

ORDINANCE NO. #011-06

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS CLOSING, VACATING AND ABANDONING A THIRTY FOOT WIDE AREA ON THE EAST SIDE OF JOHNSON STREET RUNNING FROM THE INTERSECTION OF WOFFORD STREET AND JOHNSON STREET SOUTH TO THE SOUTH SIDE OF THE INTERSECTION OF DOLORES STREET AND JOHNSON STREET AND A TEN FOOT WIDE AREA ON THE EAST SIDE OF JOHNSON STREET FROM THE SOUTH SIDE OF DOLORES STREET RUNNING SOUTH TO NAVARRO STREET; AMENDING ORDINANCE NO. 009-98 BY REPEALING SECTION THREE OF ORDINANCE NO. 009-98; PROVIDING FINDINGS OF FACT; AND AUTHORIZING AND ESTABLISHING REQUIREMENTS FOR CONVEYANCE OF SUCH PROPERTY TO THE ABUTTING PROPERTY OWNERS BY DEED AND RETAINING AN EASEMENT FOR UTILITIES.

WHEREAS, the street known as Johnson Street in the City of De Leon, Texas which runs from Wofford Street south to Navarro Street was originally a dedicated street eighty feet (80) in width; and

WHEREAS, by Ordinance No. 009-98 approved and passed by the City of De Leon City Council (the City) on September 24, 1998, the City did vacate and abandon a twenty foot (20) strip along the east side of Johnson Street from Dolores Street to Navarro Street and determined that this vacated right-of-way was surplus and not needed for use by the City as a street to serve the general public or the landowners adjacent to the street; and

WHEREAS, the City has now determined that an area thirty feet (30) wide along the east side of the original dedicated Johnson Street from Wofford Street south to to Navarro Street, including the area vacated and abandoned in Ordinance No. 009-98, is not in use as a public right-of-way, is surplus and not needed for use by the City as a street to serve the general public or the landowners adjacent to the street and that the remaining fifty foot (50) public right-of-way is adequate to serve the general public and the adjacent landowners; and

WHEREAS, it has been requested by some of the abutting property owners that an additional portion of the dedicated public street be vacated and abandoned as a public right-of-way creating a thirty foot (30) wide area on the east side of Johnson Street running from Wofford Street to Navarro Street, excepting any tract earlier conveyed pursuant to Ordinance No. 009-98, (the Vacated Tract) which would be available for conveyance to the abutting property owners; and

WHEREAS, Chapt. 272, Tex. Loc. Govt. Code, authorizes political subdivisions to sell and convey abandoned street property to abutting owners at an appraised 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 east thirty feet (30) feet, more or less, of the dedicated public right-of-way known as Johnson Street extending from Wofford Street to the south side of Dolores Street and the east ten feet (10) of the dedicated public right-of-way known as Johnson Street abutting the public right-of-way previously vacated and abandoned in Ordinance No. 009-98 running from Dolores Street to Navarro Street are hereby permanently closed, vacated, and abandoned by the City and the general public as a public right-of-way.

Section 3. Section 3 of Ordinance No. 009-98 is hereby repealed in its entirety and replaced by Section 4 of this ordinance.

Section 4. Upon written request from a person owning property abutting the Vacated Tract, the City will convey the abutting portion of the Vacated Tract to the requesting property owner by deed conveying the rights and interests of the City in that portion of the Vacated Tract to the requesting property owner but retaining in the City a general utility easement over the entirety of property conveyed. Such conveyance shall be approved by the City Council and executed by the Mayor and the City Secretary. Consideration for conveyance shall be appraised fair market value to be paid to the City at the time of conveyance. Further, any property owner requesting conveyance of a portion of the Vacated Tract will be required to secure a survey and provide a metes and bounds description of the property to be conveyed prior to conveyance and shall pay all costs associated with the conveyance. Upon the payment of the purchase price and the execution of such deed, the deed shall be and become a valid and binding act and deed of the City. 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 not disturb or encroach upon any permanent improvement to the property and shall level the soil and repair the excavation to the City's satisfaction. Any permanent improvements to the property conveyed shall comply with all ordinances and requirements of the City governing same.

Section 5. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application thereof 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 6. 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.

THE CITY OF DE LEON, TEXAS

PASSED AND APPROVED on first reading on the 28th day of September, 2006.

Danny Owen, Mayor

PASSED AND APPROVED on first reading on the 29th day of September, 2006.

Danny Owen, Mayor

Attest:

Karen Wilkerson, City Secretary