

ORDINANCE

AN ORDINANCE OF THE TOWN OF SILVERTON, COLORADO, CREATING THE SILVERTON'S WEST SIDE SPECIAL IMPROVEMENT DISTRICT, ORDERING THE CONSTRUCTION, INSTALLATION AND COMPLETION THEREIN OF CERTAIN SPECIAL IMPROVEMENTS, TOGETHER WITH ANY NECESSARY INCIDENTALS; PROVIDING FOR THE ISSUANCE OF BONDS IN PAYMENT FOR SAID IMPROVEMENTS; AND PROVIDING FOR OTHER DETAILS IN CONNECTION WITH THE DISTRICT.

WHEREAS, the Town received a petition from property owners for the formation of a Special Improvement District; and

WHEREAS, the Board of Trustees (the "Board") of the Town of Silverton, Colorado (the "Town"), pursuant to §31-25-501 *et seq.*, C.R.S., and all other laws of the State of Colorado, hereby finds and determines that there exists a necessity for the creation of a special improvement district within the Town, to be designated as Silverton's West Side Special Improvement District (the "District"), and the construction, installation, completion, and acquisition therein of certain improvements; and

WHEREAS, the Town provided notice of a hearing on the issue of formation to those entitled notice under §31-25-501 *et seq.*, CRS ; and

WHEREAS, the Town conducted a hearing in accordance with §31-25-501 *et seq.*, CRS; and

WHEREAS, in accordance with §31-25-503(3), C.R.S., it is necessary that a preliminary order be made adopting preliminary plans and specifications for the improvements, describing the materials to be used, determining the number of installments and time in which the cost of the improvements shall be payable, and determining the property to be assessed for the cost of the improvements, and requiring the preparation of estimates of cost, a map of the district, and a schedule showing the approximate amounts to be assessed upon the several lots or parcels of property within the district; and

WHEREAS, this ordinance shall constitute the preliminary order required by law;

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON , COLORADO:

Section 1. Creation of District. A special improvement district for the construction, installation, completion, and acquisition of certain special

improvements, together with any necessary incidentals as hereinafter described, is hereby created and established in accordance with §31-25-501 *et seq.*, C.R.S., and all other laws of the State of Colorado thereunto enabling, and shall be known and designated as the "Silverton's West Side Special Improvement District." All proceedings heretofore taken and adopted in connection with the District are hereby ratified, approved, and confirmed.

Section 2. Approval of Engineering Plans. The engineer's reports, together with all of the details, specifications, estimates, maps, and schedules thereto attached or appended, on file in the office of the Town Clerk, are hereby approved and adopted.

Section 3. Boundary of District. The area to be included within the boundary of the District shall include the real property set forth below:

- a. That area described in Attachment A, attached hereto and incorporated herein.
- b. There shall be no assessments against any public rights-of-way or open space dedicated to the public or other Town owned land. In the event any subsequent subdivision of the above property includes any public rights-of-way or dedicated open space, the assessment which otherwise would be imposed against such public rights-of-way or dedicated open space will be deemed to be imposed uniformly, on an area basis, upon the remaining area of the subdivided property.

Section 4. Description of Improvements. The kind of improvements and the materials to be used are as follows:

- a. Road improvements including, but not limited to, construction of streets within the District; street lights, alleys, curbs, gutters and any sidewalks constructed within the public rights-of-way. Materials used for such road improvements shall include asphalt, concrete and road base;
- b. Central water system improvements including, but not limited to, water mains connected to the Town's water supply system, fire hydrants, water taps, water storage tanks and any required or appropriate water meters, valves, and pressure-reducing stations. Materials used for such water system improvements shall include PVC piping, valves, and fire hydrants.
- c. Central sewer system improvements including, but not

limited to, sewer mains connected to the Town's sewage disposal system, storage water drainage and any required or appropriate manholes, sewer taps, laterals, pump stations, and cleanouts. Materials used for such sewer system improvements shall include PVC pipe, and manholes.

- d. Public Utilities consisting of wiring, switches, conduit and similar materials.

