

ORDINANCE NO. #003-08

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS VACATING AND ABANDONING A PORTION OF RAILROAD STREET LYING BETWEEN WYE AVENUE AND HARMON AVENUE IN THE RAILROAD ADDITION OF THE CITY OF DE LEON ; PROVIDING FOR RETAINING AN EASEMENT FOR UTILITIES; AND PROVIDING A SEVERABILITY CLAUSE AND AN OPEN MEETING CLAUSE.

WHEREAS, the plat of the Railroad Addition to the Town of De Leon, Comanche County, Texas, recorded in Cabinet A, Slide 16, Plat Records, Comanche County, Texas shows a dedicated right of way known as Railroad Street in the City of De Leon; and

WHEREAS, Railroad Street has never been improved or maintained as a public right of way and is not necessary for the purpose of serving the general public or the landowners adjacent thereto as a street, now or in the future; and

WHEREAS, certain improvements associated with the City ball fields located on City property adjacent to the Railroad Street right of way have been constructed inadvertently in the Railroad Street right of way between Wye Street and Harmon Street; and

WHEREAS, the City has agreed to convey a portion of the City ball field property and all improvements on or associated with that property to the De Leon Independent School District (DISD) under the terms of an Interlocal Agreement between the City and DISD, dated February 19, 2008, and

WHEREAS, the City wishes to convey those improvements located in the Railroad Street right of way and the property on which the improvements are located to DISD for its use as a ball field to which the public will have access and to make such conveyance in conjunction with the conveyance anticipated in the Interlocal Agreement;

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. The right of way platted as Railroad Street between Wye Street and Harmon Street, and described more particularly by metes and bounds below, is hereby permanently vacated and abandoned by the City and the general public.

Beginning at a 4" metal fence corner post (control monument) in the south line of Railroad Street for the northeast corner of Lot 9, Block 35 of said Railroad Addition, same being the northwest corner of Lot 8 of said Block 36 and the northwest corner of a tract of land described in the deed to the City of De Leon, recorded in Volume 514, Page 111, Deed Records, Comanche County, Texas;

Thence N.20°09'23"E., 49.31 feet crossing Railroad Street to a point in the north line of Railroad Street, same being the south line of a railroad right of way;

Thence S.76°19'06"E., 97.69 feet along the common line between Railroad Street and the railroad right of way to a point;

Thence S.70°12'25"E., 308.48 feet continuing along said line to a point;

Thence S.21°05'17"W., crossing Railroad Street, at 42.35 feet passing a 1/2" rebar rod set with a cap stamped RPLS 1983 (control monument) for

the east corner of the City of De Leon Tract, continuing along said line, in all, 49.01 feet to a point in the southwest line of Railroad Street;

Thence N.70°12'25"W., at 4.76 feet passing the east corner of Lot 1 of said Block 35, continuing along the southwest line of Railroad Street, in all, 154.76 feet to a point for the north corner of Lot 3 of said Block 35, same being the east corner of Lot 4 of said Block 35;

Thence N.72°39'37"W. (base bearing per GPS Observation, WGS 84), 250.29 feet along the northeast line of the City of De Leon Tract to the point of beginning and containing 20,687 square feet.

Section 3. The Mayor is 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 the Railroad Street right of way to DISD, provided that such special warranty deed shall retain to the City a utility easement over the no less than a part of the conveyed parcel and as agreed to by DISD.

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 **10TH** day of **April, 2008**.

PASSED, APPROVED AND ADOPTED on second reading on this the **24th** day of **April, 2008**.

THE CITY OF DE LEON, TEXAS

Danny Owen, Mayor

ATTEST:

Karen Wilkerson, City Secretary