

The was no action ever taken on this Ordinance.

ORDINANCE NO. 015-07

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS VACATING AND ABANDONING PORTIONS OF AN ALLEY IN BLOCK 1 OF THE BENDER SUBDIVISION IN THE CITY OF DE LEON BETWEEN LOT 6 AND LOT 7 AND BETWEEN LOT 10 AND LOT 11 LYING BETWEEN ROSS STREET AND LABADIE STREET; AUTHORIZING AND DIRECTING THE CONVEYANCE OF SUCH ABANDONED ALLEYWAY TO ABUTTING PROPERTY OWNERS UPON REQUEST BY SPECIAL WARRANTY DEED; PROVIDING FOR RETAINING AN EASEMENT FOR UTILITIES; AND PROVIDING A SEVERABILITY CLAUSE AND AN OPEN MEETING CLAUSE.

WHEREAS, on April 13, 2007, the 220th Judicial District Court of Comanche County, Texas entered a Judgment in Cause No. CCCV-05-19805 styled *James Roy Endinburgh and Helen Marie Edinburgh v. Carlos Lopez and Arlene Lopez* finding that 20.06 feet of real lying between Lot 6 and Lot 7 of Block 1 of the Bender Subdivision in the City of De Leon is a public street and/or road in the City of De Leon, Comanche County, Texas; and

WHEREAS, a plat of the Bender Subdivision filed of record at Volume 90, Page 286 in the Official Public Records of Comanche County, Texas established this public right-of-way between Lot 6 and Lot 7 and also between Lot 10 and Lot 11 in Block 1 of the Bender Subdivision running north to south (the "Alley"); and

WHEREAS, there is also an alleyway running east to west through Block 1 which the City wishes to retain as an alleyway;

WHEREAS, the Alley has never been improved or maintained as an alley by the City and is not necessary for the purpose of serving the general public or the landowners adjacent thereto as an alley; and

WHEREAS, the City has established the fair market value of the above described right-of-way as being \$1.00 per running foot along any abutting property by a width of 10.03 feet; and

WHEREAS, Chapt. 272, Tex. Loc. Gov't Code, authorizes political subdivisions to sell and convey an abandoned public right-of-way to abutting owners at fair market value;

NOW, THEREFORE, BE IT ORDAINED BE 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. The Alley between Lot 6 and Lot 7 and between Lot 10 and Lot 11 lying between Ross Street and Labadie Street, as 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.

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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 portions of the Alley to each abutting property owner requesting conveyance according to the provisions of the Texas Local Government Code, provided that each such special warranty deed shall retain to the City a utility easement over the entirety of such conveyed parcels and shall be subject to any previously existing easements across the property; and provided, further, that the purchase price to be paid for such property shall be \$1.00 per running foot along any abutting property. 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.

Section 4. It is the intention of the City Council that if any phrase, sentence, section or paragraph of this ordinance shall be declared unconstitutional or otherwise invalid by final judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not affect, impair or invalidate any of the remainder of this ordinance since the same would have been enacted by the City Council without incorporation of the unconstitutional or invalid phrase, sentence, section or paragraph and 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. Govt. Code.

PASSED AND APPROVED on first reading on this the _____ day of _____, 2007.

PASSED AND APPROVED on second reading on this the _____ day of _____, 2007.

THE CITY OF DE LEON, TEXAS

N/A

Danny Owen, Mayor

ATTEST:

N/A

Karen Wilkerson, City Secretary