Section 5. Improvements Authorized. The construction, installation, completion, and acquisition of the improvements in and for the District (the "Project"), as shown by the plans, specifications, and maps thereof, prepared by the engineer and approved by the Board and now on file in the office of the Town Clerk, is hereby authorized and ordered, the materials to be used in the construction of the Project to be in accordance with such maps, plans, and specifications. It is hereby found and determined that the Project was duly ordered after notice duly given and after hearing duly held in accordance with law.

Notwithstanding the foregoing, no contracts for construction, installation, completion, or acquisition of the Project shall be awarded until such time as the Board of Trustees determines that any required electoral approval for the imposition of assessments and the issuance of special assessment bonds has been obtained and appropriate funding is available from the issuance of such bonds to pay amounts due under such contracts.

Section 6. Cost of Project; Method of Assessment. The estimated total cost of the Project is approximately \$1,860,000.00 all of which will be assessed against the property in the District. It is anticipated that the total cost of the improvements to be constructed and installed shall be assessed against the property in the District. It is proposed that the assessments be imposed in accordance with a zone method of apportionment, which in the judgment of the Board of Trustees equitably reflects the benefits which accrue to the properties to be assessed. The assessments shall be imposed according to four zones on a per lot basis as more fully set forth in the Resolution of Intent adopted by the Board of Trustees as described herein. The probable cost per lot is as follows:

Zone A, (W1/2 of Blocks 42 & 55) \$10,951.00 per lot;
Zone B, (Blocks 41 & 56) \$11,133.00 per lot;
Zone C, (Blocks 8, 9 & H of the Taylor's Addition) \$11,062.00 per lot
and;
Zone D (Blocks 7 & 10) \$9,928.00 per lot.

The final apportionment and imposition of assessments shall be made per an assessment roll by the Board of Trustees by ordinance following notice and hearing, all as provided by law.

The foregoing amounts are principal only, and do not include

interest which will accrue if the property owner elects to pay in installments.

It is anticipated that the Town will not pay any part of the cost of the improvements.

Such cost estimates and approximate amounts to be assessed have been formulated in good faith on the basis of the best information available, but are not binding. After a hearing on the assessments the Board of Trustees may make such modifications and changes to the assessments as may seem equitable.

Section 7. Payment of Assessments. The assessments to be levied for the Project shall be due and payable without demand within thirty (30) days after the effective date of the assessing ordinance. However, all such assessments may be paid, at the election of the owner, in a period set by the Board not to exceed 20 years and in substantially equal annual amortized installments of principal and interest, payable beginning in 2005 and in each year thereafter until paid in full, with the last payment due no later than the anniversary date of the assessing ordinance in 2025. Interest shall accrue in all cases on unpaid installments of principal. Principal payments shall be in such amounts and at such times, and interest shall be at such rate or rates and payable at such times, as shall later be determined by the Board and set forth in the assessing ordinance. If required pursuant to Article X, Section 20 of the Colorado Constitution, the imposition of assessments shall be subject to electoral approval in the manner required or permitted by law at the time of such election.

Section 8. Special Assessment Bonds. By virtue of and pursuant to the laws of the State of Colorado, and subject to any required electoral approval, special assessment bonds of the Town shall be issued for the purpose of paying the cost of the Project, in an amount not to exceed the cost and expenses of the Project, including costs of inspection and collection, capitalized interest on the bonds for such period as the Board may deem necessary, capitalized bond reserves, and all other incidental costs, as provided by law. The bonds shall be issued based upon estimates approved by the Board, and as authorized by an ordinance to be passed by the Board. The bonds and the interest thereon shall be payable out of special assessments to be levied against the real property included within the District and specially benefitted by the Project.

Section 9. Construction and Acquisition Contracts. To the extent necessary, the appropriate officers of the Town are hereby authorized to obtain bids to construct the Project in accordance with the requirements of law. In addition, to the extent necessary, such officers are authorized to prepare contracts for the acquisition of the Project.

