

ORDINANCE NO. 2017-05-634

FILED

2017 MAY -3 AM 9:37

BECKY LEWALLEN  
CO. & PROBATE CLERK  
WASHINGTON COUNTY

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF TONTITOWN, ARKANSAS ON THE QUESTION OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COST OF CAPITAL IMPROVEMENTS; LEVYING A THREE-FOURTHS OF ONE PERCENT (0.75%) SALES AND USE TAX FOR THE SOLE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City Council of the City of Tontitown, Arkansas (the "City") has determined that the City is in need of extensions, betterments and improvements to the City's water system, including particularly, without limitation, a new water line to connect to the water system of the Benton Washington Regional Public Water Authority of the State of Arkansas (also known as "Two Ton") (the "Improvements"); and

WHEREAS, the City Council has determined that it would be in the best interest of the City to issue capital improvement bonds (the "Bonds") under the authority of Amendment No. 62 to the Constitution of the State of Arkansas ("Amendment 62") and Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") in the maximum principal amount of \$7,800,000 to finance all or a portion of the costs of the Improvements; and

WHEREAS, the City can pay the principal of and interest on the Bonds from the proceeds of a new three-fourths of one percent (0.75%) sales and use tax to be levied under the authority of the Authorizing Legislation; and

WHEREAS, the City is not currently levying a sales and use tax under the authority of the Authorizing Legislation; and

WHEREAS, the purpose of this Ordinance is to submit to the electors of the City the question of issuing the Bonds for the Improvements under Amendment 62 and the Authorizing Legislation at a special election to be called for that purpose and to levy a sales and use tax at the rate of three-fourths of one percent (0.75%) on the receipts from the sales at retail within the City of all items which are subject to taxation under the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. §§26-52-101, et seq.), and the receipts from storing, distributing, using or consuming within the City tangible personal property under the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §§26-53-101, et seq.) (the "Sales and Use Tax");

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Tontitown, Arkansas:

Section 1. There is hereby called a special election to be held on July 11, 2017, at which election there shall be submitted to the electors of the City the question of issuing the Bonds under Amendment 62 and the Authorizing Legislation for the Improvements in the maximum principal amount of \$7,800,000, to be payable from collections of the Sales and Use Tax remaining after deduction of the administrative charges of the State of Arkansas and required rebates.

Section 2. In order to provide for the payment of the principal of and interest on the Bonds and all obligations of the City in connection therewith, there is hereby levied the Sales and Use Tax. The levy of the Sales and Use Tax shall not become effective until the special election called in Section 1 above has been held and the issuance of the Bonds is approved by the voters. The Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time under Arkansas law, subject to rebates and limitations as from time to time required by Arkansas statutes for certain single transactions.

Section 3. The question of issuing the Bonds shall be placed on the ballot for the election in substantially the following form:

WATER IMPROVEMENT BONDS

Bonds of the City of Tontitown in the maximum principal amount of \$7,800,000 to finance all or a portion of the costs of extensions, betterments and improvements to the City's water system, including particularly, without limitation, a new water line to connect to the water system of the Benton Washington Regional Public Water Authority of the State of Arkansas (also known as "Two Ton") and, in order to pay the bonds, the levy and pledge of a 0.75% local sales and use tax within the City.

If the bonds are approved, there will be levied within the City a new 0.75% sales and use tax, the net collections of which remaining after deduction of the administrative charges of the State of Arkansas and required rebates, shall be used solely to retire the bonds and obligations of the City with respect thereto. The 0.75% sales and use tax will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes.

FOR.....

AGAINST .....

Section 4. The election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for city elections unless otherwise provided in the Authorizing Legislation and only qualified voters of the City shall have the right to vote at the election.

Section 5. The results of the election shall be proclaimed by the Mayor, and the Proclamation shall be published one time in a newspaper having a general circulation in the City, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty days after the date of publication.

Section 6. A copy of this Ordinance shall be (a) filed with the Washington County Clerk at least 60 days prior to the election date and (b) given to the Washington County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical.

Section 7. The Mayor and City Recorder/Treasurer, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the issuance of the Bonds is approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Authorizing Legislation, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Section 8. If the Bonds are approved and issued, the City intends to negotiate with Stephens Inc., which has assisted the City in preparation of the Bond size and repayment structure, for the sale of the Bonds.

Section 9. The provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.


Section 10. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: May 2, 2017.

ATTEST:

  
\_\_\_\_\_  
City Recorder/Treasurer

APPROVED:

  
\_\_\_\_\_  
Mayor

(SEAL)

CERTIFICATE

The undersigned, City Recorder/Treasurer of the City of Tontitown, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2017-05-634, passed at a regular session of the City Council of the City of Tontitown, Arkansas, held at the regular meeting place of the City Council at 7:00 o'clock p.m., on the 2nd day of May, 2017, and that the Ordinance is of record in the Ordinance Record Book of the City, now in my possession.

GIVEN under my hand and seal this 2nd day of May, 2017.

  
\_\_\_\_\_  
City Recorder/Treasurer

(SEAL)

PROOF OF POSTING OF ORDINANCES

STATE OF ARKANSAS

COUNTY OF WASHINGTON

We, the Mayor and City Recorder/Treasurer, respectively, of and for the City of Tontitown, Washington County, Arkansas (the "City"), hereby certify that a certified copy of Ordinance No. 2017-05-633 (the "Posting Ordinance") and Ordinance No. 2017-05-634 (the "Election Ordinance") were on May 3, 2017, posted in the five public places listed in the Posting Ordinance, and that the Posting Ordinance and the Election Ordinance remained posted for thirty (30) days. We further certify that there is no newspaper published within the corporate limits of the City.

DATED this 5th day of June, 2017.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Recorder/Treasurer

(SEAL)