



INSTRUMENT # 2016010301

FOR REGISTRATION REGISTER OF DEEDS

Laura Y Anderson
Burke County, NC

November 21, 2016 10:47:49 AM

Book 2266 Page 541-545

FEE: \$26.00

INSTRUMENT # 2016010301

ORDINANCE # 16 – 45

AN ORDINANCE AND ORDER PERMANENTLY
CLOSING SECTIONS OF MURPHY STREET,
McENTIRE AVENUE, AND AN UNNAMED
STREET AJOINING MURPHY STREET

Factual Background:

The City of Morganton has received a petition to close abandoned streets from O. Michael Jarrett, who, together with other members of his immediate family, owns certain properties along unopened portions of the platted streets known as Murphy Street and McEntire Avenue, which are located off Carbon City Road (US 70).

NCGS §160A-299 authorizes the City to close public streets, alleys and roadways, and sets out the procedure to be used by the City Council for such closings.

Pursuant to Resolution #16-27, adopted on October 5, 2016, the City Council declared the intent of the City to consider closing certain unopened sections of Murphy Street, McEntire Avenue and an unnamed street which extends between Murphy Street and Carbondale Lane. The Resolution further called for a public hearing, to be held at the Council's regularly scheduled November 7, 2016 meeting, to determine if such streets should in fact be closed for public travel. The Resolution and Notice were published in the Morganton News Herald for four (4) consecutive weeks, giving notice to the public that the hearing would be conducted in Council Chambers on November 7, 2016. Likewise, all property owners having property abutting on the sections of the streets under consideration for closing were notified by certified mail of the public hearing. A public notice was also prominently posted in two (2) places in the area of the

streets under consideration for closing. At the public hearing conducted on November 7, 2016, full and complete opportunity was granted for all interested persons to appear before the City Council, to be heard and to register any objections to the proposed street closings.

Findings and Conclusions:

It now appears to the satisfaction of the City Council, and the City Council does conclude as a fact, that the closing of the designated and unopened sections of Murphy Street, McEntire Avenue and the adjoining unnamed street are not contrary to the public interests. Further, the City Council concludes that the closing of these sections of street will promote the public safety, and that individuals owning property which either abuts on the streets to be closed, or might be affected by the closing of these sections of streets, have other adequate means of access to their property.

Therefore, as a result of the closing of these sections of the three (3) unopened streets as described below, no one will be denied or deprived of a reasonable means of ingress or egress to his or her property. The Council now determines and concludes that the sections of the three (3) streets designated below should be permanently closed, subject to any easements for utility lines that actually cross or otherwise affect these streets to be closed.

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the City Council of the City of Morganton, meeting in regular session on November 7, 2016, that:

1. The sections of Murphy Street, McEntire Avenue and an unnamed street connecting Murphy Street to Carbondale Lane, all as described below, should be permanently closed as public streets, and the City Council does hereby order that these sections of streets as described below be and the same are hereby permanently closed, effective as of the date of recording this ordinance and order in office of the Burke County Register of Deeds.
2. The section of Murphy Street closed by this Ordinance and Order is more particularly identified and described as follows:

The unopened portion of Murphy Street, 40 feet wide, extending from its intersection with McEntire Avenue in a southerly direction for approximately 164 feet between two separate properties of the Jarrett family located at 101 McEntire Avenue and 201 Murphy Street; and further extending southward Approximately 378 feet between the properties of SGL Carbon LLC to the West and the Jarrett family to the East; past the intersection of an unopened 40' street extending eastward from the right-of-way of Murphy Street; and continuing in a southerly direction between properties of SGL Carbon LLC to the West and Ridwill Realty Company, Inc. to the East for approximately 259 feet to a ditch. This ending point is the southernmost point of the platted

street, and is the eastern boundary of the subdivision depicted on that plat recorded in Plat Book 4, at Page 91 in the Burke County Registry.

3. The section of McEntire Avenue closed by this Ordinance and Order is more particularly identified and described as follows:

The unopened portion of McEntire Avenue sometimes referred to as unnamed street) extending from the intersection of McEntire Avenue and Murphy Street in an easterly direction to Carbondale Lane, between the property of John Whitener to the North and the properties of the Jarrett family to the South, for a total distance of approximately 354 feet, the street right-of-way being 40 feet in width, all as depicted on that plat recorded in Plat Book 4, at Page 91 in the Burke County Registry.

4. The section of that unnamed street which extends from an unopened portion of Murphy Street toward the end of Carbondale Lane, closed by this Ordinance and Order is more particularly identified and described as follows:

The unopened and unnamed street, 40 feet in width, is bounded on the North side by property of the Jarrett family and on the South side by property of Ridwill Realty Company Inc., and extends for approximately 192 feet in a northeasterly direction from the center point of the intersection of this unopened street with the unopened portion of Murphy Street, to a point near the common corner of the Jarrett property described in Deed Book 1440, at Page 929 (Tract III) and the property of Alan Brown described in Deed recorded in Book 776, at Page 1028 and identified as 212 Carbondale Lane.