Section 10. Determination as to Benefits. The Board hereby

finds and determines that the improvements will confer a special benefit upon the property within the District in an amount not less than the amount of the assessment, and a general benefit upon the Town as a whole.

Section 11. Submission of Ballot Question; Determination of Eligible Electors. Pursuant to §31-25-534 (3), C.R.S., it is hereby provided by the Board that at the election to be held on November 2, 2004, the ballot question substantially in the form set forth below shall be submitted to the registered electors eligible to vote on the question as a mail ballot election. Due to the limited nature of the obligation represented by special assessment bonds, and pursuant to the authority contained in the aforementioned statute, the Board hereby finds and determines that only those electors described in §31-25-501, C.R.S. shall be eligible to vote on the question.

Form of Ballot Question

SHALL TOWN OF SILVERTON DEBT BE INCREASED BY THE AMOUNT OF \$1,860,000.00, WITH A REPAYMENT COST OF \$ 3,700,000.00 AND SHALL TOWN OF SILVERTON TAXES BE INCREASED \$271,000.00 ANNUALLY OR BY SUCH LESSER ANNUAL AMOUNT AS MAY BE NECESSARY TO PAY THE AFOREMENTIONED DEBT, BY IMPOSING SPECIAL ASSESSMENTS UPON PROPERTY IN THE SILVERTON'S WEST SIDE SPECIAL IMPROVEMENT DISTRICT, WHICH ASSESSMENTS ARE SUBJECT TO PREPAYMENT AT THE OPTION OF THE PROPERTY OWNER, SUCH DEBT TO CONSIST OF SPECIAL ASSESSMENT BONDS ISSUED TO PAY THE COSTS OF PROVIDING CERTAIN SPECIAL IMPROVEMENTS IN SUCH DISTRICT, TO BE REPAID SOLELY FROM THE PROCEEDS OF SPECIAL ASSESSMENTS TO BE IMPOSED UPON THE PROPERTY INCLUDED WITHIN SUCH DISTRICT AND INVESTMENT INCOME ON SUCH ASSESSMENTS; SUCH TAXES TO CONSIST OF THE AFOREMENTIONED SPECIAL ASSESSMENTS IMPOSED UPON THE PROPERTY IN THE DISTRICT BENEFITTED BY THE SPECIAL IMPROVEMENTS; AND SHALL THE PROCEEDS OF SUCH BONDS AND THE PROCEEDS OF SUCH ASSESSMENTS, AND INVESTMENT INCOME THEREON CONSTITUTE VOTER-APPROVED REVENUE CHANGES AND BE COLLECTED AND SPENT BY THE TOWN WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE TOWN?

The Town Clerk and all other officers, employees, and agents of the Town are hereby authorized and directed to take such actions as may be necessary to properly call, hold, and canvass the results of the election in the manner provided by law, including without limitation the preparation and mailing of such notices as may be necessary or appropriate under the circumstances.

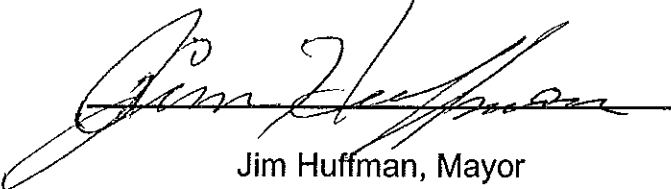
Section 12. Repealer. All acts, orders, ordinances, resolutions, or parts thereof, in conflict herewith, are hereby repealed to the extent of such conflict.

Section 13. Severability. Should any one or more sections or provisions of this ordinance be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

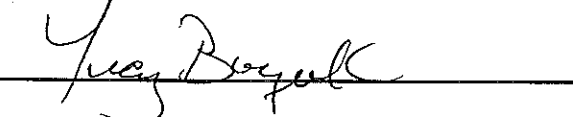
Section 14. Recording and Authentication. Upon adoption hereof, this ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the Town Clerk.

ADOPTED AND APPROVED This 13th day of September, 2004.

(SEAL)


Jim Huffman, Mayor

ATTESTED:


Tracy Boeyink, Town Clerk