

ORDINANCE NO. 2215

AN ORDINANCE VACATING AN UNNAMED, UNOPENED STREET LOCATED BETWEEN BLOCKS 1 and 2 OF THE MAGNETIC BAYS SURVEY TO THE CITY OF EUREKA SPRINGS, CARROLL COUNTY, ARKANSAS; RECEIVING AND GRANTING UTILITY EASEMENTS, AND FOR OTHER PURPOSES

WHEREAS, the City Council of Eureka Springs, Arkansas, has reviewed the Petition of Ryan and Rachel Brix to vacate certain real property within the City, pursuant to Ark. Code Ann. Section 14-54-104, et seq.; and,

WHEREAS on May 12, 2014, the City of Eureka Springs reclaimed said area from the Parks and Recreation Department; and

WHEREAS the above described area is no longer needed for corporate purposes, of ingress and egress, and has not been utilized as a street or alley for a period in excess of Five (5) years prior to the filing of the petition to vacate, and a proper petition to vacate has been filed, notice provided as required by law, and is before the City Council; and

WHEREAS, Ryan and Rachel Brix are the owners of Lots 1, 2, and 3, Block 2 and Pt. Lot 15, all of Lots 16, 17, 18 and Pt. Lot 19, Block 1 of Magnetic Bays Survey of the City of Eureka Springs, Arkansas, together with other lands, and as Petitioners are desirous of having the unnamed road which is situated between Block 1 and Block 2 of Magnetic Bays Survey of the City of Eureka Springs, Arkansas, and which constitutes an extension of Rock Street (hereinafter referred to as "Unnamed Road"), vacated; and

WHEREAS, the Mildred C. Ames Estate is the owner of Pt. Lot 15, Block 1, of Magnetic Bays Survey of the City of Eureka Springs, Arkansas, together with other lands, and has consented to the vacating of said Unnamed Road; and

WHEREAS, Marble Flats, LLC is the owner of certain lands, including Block 9 of the Clayton Survey of the City of Eureka Springs, Arkansas, which lands are adjacent

to, and accessible by, the aforesaid Unnamed Road; and

WHEREAS, Marble Flats, LLC, having previously objected to the closure and vacating of said Unnamed Road by the City of Eureka Springs is willing and does hereby consent to such closure and vacation, pursuant to the conditions and agreements set forth herein; and

WHEREAS, the City of Eureka Springs, the Petitioners, and Marble Flats have reached a compromise agreement which will allow the Unnamed Road to be vacated and closed, and which agreement is in the best interest of the City of Eureka Springs, the Petitioner and Marble Flats, LLC; and

WHEREAS, Ryan and Rachel Brix have executed and delivered unto the City of Eureka Springs, conditional upon the passage hereof, an easement conveying unto the City of Eureka Springs, and its assigns, an easement for underground utilities on the following described property, to-wit:

A Utility Easement being thirty (30) feet wide for construction purposes and permanently twenty (20) feet wide across a part of an unnamed road, being an extension of Rock Street, in Magnetic Bays Survey, (hereinafter referred to as "Unnamed Road"), being more particularly described as follows: Commencing at the SW corner of Block 1 of said Magnetic Bays Survey, said point being on the east line of said Unnamed Road and the POINT OF BEGINNING; thence S88°31'38"W, 30.85 feet to the a point on the west line of said road; thence along said west line the following courses: N11°25'25"W, 147.57 feet; thence N12°49'13"E, 46.77 feet; thence N32°25'39"E, 36.11 feet; thence N15°03'52"W, 15.00 feet; thence leaving said west line, S66°43'03"E, 49.00 feet to a point on the east line of said Unnamed Road; thence along said east line the following courses: S49°56'07"W, 6.00 feet; thence S42°47'18"W, 39.37 feet; thence S12°49'13"W, 38.87 feet; thence S11°25'25"E, 147.31 feet to the POINT OF BEGINNING.

WHEREAS, the City of Eureka Springs, Arkansas, for the express purpose of obtaining the consent of Marble Flats, LLC to the vacation of said Unnamed Road, does hereby grant, simultaneous with the passage hereof, an easement for the installation and maintenance of underground utilities, unto Marble Flats, LLC, and its successors and assigns forever, on the following described property, to-wit:

A Utility Easement being thirty (30) feet wide for construction purposes and permanently twenty (20) feet wide, across a portion of Magnetic Bays Survey, and across a portion of Clayton Survey, all in the City of Eureka Springs, Arkansas, and being more particularly described as follows: Commencing at the SW corner of Block 1 of said Magnetic Bays Survey, said point being on the east line of Rock Street, as platted, and the POINT OF BEGINNING; thence S 24°49'52" E 17.81 feet to a point on said east line ; thence along said east line, S 05°45'51" W 44.00 feet; thence S 89°13'04" W 30.20 feet to a point on the west line of said Rock Street; thence along said west line the following courses: N 05°45'50" E 42.54 feet; thence N 24°49'53" W 18.99 feet; thence N 11°25'25" W 147.57 feet; thence N 12°49'13" E 46.77 feet; thence N 32°25'39" E 36.11 feet; thence N 15°03'52" W 27.07 feet to a point in Magnetic Street, said point being fifteen (15) feet south of the centerline of said street; thence running parallel with the centerline of said street, S 82°17'19" W 2.19 feet; thence S 80°06'38" W 149.78 feet; thence S 83°43'20" W 56.73 feet to the centerline of Arkansas Highway 23 (Main Street); thence along said highway, N 05°02'36" W 18.71 feet; thence N 08°30'18" W 11.31 feet; thence along Magnetic Street, being fifteen (15) feet north of the centerline, N 83°43'20" E 55.82 feet; thence N 80°06'38" E 149.40 feet; thence N 82°17'14" E 29.14 feet; thence leaving said Magnetic Street, S 15°03'52" E 64.52 feet; thence S 32°25'40" W 41.16 feet to a point on the east line of said Rock Street; thence along said east line the following courses: S 12°49'13" W 38.87 feet; thence S 11°25'25" E 147.31 feet to the POINT OF BEGINNING.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF EUREKA SPRINGS, ARKANSAS, THAT:

