ESTIMATED 2010 TAX COLLECTIONS) AND BY SUCH ADDITIONAL AMOUNTS RAISED ANNUALLY THEREAFTER FROM AN AD VALOREM PROPERTY TAX MILL LEVY IMPOSED AT AN INCREASED RATE OF 7.987 MILLS (MAKING THE TOTAL TOWN OPERATING MILL LEVY 17.252 MILLS) FOR THE PURPOSES OF FUNDING GENERAL TOWN OPERATIONS, MAINTENANCE AND ADMINISTRATION COSTS, PROVIDED HOWEVER, THAT THE DOLLAR AMOUNT ANNUALLY GENERATED FROM THE TAX RATE INCREASE AUTHORIZED BY THIS BALLOT ISSUE SHALL BE ANNUALLY REDUCED, THROUGH A TEMPORARY TAX CREDIT REBATE AND MILL LEVY REDUCTION, BY A DOLLAR AMOUNT WHICH IS NOT LESS THAN THE REAL ESTATE TRANSFER TAX REVENUE RECEIVED BY THE TOWN IN THE CALENDAR YEAR IMMEDIATELY PRECEDING THE ANNUAL DATE FOR MILL LEVY CERTIFICATION; AND SHALL THE REVENUE FROM SUCH TAXES CONSTITUTE PERMANENT VOTER-APPROVED REVENUE CHANGES WITHIN THE MEANING OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND AN EXCEPTION TO THE LIMITATIONS SET FORTH IN SECTION 29-1-301 OF THE COLORADO REVISED STATUTES?

Yes

No