5. The closings of the sections of the three (3) unopened streets identified above is subject to, and the City specifically reserves the following right, title and interest in [pursuant to N.C.G.S. § 160A-229(f)], any existing easements for water, sanitary sewer, electric or other utility lines over, through and across the sections of streets hereby closed. The reservation of the right, title and interest in utility improvements and easements herein shall also extend to utility improvements or easements owned by private utilities which, at the time of this street closing, have a utility agreement or franchise with the City, and said closing of the streets shall be subject to those rights of private utilities.
6. Fee interest. All right, title and interest that may be vested in the City of Morganton, or in the public, to the sections of the three (3) streets closed as described above, subject to the reservations noted above, is hereby released, quitclaimed and conveyed to the abutting real property owners of each street, in accordance with the provisions of N.C.G.S. § 160A-299(c), for the width of

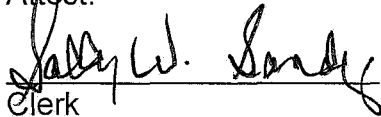
the abutting land owned by each of them, extending to the centerline of the closed sections of each of the three (3) streets as described above.

7. Other Documents. The Mayor and City Clerk are hereby authorized to execute any other document necessary to prove the vesting of all right, title and interest in the streets being closed to those persons owning lots or parcels of land adjacent to the said streets for the width of the abutting land owned by them, to extend to the centerline of the streets being closed as described above, reserving in such instruments, however, those rights specifically retained by the City as noted above.
8. Recording. Further, the City Clerk is hereby ordered and directed to file a certified copy of this Ordinance and Order in the Office of the Register of Deeds of Burke County, North Carolina, which copy shall be conclusive evidence of the closing of the sections of the three (3) streets as described above, and of the vesting of title in the abutting property owners as provided by statute.
9. Effective Date. This Ordinance and Order shall be effective as of the date the City records a copy hereof in the Office of the Register of Deeds of Burke County, North Carolina.

Adopted this 7th day of November, 2016.


Mayor

Attest:


Clerk

(CORPORATE SEAL)



NORTH CAROLINA

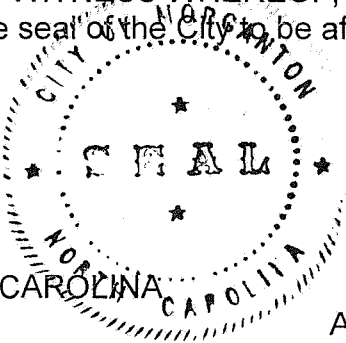
CERTIFICATION

BURKE COUNTY

I hereby certify that the foregoing is a true and accurate copy of an Ordinance and Order adopted by the City Council of the City of Morganton at a duly convened and held Council Meeting on November 7, 2016, at 6:00 p.m. in the Council Chambers in the City Hall of the City of Morganton.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official corporate seal of the City to be affixed, this the 7th day of November, 2016.

(SEAL)



CITY OF MORGANTON

By: Mikala D Russell
Assistant City Clerk

NORTH CAROLINA

ACKNOWLEDGEMENT

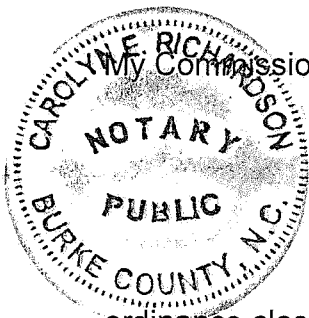
BURKE COUNTY

I, Carolyn E. Richardson, being a Notary Public of Burke County, North Carolina, do hereby certify that Mikala D. Russell, Assistant City Clerk for the City of Morganton appeared before me this day and acknowledged the due execution of the foregoing instrument.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal this the 7th day of November, 2016.

Carolyn E. Richardson
Notary Public

My Commission Expires: 8-27-2020



ordinance.closing murphy streets



BURKE COUNTY
201 SOUTH GREEN STREET
MORGANTON, NC 28655
(828) 438-5451

Receipt Time: 11/21/2016 10:47:49 AM
Issued To: CITY OF MORGANTON

Receipt #: 14367

Documents

#	Type	# Pages	Quantity	Reference #	Book / Page	Amount
1	ORDINANCE	5	1	2016010301	2266 541	\$26.00
Total :						\$26.00

Payments

#	Type	Payment #	Amount	NSF
1	CHECK	698803	\$26.00	
Total Payments:			\$26.00	

THANK YOU
LAURA Y ANDERSON
REGISTER OF DEEDS
USER00017