

ORDINANCE No. 1807

AN ORDINANCE OF THE CITY OF EUREKA SPRINGS, ARKANSAS, PERTAINING TO WATER SALES; ADDING A NEW SECTION, DESIGNATED AS SECTION 10.04.08, PROVIDING AUTHORITY FOR THE CITY TO ENTER INTO CONTRACTS TO SELL WATER OUTSIDE THE CITY LIMITS; ESTABLISHING TERMS, CONDITIONS AND RATES; PROVIDING FOR SEVERABILITY OF PROVISIONS AND DECLARING AN EMERGENCY.

WHEREAS, the City of Eureka Springs is party to a contract with the Carroll-Boone Water District that allows the City the opportunity and right to sell water from the District's system to certain users located outside the limits of said City within a certain geographic area; and,

WHEREAS, the statutes of the State of Arkansas also provide certain instances wherein the City may sell water furnished through the City's system to certain users located outside the city limits; and,

WHEREAS, the Council of the City of Eureka Springs believes that the sale of water by contract to certain users outside the corporate limits of the City, whether serviced through the City distribution system or directly from the District system, may prove to benefit the City, and that the ordinances and Code of the City should be expanded and amended to clearly allow the City to exercise its right to contract in proper instances.

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

SECTION ONE: That there is hereby added to the Eureka Springs Municipal Code a section 10.04.08 to Title 10 of said Code which shall provide as follows, to-wit:

"10.04.08 Water Contracts. Unless specifically prohibited by another provision contained in this Code the City shall have the right to enter into contracts to sell water outside the limits of said City as may be authorized by the statutes of the State of Arkansas and/or the Memorandum of Understanding with Carroll-Boone Water District, dated December 18, 1998 or as either may hereinafter be amended, upon the following terms and conditions:

- (1) the limits of the area to be served shall be clearly defined;
- (2) the area to be served shall be governed and administrated by a competent and legally formed entity,'

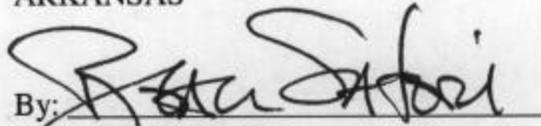
- (3) the distribution system to be served shall be designed, constructed and maintained in accordance with Arkansas Department of Health standards, and in accordance and compliance with the Arkansas State Plumbing Code;
- (4) the cost for construction to effect connection shall be borne completely by the user, and shall not be included in the City's water rates;
- (5) any such contract shall be for a fixed term;
- (6) that all contracts with users connecting directly to the Carroll-Boone Water District system shall be set at a rate established by City Council paid by City to said District as that rate may from time to time be changes; that all Contracts with users to be served directly through the City's system shall be charged at a rate provided Section 10.04.02 of this code;
- (7) the user shall furnish, operate and maintain at users own expense, a master meter(s) at all times properly calibrated to insure proper reading and billing;
- (8) that any such contract shall be approved by proper resolution of the City and by proper resolution of the governing body of user; except, that in the event the user shall be another city or an improvement district properly created under authority of the Arkansas statutes, the contract shall be approved and authorized by proper ordinance of each party.

SECTION TWO: That the provisions of this ordinance are severable and the decision of any Court or other authorized body declaring any portion or portions of this ordinance shall not affect the remaining provisions hereof.

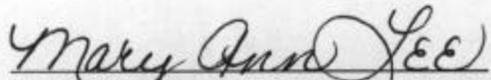
SECTION THREE: The City finds that an emergency exists and that by reason of said emergency this ordinance should go into full force and effect immediately upon its passage. That the facts constituting said emergency are found to be as follows: That, in 1997, the Subdivisions of Bay Shores and Bluff Shores approached certain officials of the City concerning buying from City water from the Carroll- Boone Water District and were given assurances that there would be no problem. That based upon such assurances, said parties formed the Grassy Knob Subordinate Service District, incurred indebtedness, and constructed its system and is now ready to connect to the Carroll-Boone Water District system. That Grassy Knob needs to connect as soon as possible in order that it may honor commitments to its subscribers, and also so that it may honor its commitments as regards assumption of payment on its indebtedness. That to delay passage of this ordinance would delay the date when a proper contract can be entered into, and cause damage to Grassy-Knob as above set-forth. That at all times Grassy Knob has acted in good faith.

PASSED AND APPROVED the 1<sup>st</sup> day of April 1999.

THE CITY OF EUREKA SPRINGS,  
ARKANSAS

By:   
BEAU SATORI, Mayor

ATTEST:

  
MARY ANN LEE, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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TOM J. LAUB, City Attorney

AGREEMENT

WHEREAS, The Subdivisions of Bay Shores and Bluff Shores in the Grassy Knob area and the company presently supplying water to the area, DLR Real Estate, Inc., desire to connect to, and draw water from, the Carroll-Boone Water District (CBWD) system for domestic and commercial use and to provide fire protection, and

WHEREAS, The City of Eureka Springs has an agreement with the Carroll-Boone Water District for the distribution and sale of CBWD water in the Grassy Knob area,

NOW, THEREFORE, the two Subdivisions, DLR Real Estate, Inc. and the City of Eureka Springs agree that:

1. The City of Eureka Springs does not oppose the connection of the two Subdivisions to the Carroll-Boone water system, provided that such connection will be properly designed, installed and certified by competent engineering authority to have no detrimental effect on the system.
2. The City of Eureka Springs will provide no funds in support of the project and will incur no liability as a result of agreeing to the connection.
3. The two Subdivisions and DLR Real Estate, Inc. will establish the necessary framework (e.g., Corporation or Subordinate Service District) to provide the management and financial control necessary to insure the stable operation of the new organization.
4. Upon successful installation of the pipeline connection and establishment of the appropriate management and financial structure, the City of Eureka Springs will sell water to the new organization in bulk quantities on a monthly basis for \$1.55 per 1000 gal for the first 250,000 gal and \$1.42 per 1000 gal thereafter, to be adjusted as necessary by any increases or decreases in rates charged by the Carroll-Boone Water District.

