

ORDINANCE NO. 2021-05-944

AN ORDINANCE AMENDING ORDINANCE NO. 131 IN ORDER TO AUTHORIZE THE NET COLLECTIONS OF THE 1% SALES AND USE TAX LEVIED WITHIN THE CITY OF TONTITOWN, ARKANSAS TO BE USED FIRST, AS NEEDED, TO REPAY BONDS ISSUED FROM TIME TO TIME BY THE CITY AND APPROVED BY THE VOTERS TO FINANCE AND REFINANCE CAPITAL IMPROVEMENTS WITH THE BALANCE TO BE USED TO IMPROVE MUNICIPAL WATER AND SEWER SERVICES; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, pursuant to Ordinance No. 131, adopted August 24, 1999 ("Ordinance No. 131"), and an election held November 2, 1999, the City of Tontitown, Arkansas (the "City") has levied a City-wide 1% sales and use tax (the "Tax"); and

WHEREAS, the City Council amended Ordinance No. 131 pursuant to Ordinance No. 191, adopted November 3, 2004 ("Ordinance No. 191"); and

WHEREAS, at an election held December 14, 2004, the voters of the City approved Ordinance No. 191; and

WHEREAS, pursuant to Ordinance No. 131, as amended by Ordinance No. 191, 75% of the net collections of the Tax are currently used first, as needed, to repay bonds issued by the City from time to time and approved by the voters to finance sewer improvements with the balance used to improve municipal water and sewer services and the remaining 25% of the net collections of the Tax are currently used to improve municipal water and sewer services; and

WHEREAS, the City Council has determined that it would be in the best interest of the City to issue bonds (the "Bonds") to refund the City's Sales and Use Tax Refunding Bonds, Series 2013 and to finance the following capital improvements: (a) extensions, betterments and improvements to the City's water system, (b) extensions, betterments and improvements to the City's sewer system and (c) a new public safety facility containing the police department and a fire station and any necessary furnishings and equipment and parking, street, lighting and utility improvements related thereto, and to secure the Bonds with a pledge of the net collections of the Tax; and

WHEREAS, it is necessary to amend Ordinance No. 131 to authorize the net collections of the Tax to be used first, as needed, to repay bonds issued by the City from time to time and approved by the voters to finance capital improvements with the balance to be used to improve municipal water and sewer services, in order for the Bonds to be secured by the net collections of the Tax;

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

Section 1. Section 1 of Ordinance No. 131, as amended, is hereby further amended to read as follows:

"**Section 1.** Under the authority of the Authorizing Legislation, there is hereby levied a one percent (1%) tax on the gross receipts from the sale at retail within the City of all items which are subject to the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. §§26-52-101, et. seq.), and the imposition of an excise (or use) tax on the storage, use, distribution or other consumption within the City of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §§26-53-101, et. seq.), at a rate of one percent (1%) of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The collections of the Sales and Use Tax that are received after deduction of the administrative charges of the State of Arkansas and required rebates shall be used first, as needed, to repay bonds issued by the City from time to time and approved by the voters to finance and refinance capital improvements with the balance to be used to improve municipal water and sewer services. 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 by Arkansas law, subject to rebates and limitations as from time to time required by Arkansas statutes for certain single transactions."

Section 2. The provisions of this Ordinance are hereby declared to be separable, and if any provision shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of this Ordinance.

Section 3. Ordinance No. 131, as amended hereby, shall remain and be in full force and effect.

PASSED: May 4, 2021

ATTEST:

Rhonda Ardemagni, City Clerk-Treasurer

(SEAL)

APPROVED:

Paul Colvin, Jr., Mayor

CERTIFICATE

The undersigned, City Clerk-Treasurer of Tontitown, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2021-05-944, passed at a regular session of the City Council of Tontitown, Arkansas, held at the regular meeting place of the City Council at 6:00 o'clock p.m., on the 4th day of May, 2021, and that the Ordinance is of record in Ordinance Record Book No. _____, Page _____, now in my possession.

GIVEN under my hand and seal this 4th day of May, 2021.

Rhonda Ardemagni, City Clerk-Treasurer

(SEAL)

RESOLUTION NO. 2021-05-945R

WHEREAS, the City Council of the City of Tontitown, Arkansas (the "City") has adopted Ordinance No. 2021-05-944 (the "Amending Ordinance") on May 4, 2021; and

WHEREAS, the City Council desires to refer the Amending Ordinance to the voters for approval or rejection;

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

Section 1. There is hereby called a special election to be held on July 13, 2021, at which election there shall be submitted to the electors of the City the question of whether the Amending Ordinance shall be approved or rejected.

Section 2. The question of approving or rejecting the Amending Ordinance shall be placed on the ballot in substantially the following form:

ORDINANCE NO. 2021-05-944

AN ORDINANCE AMENDING ORDINANCE NO. 131 IN ORDER TO AUTHORIZE THE NET COLLECTIONS OF THE 1% SALES AND USE TAX LEVIED WITHIN THE CITY OF TONTITOWN, ARKANSAS TO BE USED FIRST, AS NEEDED, TO REPAY BONDS ISSUED FROM TIME TO TIME BY THE CITY AND APPROVED BY THE VOTERS TO FINANCE AND REFINANCE CAPITAL IMPROVEMENTS WITH THE BALANCE TO BE USED TO IMPROVE MUNICIPAL WATER AND SEWER SERVICES; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

FOR Ordinance No. 2021-05-944.....

AGAINST Ordinance No. 2021-05-944.....

Section 3. 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 municipal elections and only qualified voters of the City shall have the right to vote at the election.

