

RESOLUTION NO.

08-28

Series of 2008

**TITLE: A RESOLUTION OF THE TOWN OF HUDSON, COLORADO, CALLING AN ELECTION ON NOVEMBER 4, 2008, FIXING THE BALLOT TITLE AND QUESTION, AND SETTING FORTH OTHER DETAILS RELATING THERETO.**

WHEREAS, the Town of Hudson (the “Town”), is a municipal corporation duly organized and existing as a statutory town under the Constitution and laws of the State of Colorado; and

WHEREAS, the members of the Board of Trustees of Town (the “Board”) have been duly elected and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution (“TABOR”) requires voter approval for any new tax, the creation of any debt and for spending certain moneys above limits established by TABOR; and

WHEREAS, TABOR requires the Town to submit ballot issues (as defined in TABOR) to the Town’s electors on limited election days before action can be taken on such ballot issues; and

WHEREAS, November 4, 2008, is one of the election dates at which ballot issues may be submitted to the eligible electors of the Town pursuant to TABOR; and

WHEREAS, the County Clerk and Recorder in Weld County, Colorado (the “County Clerk”) will conduct the election on November 4, 2008, as a coordinated election (the “Election”); and

WHEREAS, the Board has previously approved an intergovernmental agreement with the County Clerk relating to the conduct and administration of the Election pursuant to Section 1-7-116 of the Colorado Revised Statutes (“C.R.S.”); and

WHEREAS, the Board hereby determines that it is necessary to submit to the electors of the Town, at the Election, a question authorizing the Town to incur debt for the purpose of providing street improvements as described in the ballot issue; and

WHEREAS, it is necessary to set forth certain procedures concerning the conduct of the election; and

WHEREAS, if a majority of the votes cast on the question to incur debt submitted at the Election shall be in favor of the incurrence of debt as provided in such question, the Town intends and proposes to issue bonds or enter into other financial obligations (the "Obligations") to finance the acquisition of the property and other facilities required to provide the street improvements set forth in the question (the "Project"); and

WHEREAS, in order to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"), it is the Board's desire that this resolution shall constitute the "official intent" of the Board to reimburse such capital expenditures within the meaning of Treasury Regulation § 1.150-2.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, COLORADO, AS FOLLOWS:

Section 1. All action heretofore taken (not inconsistent with the provisions of this resolution) by the Town and the officers thereof, directed towards the Election, the Obligations and the objects and purposes herein stated is hereby ratified, approved and confirmed.

Section 2. Unless otherwise defined herein, all terms used herein shall have the meanings defined in the Uniform Election Code of 1992, Title 1, Articles 1 through 13, C.R.S., as amended (the "Uniform Election Code") and Title 31, Article 10, C.R.S., as amended (the "Municipal Election Code").

Section 3. Pursuant to Section 31-10-102.7, C.R.S., the Board elects to utilize certain provisions of the Uniform Election Code with regard to the conduct of its special Town Election. The Board hereby determines that the Election shall be held on November 4, 2008, and there shall be submitted to the eligible electors of the Town the question set forth herein. Because the Election will be held as part of a coordinated election with Weld County, the Board hereby determines that the County Clerk shall conduct the Election on behalf of the Town.

Section 4. The Board hereby authorizes and directs the officers of the Town to certify on or before September 5, 2008, the following question in substantially the form hereinafter set forth to the County Clerk. Such ballot issue shall be submitted to the eligible electors of the Town at the Election:

SHALL TOWN OF HUDSON DEBT BE INCREASED \$5,000,000, WITH A REPAYMENT COST OF \$11,700,000, WITHOUT RAISING ANY TAXES OF THE TOWN; SUCH DEBT TO CONSIST OF GENERAL OBLIGATION BONDS, REVENUE

BONDS OR OTHER OBLIGATIONS ISSUED OR INCURRED FOR THE PURPOSE OF FINANCING ALL OR ANY PART OF THE COSTS OF ACQUIRING, CONSTRUCTING, INSTALLING, COMPLETING, AND OTHERWISE PROVIDING STREET IMPROVEMENTS INCLUDING CURBS, GUTTERS, CULVERTS, OTHER DRAINAGE AND UTILITY IMPROVEMENTS, SIDEWALKS, BRIDGES, PAVING, LIGHTING, GRADING, LANDSCAPING, AND OTHER STREET IMPROVEMENTS, TOGETHER WITH ALL NECESSARY, INCIDENTAL, AND APPURTENANT FACILITIES, EQUIPMENT, LAND, AND EASEMENTS, AND EXTENSIONS OF AND IMPROVEMENTS TO SAID FACILITIES, SUCH DEBT TO BEAR INTEREST AT A NET EFFECTIVE INTEREST RATE NOT IN EXCESS OF 6.75% PER ANNUM, SUCH INTEREST TO BE PAYABLE AT SUCH TIME OR TIMES AND WHICH MAY COMPOUND PERIODICALLY AS MAY BE DETERMINED BY THE TOWN BOARD, SUCH DEBT TO BE SOLD IN ONE SERIES OR MORE AT A PRICE ABOVE, BELOW, OR EQUAL TO THE PRINCIPAL AMOUNT OF SUCH DEBT AND ON SUCH TERMS AND CONDITIONS AS THE TOWN MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF PREMIUM IN AN AMOUNT NOT IN EXCESS OF 3% OF THE PRINCIPAL AMOUNT BEING REDEEMED, SUCH DEBT TO BE PAID FROM ANY LEGALLY AVAILABLE MONEYS OF THE TOWN, INCLUDING THE PROCEEDS OF AD VALOREM PROPERTY TAXES, SALES TAXES OR OTHER REVENUES; AND SHALL THE TOWN BE AUTHORIZED TO ISSUE DEBT TO REFUND THE DEBT AUTHORIZED IN THIS QUESTION, PROVIDED THAT AFTER THE ISSUANCE OF SUCH REFUNDING DEBT THE TOTAL OUTSTANDING PRINCIPAL AMOUNT OF ALL DEBT ISSUED PURSUANT TO THIS QUESTION DOES NOT EXCEED THE MAXIMUM PRINCIPAL AMOUNT SET FORTH ABOVE, AND PROVIDED FURTHER THAT ALL DEBT ISSUED BY THE TOWN PURSUANT TO THIS QUESTION IS ISSUED ON TERMS THAT DO NOT EXCEED THE REPAYMENT COSTS AUTHORIZED IN THIS QUESTION?

