

ORDINANCE NO. 07-07 -2008B

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF ELKINS, ARKANSAS ON THE QUESTION OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF FINANCING THE COST OF CONSTRUCTING AND EQUIPPING WATER AND SEWER SYSTEM IMPROVEMENTS; LEVYING A NEW ONE PERCENT (1%) SALES AND USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; CONTINUING THE TAX AFTER THE BONDS ARE RETIRED; PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Elkins, Arkansas (the "City") has an immediate need to provide funds to construct improvements to its water and sewer system; and

WHEREAS, the Elkins City Council has determined that it would be in the best interests of the residents of the City to levy a sales and use tax and utilize the proceeds of the tax to construct improvements to the water and sewer system of the City and for the retirement of debt issued to construct improvements to the water and sewer system of the City;

WHEREAS, the Elkins City Council has determined that after the bonds are retired, the sales and use tax should continue to be collected and deposited into the general fund of the City;

WHEREAS, it appears the best method for financing the construction of water and sewer system improvements is by the use of a one percent (1.0%) sales and use tax and the issuance of bonds (the "Bonds") issued by the City, pursuant to and payable from taxes levied pursuant to Amendment No. 62 to the Arkansas Constitution ("Amendment 62") and Arkansas Code Annotated §§26-75-301, *et seq.* (the "Authorizing Legislation"); and

WHEREAS, the purpose of this Ordinance is to submit to the electors of the City the question of approving the levy of a one percent (1%) Sales and Use Tax (hereinafter defined) the proceeds of which will be used to pay debt service on construction Bonds issued under Amendment 62 for the purpose of constructing betterments and improvements to the water and sewer system of the City, and for paying all fees and expenses in connection therewith, and after the Bonds are retired, to continue to collect the one percent (1.0%) sales and use tax and deposit it into the general fund of the City.

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

Section 1. That there be, and there is hereby called, an election to be held on September 9, 2008, at which election there shall be submitted to the electors of the City the question of approving the levy of a one percent (1%) tax on the receipts from the sales at retail within the City of all items, which are subject to taxation under Arkansas Gross Receipts Tax Act of 1941, as amended, and the receipts from storing, using or consuming within the City tangible personal property under the Arkansas Compensating Tax Act of 1949, as amended (the "Sales and Use Tax"), the proceeds of which tax will be used to retire bonds payable pursuant to Amendment 62 to the Arkansas Constitution and Arkansas Code Annotated §§26-75-301 *et seq.*, and issued to finance the construction of betterments and improvements to the water and sewer system of the City, and after the bonds are retired, to be deposited into the general fund of the City.

Section 2. In order to provide debt service on Bonds issued under Amendment 62 for the purpose of constructing betterments and improvements to the water and sewer system of the City, there is hereby levied the Sales and Use Tax at a rate of one percent (1%). The levy of the Sales and Use Tax shall not be effective until after the special election called in Section 1 above has been held and the continuation of the levy of the Sales and Use Tax has been approved by the voters.

Section 3. That the question of the levy of the Sales and Use Tax and the issuance of the Bonds shall be placed on the ballot for the election in substantially the following form:

The questions presented are (1) the levy of a sales and use tax, to be collected within the City at the rate of one percent (1%), and (2) the pledge and use of the net collections of the sales and use tax to the security and payment of Bonds to be issued for the purpose of financing the Project, described below, and to continue the tax after the Bonds are retired, which tax will be deposited into the City's general fund.

If Bonds are issued, the Bonds will be issued in the principal amount of not to exceed \$6,000,000 for the purpose of financing betterments and improvements to the water and sewer system of the City (the "Project").

The Bonds, if issued, will be (1) secured by a pledge of and payable from the net collections of the one cent sales and use tax (after deduction for the administrative costs of the State of Arkansas).

The term "Bonds" as used herein, the Bonds may be in the form of any financial instruments given to evidence the loan or loans from financial institutions, investment banks, or State and federal agencies.

SALES AND USE TAX

Vote for or against the levy of the one percent (1%) sales and use tax within the City of Elkins, Arkansas, the receipts of which will be used to pay debt service on bonds issued under Amendment 62 to the Arkansas Constitution, if approved on this ballot, for the purpose of constructing betterments and improvements to the water and sewer system of the City, and all fees and expenses in connection therewith, and after the bonds are retired, the sales and use tax will not sunset but will continue to be collected and deposited into the City's general fund.

FOR THE SALES AND USE TAX /___/

AGAINST THE SALES AND USE TAX /___/

BONDS

Vote for or against the issuance of bonds by the City of Elkins, Arkansas in the principal amount of not to exceed \$6,000,000 for the purpose of financing betterments and improvements to the water and sewer system of the City, which bonds shall be secured by a pledge of and payable from all net collections (after deduction for State of Arkansas administrative expenses) of the one percent (1%) city-wide sales and use tax. The sales and use tax will continue after the bonds are retired and will be deposited into the City's general fund.

FOR THE BONDS /___/

AGAINST THE BONDS /___/

Section 4. That 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 5. That the results of the election shall be proclaimed by the Mayor, and his Proclamation shall be published one time in a newspaper published in the City and having a bona fide circulation therein, 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. That a copy of this Ordinance shall be 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.

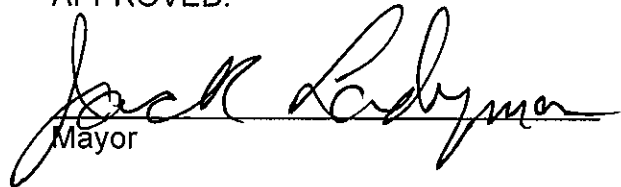
Section 7. The Mayor and Recorder and Treasurer, for and on behalf of the City, be and they are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the Sales and Use Tax is approved by the electors, to cause the Sales and 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. That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. It is hereby ascertained and declared that the water and sewer system improvements must be accomplished as soon as possible, without which the life, health, safety and welfare of the City and its inhabitants are jeopardized, and that the issuance of the Bonds and the taking of the other action authorized by this Ordinance is necessary for the accomplishment thereof. It is, therefore, declared that an emergency exists and this Ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage.

PASSED: July 7, 2008.

APPROVED:


Mayor

ATTEST:


Recorder and Treasurer

(SEAL)