

ORDINANCE NO. 2008 - 12

AN ORDINANCE OF THE CITY OF FRUITA SETTING THE TITLE OF A BALLOT ISSUE TO PROVIDE FOR A COMMUNITY CENTER THROUGH A SALES AND USE TAX RATE INCREASE AND THE ISSUANCE OF REVENUE BONDS; SUBMITTING THE BALLOT ISSUE AT THE COORDINATED GENERAL ELECTION TO BE HELD NOVEMBER 4, 2008; AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the City of Fruita, Colorado (the "City"), is a municipal corporation duly organized and operating as a home rule city under the Fruita City Charter (the "City Charter") and the Constitution and laws of the State of Colorado; and

WHEREAS, the Fruita City Council (the "City Council") approved a resolution in 2003 in support of providing a Community Center for the citizens of Fruita; and

WHEREAS, there are not sufficient funds in the treasury of the City to develop, construct and equip a Community Center and the City Council does not anticipate that existing sources of revenue will be sufficient to generate the moneys necessary to develop, construct and equip a Community Center in the near future without the incurrence of debt through the issuance of revenue bonds; and

WHEREAS, the Parks and Recreation Advisory Board on February 28, 2007 completed and presented a preliminary feasibility to City Council, which recommended: a potential Community Center be located next to the future hospital site on Cherry Street, that a one percent sales and use tax increase be used to fund the construction and operations of a Community Center, that the City of Fruita move forward by submitting a ballot issue asking for the one percent sales and use tax increase, and that a professional consultant be hired to formally study the feasibility of a Community Center in the City of Fruita; and

WHEREAS, the City Council approved funding a feasibility study for a Community Center; and

WHEREAS, a Citizen's Committee was formed by Resolution 2007-41 to study and organize the efforts of a feasibility study for a Community Center; and

WHEREAS, the City hired a professional consultant to conduct a feasibility study on a Community Center that includes market analysis, facility vision and concepts, site analysis, operational analysis, and bond analysis; and

WHEREAS, the Fruita community input on a Community Center was sought and received via stakeholder interviews, community meetings and public open houses; and

WHEREAS, the 2007 community survey identified 70% support of a one percent sales and use tax increase to fund the construction and operation of a Community Center; and

WHEREAS, Mesa County Library District has indicated a desire to partner with the City of Fruita by constructing and operating with library funds a new Fruita Branch of the Library; and

WHEREAS, the City of Fruita placed Referred Issue A on the April 1, 2008, ballot, asking the citizens of Fruita to increase sales and use tax to pay for the construction and operations of a Community Center; and

WHEREAS, the April 1, 2008, election resulted in a tie vote, 1262 votes for and 1262 against Referred Issue A; and

WHEREAS, City Council due to the tie vote and lack of clear directions from the Fruita electorate, appropriated funds to gather additional public input via public outreach meetings, and a written survey of voters as well as update the Community Center feasibility study to reflect construction and operational cost adjustments due to inflation; and

WHEREAS four public outreach meetings and one public forum were held; and

WHEREAS a post-election survey was mailed to the 2524 voters and 674 were returned from individuals who vote for Referred Issue A and 595 were returned from individuals who voted against Referred Issue A for a total of 1269 returned surveys, a 50.3% return rate; and

WHEREAS the City hired a professional consultant to update the feasibility study on a Community Center that included updated calculations on construction costs, operational analysis, usage fee analysis, and bond capacity analysis; and

WHEREAS, in consideration of the past and recent activities briefly described above, the City Council desires to seek the necessary approval at this time to develop, construct, equip, operate and maintain a Community Center for the benefit of the City and its residents; and

WHEREAS, Section 8.08 of the City Charter provides that any increase in an existing tax must be approved by a majority of the voters in a City election and Article X, Section 20 of the Constitution of the State of Colorado requires that the City have voter approval in advance for a tax rate increase and for the creation of any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever; and

WHEREAS, the City Council desires to submit a ballot issue to the eligible electors of the City on November 4, 2008, for the purposes referenced above;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:

Section 1. Calling and Conduct of the Election. At a Coordinated General Election election held on Tuesday, November 4, 2008, there shall be submitted to the eligible electors of the City the ballot issue set forth in this Ordinance. The City Clerk and administrative staff of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance and the holding of a coordinated general election on November 4, 2008.