Section 5. The Town Clerk is hereby appointed as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the Election.

Section 6. Pursuant to Section 31-10-1308(2), C.R.S. and Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

Section 7. If a majority of the votes cast on the question to incur debt submitted at the election shall be in favor of the incurrence of debt as provided in such question, the Town, acting through the Board of Trustees shall be authorized to proceed with the necessary action to incur the debt in accordance with such question. Any authority to incur debt, if conferred by the results of the election, shall be deemed and considered a continuing authority to

incur the debt so authorized, 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.

Section 8. The Town intends to enter into the Obligations in the approximate aggregate principal amount of \$5,000,000 to pay the costs of the Project, including the reimbursement of certain costs incurred by the Town prior to the execution and delivery of the Obligations, upon terms acceptable to the Town, as authorized in an ordinance or resolution to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith. The Town shall not use reimbursed moneys for purposes prohibited by Treasury Regulation § 1.150-2(h). This resolution is intended to be a declaration of “official intent” to reimburse expenditures within the meaning of Treasury Regulation § 1.150-2

Section 9. The officers, employees and agents of the Town shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by this resolution.

Section 10. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this resolution.

Section 11. All resolutions or parts of resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution or part of any resolution heretofore repealed.

Section 12. The effective date of this resolution shall be immediately upon adoption.

Section 13. INTRODUCED, PASSED AND ADOPTED at a regular meeting of the Board of Trustees the Town of Hudson, Colorado, on September 3, 2008.

( S E A L )

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Judith A. McGill, Town Clerk Pro Tem

STATE OF COLORADO )  
 )  
 COUNTY OF WELD ) SS.  
 )  
 TOWN OF HUDSON )

I, Judith A. McGill, the Town Clerk Pro Tem of the Town of Hudson, Colorado (the “Town”), do hereby certify:

1. The foregoing pages are a true and correct copy of a resolution (the “Resolution”) passed and adopted by the Board of Trustees (the “Board”) of the Town at a regular meeting of the Board held on September 3, 2008.

2. The Resolution was duly introduced, moved and seconded and passed on at the regular meeting of September 3, 2008, by an affirmative vote of a majority of the members of the Board as follows:

Name	“Yes”	“No”	Absent	Abstain
Neal Pontius				
John Honnold				
Barbara Baker				
Isidro Guardado				
Dwayne Haynes				
Robert Lehl				
Tammy McCain				

3. The members of the Board were present at the meeting and voted on the passage of such Resolution as set forth above.

4. The Resolution was approved and authenticated by the signature of the Mayor, sealed with the Town seal, attested by the Town Clerk and recorded in the minutes of the Board.

5. There are no bylaws, rules or regulations of the Board which might prohibit the adoption of said Resolution.

6. Notice of the regular meeting of September 3, 2008, in the form attached hereto as Exhibit A was posted at the Town Hall not less than twenty-four hours prior to the meeting in accordance with law.

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Judith A. McGill, Town Clerk Pro Tem

(SEAL)

# AGENDA

## TOWN OF HUDSON - BOARD OF TRUSTEES REGULAR MEETING

September 3, 2008 - 7:00 P.M.

Board of Trustees Work Session - 6:00 p.m.:  
Emergency Management Plan

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### CALL TO ORDER AND ROLL CALL

### ADDITIONS TO AGENDA

### CITIZEN'S COMMENTS

#### 1) CERTIFICATES AND AWARDS

- a. Leah J. Post, Certificate and Ornament (art contest)
- b. Lucile Arnusch, Certificate Library Board

#### 2) PUBLIC HEARINGS

- a. Preliminary Engineering Report and Environmental Assessment, Proposed Wastewater Treatment Facility

#### 3) CONSENT AGENDA

(Consent Agenda Items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member or Citizen so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Regular Agenda.)

- a. Board of Trustees Minutes – August 20, 2008
- b. Payment of Bills

#### 4) GENERAL BUSINESS

- a. Resolution No. 08-28, Calling An Election On November 4, 2008, Fixing The Ballot Title and Question, and Setting Forth Other Details Relating Thereto, paving bonds
- b. Resolution No. 08-29, Calling An Election On November 4, 2008, Fixing The Ballot Title and Question, and Setting Forth Other Details Relating Thereto, sale of wastewater site
- c. Approval of engineering design contract for wastewater treatment plant
- d. Approval of loan application to USDA Rural Development for wastewater treatment plant
- e. Authorization to purchase dump truck with plow and sander

f. Appointment to Colorado Municipal League Policy Committee

5) **STAFF REPORTS**

6) **ADJOURNMENT**