

CITY OF MINERAL WELLS, TEXAS
ORDINANCE NO. 2023-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MINERAL WELLS, TEXAS, PROVIDING FOR THE ABANDONMENT, VACATION, AND CLOSURE OF A PORTION OF AN UNDEVELOPED ROAD LABELED AS THAT PORTION OF NORTHEAST 4TH ST (HILL STREET PER PLAT) LYING BETWEEN BLOCK 54 AND BLOCK 55 OF THE O'NEAL AND CUNNINGHAM'S ADDITION TO THE CITY OF MINERAL WELLS, PALO PINTO COUNTY, TEXAS; PROVIDING FOR THE TERMS AND CONDITIONS OF THE ABANDONMENT INCLUDING THE CONVEYANCE OF PROPERTY; PROVIDING SAVINGS AND SEVERABILITY CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Mineral Wells (the "City") is a home-rule municipality operating under its Charter adopted by the electorate pursuant to Article XI, Section V of the Texas Constitution;

WHEREAS, Section 311.007 of the Texas Transportation Code provides that a home-rule municipality may vacate, abandon, and close a street or alley and Sections 253.001(a) and 272.001 of the Texas Local Government Code provide that a city may convey abandoned street or alley property to the adjacent property owners without complying with notice and bidding requirements;

WHEREAS, the City of Mineral Wells ("City") has received a request to close, abandon, and vacate a portion of an undeveloped road labeled as that portion of Northeast 4th St (Hill Street per plat) lying between Block 54 and Block 55 of the O'Neal and Cunningham's Addition to the City of Mineral Wells, Palo Pinto County, Texas according to the plat recorded in Volume 2, Page 61 of the Plat Records of Palo Pinto County, Texas by property owners Michael Rankin and Charles Manis, whose property abuts the street to be abandoned, vacated, and closed;

WHEREAS, after public notice was given in compliance with Sec. 78-97 of the Mineral Wells Code of Ordinances (the "Code"), the Planning and Zoning Commission held a public hearing on June 5, 2023 as required by Section 78-96 of the Code and made a recommendation that the City Council of the City of Mineral Wells (the "City Council") grant the request to abandon this undeveloped road; and

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission and has determined that it would be to the public benefit to abandon, vacate, and close this undeveloped road, that said land is not needed for public use and therefore constitutes a public charge without a corresponding public benefit, and that the undeveloped road should be abandoned, vacated, and closed and conveyed to the adjacent property owners as hereinafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINERAL WELLS, TEXAS THAT:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Findings. After due deliberations the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Mineral Wells, Texas and of the public health, safety and welfare.

Section 3. Street Abandoned. The undeveloped road property described below shall be and is hereby abandoned, vacated, and closed insofar as the right, title, and easement of the public is concerned; subject, however, to the conditions, requirements, and restrictions hereinafter more fully set out:

Being that portion of Northeast 4th St (Hill Street per plat) lying between Block 54 and Block 55 of the O'Neal and Cunningham's Addition to the City of Mineral Wells, according to the plat recorded in Volume 2, Page 61 of the Plat Records of Palo Pinto County, Texas (the "Street Property").

Section 4. Fair Market Value. The City finds that the street was originally dedicated to the public at no cost to the City and any fair market value that the Street Property may have is offset by the City's release from the obligation to maintain the Street Property.

Section 5. Reservations. The abandonment, vacation, and closure provided for herein is made and accepted subject to all present zoning and deed restrictions, if any of the latter exist, and all public easements and rights-of-way, whether apparent, non-apparent, aerial, surface, or underground.

Section 6. Extent of Abandonment. The abandonment, vacation, and closure provided for herein shall extend only to the public right, title, easement and interest and shall be construed to extend only to that interest which the City may legally and lawfully abandon, vacate, and close, and may be subject to recorded reversionary interests.

Section 7. Conveyance. The City Secretary is authorized and directed to prepare and record a certified copy of this Ordinance in the Real Property Records of Palo Pinto County, Texas. The City Manager is hereby authorized and directed to convey by Quit Claim Deed, in "As Is" condition, all of the interest of the City in and to the Street Property, save all present and future utility easements, to the owners of property abutting upon said street.

Section 8. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 9. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid

judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Section 10. Effective Date. This Ordinance shall become effective from and after its date of passage in accordance with law.

DULY PASSED AND APPROVED by the City Council of the City of Mineral Wells, Texas on the 20th day of June 2023.

Regan L Johnson

Regan Johnson, Mayor

ATTEST:

Sharon McFadden

Sharon McFadden, City Clerk