1. The City of Eureka Springs hereby releases, vacates and abandons all its rights, together with the rights of the public generally, in and to the street designated as follows and title is vested in the adjoining landowners, each to the center of the street so abandoned, and ownership shall be free from the easement of the city for public use as a street. The portion of the street being vacated is described as follows:

A part of an unnamed road, being an extension of Rock Street, in Magnetic Bays Survey, (hereinafter referred to as Unnamed Road), being more particularly described as follows: Commencing at the SW corner of Block 1 of said Magnetic Bays Survey, said point being on the east line of said Unnamed Road and the POINT OF BEGINNING; thence S88°31'38"W, 30.85 feet to the a point on the west line of said road; thence along said west line the following courses: N11°25'25"W, 147.57 feet; thence N12°49'13"E, 46.77 feet; thence N32°25'39"E, 36.11 feet; thence N15°03'52"W, 15.00 feet; thence leaving said west line, S66°43'03"E, 49.00 feet to a point on the east line of said Unnamed Road; thence along said east line the following courses: S49°56'07"W, 6.00 feet; thence S42°47'18"W, 39.37 feet; thence S12°49'13"W, 38.87 feet; thence S11°25'25"E, 147.31 feet to the POINT OF BEGINNING.

2. The City of Eureka Springs, Arkansas, acting by and through its Mayor, has, or shall, simultaneous herewith, execute and deliver unto Marble Flats, LLC, an easement for underground utilities on the following described real property, to-wit:

A Utility Easement being thirty (30) feet wide for construction purposes and permanently twenty (20) feet wide, across a portion of Magnetic Bays Survey, and across a portion of Clayton Survey, all in the City of Eureka Springs, Arkansas, and being more particularly described as follows: Commencing at the SW corner of Block 1 of said Magnetic Bays Survey, said point being on the east line of Rock Street, as platted, and the POINT OF BEGINNING; thence S 24°49'52" E 17.81 feet to a point on said east line ; thence along said east line, S 05°45'51" W 44.00 feet; thence S 89°13'04" W 30.20 feet to a point on the west line of said Rock Street; thence along said west line the following courses: N 05°45'50" E 42.54 feet; thence N 24°49'53" W 18.99 feet; thence N 11°25'25" W 147.57 feet;

thence N 12°49'13" E 46.77 feet; thence N 32°25'39" E 36.11 feet; thence N 15°03'52" W 27.07 feet to a point in Magnetic Street, said point being fifteen (15) feet south of the centerline of said street; thence running parallel with the centerline of said street, S 82°17'19" W 2.19 feet; thence S 80°06'38" W 149.78 feet; thence S 83°43'20" W 56.73 feet to the centerline of Arkansas Highway 23 (Main Street); thence along said highway, N 05°02'36" W 18.71 feet; thence N 08°30'18" W 11.31 feet; thence along Magnetic Street, being fifteen (15) feet north of the centerline, N 83°43'20" E 55.82 feet; thence N 80°06'38" E 149.40 feet; thence N 82°17'14" E 29.14 feet; thence leaving said Magnetic Street, S 15°03'52" E 64.52 feet; thence S 32°25'40" W 41.16 feet to a point on the east line of said Rock Street; thence along said east line the following courses: S 12°49'13" W 38.87 feet; thence S 11°25'25" E 147.31 feet to the POINT OF BEGINNING.

It being the expressed intent of the City of Eureka Springs to grant unto Marble Flats, LLC an easement sufficient to allow the installation of water, sewer and all other utilities, from the vacated Unnamed Road to a point of connection with presently existing utilities.

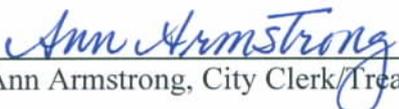
3. Any utilities constructed or installed in the above described easement shall be installed underground and in full and complete accordance with all such building codes and regulations as shall be in force and applicable at the time of installation or construction.

4. The easement conveyed to Marble Flats, LLC, shall be for utility purposes only and shall be limited to the installation, construction and maintenance of utilities, all of which shall be installed underground, and for no other purpose.

5. A copy of this ordinance, duly certified by the city clerk, shall be filed in the office of the recorder in and for the Western District of Carroll County, Arkansas, and recorded in the deed records of the County.

PASSED AND ORDAINED THIS 28TH DAY OF JULY, 2014.

ATTEST:


Ann Armstrong, City Clerk/Treasurer

APPROVED:


Morris Pate, Mayor

Aldermen voting "Aye" – Dee Purkeypile, Joyce Zeller, David Mitchell, James DeVito
Aldermen voting "No" – Terry McClung and Mickey Schneider