

ORDINANCE NO. 011-98

AN AMENDMENT TO ORDINANCE 009-98 CLOSING, VACATING AND ABANDONING AN ADDITIONAL FIVE FOOT WIDE, MORE OR LESS, STRIP OF RIGHT-OF-WAY ON THE EAST SIDE OF JOHNSON STREET BETWEEN DOLORES STREET AND NAVARRO STREET; PROVIDING FINDINGS OF FACT; AUTHORIZING AND DIRECTING CONVEYANCE OF SUCH ABANDONED STREET RIGHT-OF-WAY BY SPECIAL WARRANTY DEEDS; PROVIDING FOR RETAINING AN EASEMENT FOR UTILITIES; AND PROVIDING A SEVERABILITY CLAUSE AND AN OPEN MEETING CLAUSE.

WHEREAS, five foot (5'), more or less, of right-of-way ("ROW") exists on the east side of Johnson Street, from the intersection of Dolores Street and Johnson Street to the intersection of Johnson Street and Navarro Street, is outside the travel lanes of Johnson Street, and such ROW is surplus and not necessary for use by the city as street ROW;

WHEREAS, it has been requested that a portion of the ROW on the east side of Johnson Street, from Delores Street to Navarro Street, be closed, vacated and abandoned by the City of De Leon, Texas (the "City");

WHEREAS, that part of the ROW described above is not necessary for the purpose of serving the general public or the landowners adjacent thereto as a street;

WHEREAS, the City has established the fair market value of the above described right-of-way as being \$1.00 per front foot on Johnson Street; and

WHEREAS, Chapt. 272, Tex. Loc. Gov't. Code, authorizes political subdivisions to sell and convey streets to abutting owners at an appraised fair market value;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS, THAT:

Section 1. The foregoing recitals are hereby found to be true and correct and are incorporated into this Ordinance as findings of fact by the City Council.

Section 2. In addition to the most eastern twenty (20') feet, more or less, of the right-of-way of Johnson Street extending from Delores Street to Navarro Street, conveyed by ordinance 009-98, the five (5') feet, more or less, remaining between the private property and the previously conveyed twenty (20') feet as more particularly shown as a cross hatched area on Exhibit "A" attached hereto and incorporated herein for all purposes, is hereby permanently closed, vacated

and abandoned by the City and the general public.


Section 3. The Mayor and the City Secretary be and are hereby authorized, empowered, instructed and directed to execute a special warranty deed conveying the rights and interests of the City in the above described abandoned and vacated portion of Johnson Street to the abutting property owners in proportion to their ownership; provided that such special warranty deed shall retain to the city a utility easement over the entirety of such conveyed parcels; and provided further that the purchase price to be paid for such property shall be the consideration already received for the conveyance in ordinance 009-98, as said property herein was intended to be conveyed also as part of the purchase price. Upon the payment of the purchase price and the execution of such deed, such deed(s) shall be and become a valid and binding act and deed of the City of De Leon, Texas. In the event the City or any utility company shall hereafter excavate on the easement retained, the City, or the utility company, as the case may be, shall level the soil and repair the excavation to the City's satisfaction.

Section 4. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof, but as to such remaining portion or portions, the same shall be and remain in full force and effect.


Section 5. It is hereby officially found and determined that notice of the time, place and subject matter of the meeting at which this ordinance was passed was given and the meeting was open to the public as required by Chapt. 551, Tex. Gov't. Code.

PASSED AND APPROVED on this the 15th day September 1998.

THE CITY OF DE LEON, TEXAS


Norma Jo Locke, Mayor

Attest:


Regenia Sadberry, City Secretary