

Resolution No. 2009 -10

TOWN OF OPHIR

A RESOLUTION CALLING AN ELECTION ON NOVEMBER 3, 2009 TO AUTHORIZE THE ISSUANCE OF A LIMITED TAX AND WATER REVENUE BOND AND THE EXTENSION OF A LIMITED LEVY OF PROPERTY TAXES TO PAY SUCH BOND IN PART; 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)(b) requires, with the exception of enterprise revenue bonds, voter approval in advance for the creation of any multiple fiscal year direct or indirect debt; and

WHEREAS, Ophir Home Rule Charter, Article VII MUNICIPAL BORROWING, Section 2, provides that no bonds or other evidence of indebtedness payable in whole or in part from the proceeds of ad valorem property taxes shall be issued until the question of their issuance is submitted at a special or regular election of the Town, provided securities issued to create, improve or extend any municipal utility system, including water systems, may be issued without an election and not included in the debt limitation determination established in such section; and

WHEREAS, the General Assembly of the Town has determined that the interest of the Town and the public interest or necessity requires the issuance of bonds payable in part from ad valorem property taxes to finance water transmission and distribution line replacement and treatment plant construction (collectively, the "Project"); and

WHEREAS, there are not sufficient funds in the treasury of the Town and the General Assembly does not anticipate that existing sources of revenue will be sufficient to generate the moneys necessary to construct, acquire, install and complete the Project; 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 the issuance of a limited tax and water revenue bond and the limited levy of property taxes to pay such bond, which ballot

issue shall be in substantially 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 issue bonds and levy taxes in accordance with such ballot issue. Any authority to issue bonds or to levy taxes, if conferred by the results of the election, shall be deemed and considered a continuing authority to issue the bonds and 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 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 BOND BALLOT ISSUE**

Ballot Issue 2B

SHALL TOWN OF OPHIR DEBT BE INCREASED UP TO \$500,000, WITH A MAXIMUM REPAYMENT COST OF UP TO \$625,000, AND SHALL TOWN TAXES BE INCREASED UP TO \$18,250 ANNUALLY (WHICH DOLLAR AMOUNT REPRESENTS ESTIMATED 2010 TAX COLLECTIONS) THROUGH THE EXTENSION OF THE EXISTING TOWN BOND REDEMPTION MILL LEVY TO CONTINUE TO BE IMPOSED AT THE LIMITED FIXED RATE OF 2.9 MILLS AND TERMINATING ON DECEMBER 31, 2030, FOR THE PURPOSE OF:

- WATER TRANSMISSION AND DISTRIBUTION LINE REPLACEMENT, STORAGE TANK, INFILTRATION GALLERY, WATER METERS, AND/OR TREATMENT PLANT CONSTRUCTION

SUCH DEBT TO CONSIST OF A LIMITED TAX AND WATER REVENUE BOND ISSUED TO, AND EVIDENCING A LOAN FROM, THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY, WHICH BOND (I) SHALL BE PAYABLE FROM THE EXTENSION OF THE TOWN'S EXISTING BOND REDEMPTION LEVY OF 2.9 MILLS (INCLUDING EXISTING FUND BALANCES FROM SUCH MILL LEVY) AND WATER SYSTEM RATES AND CHARGES TO BE IMPOSED BY THE TOWN IN SUCH AMOUNTS AS NECESSARY TO REPAY THE BOND WHEN DUE, AND (II) SHALL BEAR INTEREST AT A RATE OF 2% PER ANNUM AND BE ISSUED IN SUCH MANNER AND CONTAINING SUCH TERMS, NOT INCONSISTENT HEREWITH, AS THE GENERAL ASSEMBLY MAY DETERMINE; AND SHALL ANY EARNINGS ON THE INVESTMENT OF THE REVENUES FROM SUCH TAXES AND REVENUES (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER-APPROVED REVENUE CHANGE WITHIN THE MEANING OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Yes

No