Section 4. 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 5. A copy of this Resolution 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.

Section 6. The Mayor and City Clerk-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.

PASSED: May 4, 2021.

ATTEST:

Rhonda Ardemagni, City Clerk-Treasurer

(SEAL)

APPROVED:

Paul Colvin Jr., Mayor

CERTIFICATE

The undersigned, City Clerk-Treasurer of Tontitown, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Resolution No. 2021-05-945R, passed at a regular session of the City Council of Tontitown, Arkansas, held at the regular meeting place of the City Council at 6:00 o'clock p.m., on the 4th day of May, 2021.

GIVEN under my hand and seal this 4th day of May, 2021.

Rhonda Ardemagni, City Clerk-Treasurer

(SEAL)

ORDINANCE NO. 2021-05-946

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF TONTITOWN, ARKANSAS ON THE QUESTIONS OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF FINANCING AND REFINANCING ALL OR A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City Council of the City of Tontitown, Arkansas (the "City") has determined that it would be in the best interest of the City to refund the City's outstanding Sales and Use Tax Refunding Bonds, Series 2013, which bonds refinanced sewer improvements (the "Refunding"); and

WHEREAS, the City Council has further determined that the City is in need of the following capital improvements:

(a) extensions, betterments and improvements to the City's water system (the "Water Improvements");

(b) extensions, betterments and improvements to the City's sewer system (the "Sewer Improvements"); and

(c) a new public safety facility containing the police department and a fire station and any necessary furnishings and equipment and parking, street, lighting and utility improvements related thereto (the "Public Safety Facility Improvements"); and

WHEREAS, the City Council proposes to finance all or a portion of the costs of the Refunding, the Water Improvements, the Sewer Improvements and the Public Safety Facility Improvements by the issuance of 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") allocated as follows:

(a) \$3,600,000 in maximum principal amount for the Refunding;

(b) \$3,750,000 in maximum principal amount for the Water Improvements;

(c) \$3,250,000 in maximum principal amount for the Sewer Improvements; and

(d) \$6,750,000 in maximum principal amount for the Public Safety Facility Improvements; and

WHEREAS, the City can pay the principal of and interest on the Bonds from a pledge of the net collections of a 1% sales and use tax levied within the City by Ordinance No. 131, adopted August 24, 1999, as amended from time to time (the "Tax"); and

WHEREAS, the purpose of this Ordinance is to submit to the electors of the City the questions of issuing the Bonds for the Refunding, the Water Improvements, the Sewer Improvements and the Public Safety Facility Improvements, at a special election to be called for that purpose;

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 13, 2021 at which election there shall be submitted to the electors of the City the questions of issuing the Bonds under Amendment 62 and the Authorizing Legislation to finance all or a portion of the costs of accomplishing the Refunding, the Water Improvements, the Sewer Improvements and the Public Safety Facility Improvements, in the maximum aggregate principal amounts described above, to be secured as described above.

Section 2. The questions of issuing the Bonds shall be placed on the ballot for the election in substantially the following form:

REFUNDING BONDS

Bonds of the City of Tontitown in the maximum aggregate principal amount of \$3,600,000 for the purpose of refunding the City's Sales and Use Tax Refunding Bonds, Series 2013 and, in order to pay the bonds, the pledge of the net collections of an existing 1% local sales and use tax levied within the City by Ordinance No. 131, adopted August 24, 1999, as amended from time to time.

FOR.....

AGAINST

WATER IMPROVEMENT BONDS

Bonds of the City of Tontitown in the maximum aggregate principal amount of \$3,750,000 for the purpose of financing all or a portion of the costs of extensions, betterments and improvements to the City's water system and, in order to pay the bonds, the pledge of the net collections of an existing 1% local sales and use tax levied within the City by Ordinance No. 131, adopted August 24, 1999, as amended from time to time.

FOR.....

AGAINST

SEWER IMPROVEMENT BONDS

Bonds of the City of Tontitown in the maximum aggregate principal amount of \$3,250,000 for the purpose of financing all or a portion of the costs of extensions, betterments and improvements to the City's sewer system and, in order to pay the bonds, the pledge of the net collections of an existing 1% local sales and use tax levied within the City by Ordinance No. 131, adopted August 24, 1999, as amended from time to time.

FOR.....

AGAINST.....

PUBLIC SAFETY FACILITY IMPROVEMENT BONDS

Bonds of the City of Tontitown in the maximum aggregate principal amount of \$6,750,000 for the purpose of financing all or a portion of the costs of a new public safety facility containing the police department and a fire station and any necessary furnishings and equipment and parking, street, lighting and utility improvements related thereto and, in order to pay the bonds, the pledge of the net collections of an existing 1% local sales and use tax levied within the City by Ordinance No. 131, adopted August 24, 1999, as amended from time to time.

FOR.....

AGAINST.....

Section 3. 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 municipal 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 4. 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 5. 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.

Section 6. The Mayor and City Clerk-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 to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Section 7. If any 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 8. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: May 4, 2021

ATTEST:

APPROVED:

Rhonda Ardemagni, City Clerk-Treasurer

Paul Colvin, Jr., Mayor

(SEAL)

CERTIFICATE

The undersigned, City Clerk-Treasurer of Tontitown, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2021-05-946, passed at a regular session of the City Council of Tontitown, Arkansas, held at the regular meeting place of the City Council at 6:00 o'clock p.m., on the 4th day of May, 2021, and that the Ordinance is of record in Ordinance Record Book No. _____, Page _____, now in my possession.

GIVEN under my hand and seal this 4th day of May, 2021.

Rhonda Ardemagni, City Clerk-Treasurer

(SEAL)