Section 2. Ballot Issue. The ballot issue, which shall appear on the ballot as “Referred Measure 2_”, shall be in substantially the following form:

SHALL THE CITY OF FRUITA TAXES BE INCREASED \$1,760,400 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND SHALL THE CITY OF FRUITA DEBT BE INCREASED BY AN AMOUNT NOT TO EXCEED \$15,000,000, WITH A MAXIMUM REPAYMENT COST OF \$36,239,400; SUCH TAXES TO CONSIST OF ALL REVENUES GENERATED FROM A RATE INCREASE OF 1.0% IN THE CITY SALES AND USE TAX (WHICH REPRESENTS A ONE CENT INCREASE ON EACH DOLLAR) WHICH SHALL BE DEPOSITED INTO A CITY COMMUNITY CENTER FUND AND USED SOLELY FOR THE PURPOSE OF CONSTRUCTING, IMPROVING, EQUIPPING, OPERATING AND MAINTAINING A COMMUNITY CENTER AND PROVIDING FOR THE PAYMENT OF REVENUE BONDS ISSUED FOR SUCH PURPOSES; SUCH DEBT TO CONSIST OF REVENUE BONDS PAYABLE FROM THE CITY COMMUNITY CENTER FUND AND ISSUED FOR THE PURPOSE OF:

•CONSTRUCTING AND EQUIPPING A COMMUNITY CENTER, TO INCLUDE AMONG OTHER THINGS, AQUATICS FACILITIES, POOL PARTY ROOMS, A GYMNASIUM, A SENIOR MEETING ROOM, MULTI-USE MEETING ROOMS, A GROUP EXERCISE STUDIO, FITNESS / WELLNESS AREAS, CHILD CARE FACILITIES LOCKER ROOMS, FAMILY CHANGING ROOMS, UPDATING OF THE EXISTING FRUITA OUTDOOR POOL, LOBBY SPACES, AND STAFF OFFICE SPACES

SUCH BONDS TO BE DATED AND SOLD AT SUCH TIME, AND AT SUCH PRICES (AT, ABOVE OR BELOW PAR) AND CONTAINING SUCH TERMS, NOT INCONSISTENT HERewith, AS THE CITY COUNCIL MAY DETERMINE; SUCH TAX RATE INCREASE TO COMMENCE JANUARY 1, 2009, AND BE REDUCED FROM A RATE OF 1.0% TO A RATE OF 0.4% ON THE JANURAY 1ST FOLLOWING THE DATE ON WHICH THE REVENUE BONDS APPROVED HEREBY ARE PAID IN FULL (BUT IN NO EVENT SHALL SUCH REDUCTION OCCUR LATER THAN JANUARY 1, 2039) TO CONTINUE TO PROVIDE FOR THE IMPROVEMENT, EQUIPPING OPERATION AND MAINTENANCE OF THE COMMUNITY CENTER; AND SHALL THE TAX REVENUES DEPOSITED IN THE CITY COMMUNITY CENTER FUND AND ALL EARNINGS THEREON (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER APPROVED REVENUE CHANGE, AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Section 3. Contests Concerning Title Setting. For purposes of C.R.S. § 1-11-203.5, this Ordinance shall serve to set the title and content of the ballot issue set forth herein and the ballot title for such ballot issue shall be the text of the ballot issue itself. Any petition to contest the form or content of the ballot title may be filed with the District Court and a copy served on the City Clerk within five days after the title of the ballot issue is set by the City Council upon adoption of this Ordinance.

Section 4. Effective Date and Election Results. This Ordinance shall be effective in accordance with the City Charter. If a majority of the votes cast on the ballot issue set forth in Section 2 hereof shall be in favor of such ballot issue, the applicable provisions of the City Code shall thereafter be amended by the City Council consistent with the terms of said ballot issue. Additionally, the City Council shall be authorized to proceed with the necessary action to issue bonds in accordance with such ballot issue and such authority shall be deemed and considered a continuing authority to issue the bonds 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.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 5th DAY OF AUGUST, 2008.**

ATTEST:

CITY OF FRUITA, COLORADO

City Clerk

Mayor