DATED this 18<sup>TH</sup> day of FEBRUARY, 1997.

*Alex Haynes*  
Alex Haynes - Residents Representative

*Donald L. Robinson*  
Donald L. Robinson - DLR Real Estate, Inc.

*Barbara O'Harris*  
Mayor Barbara O'Harris - City of Eureka Springs

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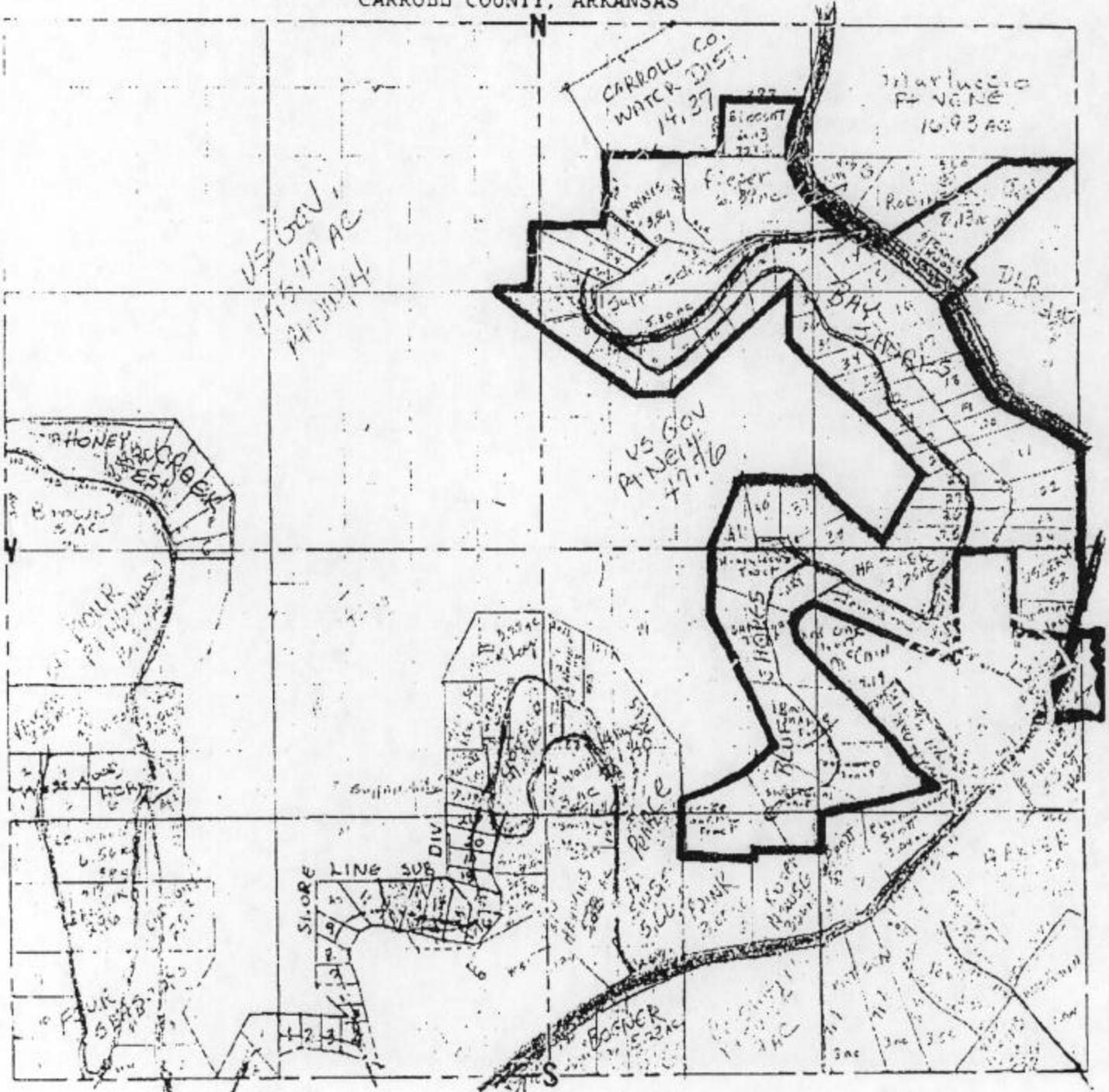
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EXHIBIT A

GRASSY KNIFE SUBORDINATE SERVICES DISTRICT

SCALE FOR SECTION. Each side large blue squares = 20 chains, 80 rods, 1320 feet; area of square 40 acres.  
660 ft. = 1 inch. Each side small red squares = 5 chains, 20 rods, 330 feet; area of square 2 1/2 acres.

TOWNSHIP 20 N., RANGE 27 W., SECTION 15  
CARROLL COUNTY, ARKANSAS



SCALE FOR QUARTER SECTION. Each side large blue squares = 10 chains, 40 rods, 660 feet; area of square 10 acres.  
330 Ft. = 1 inch. Each side small red squares = 2.5 chains, 10 rods, 165 feet; area of square .625 of 1 acre.

RESOLUTION NO. 437

A RESOLUTION CONSENTING TO THE INCORPORATION OF  
THE GRASSY KNOB AREA

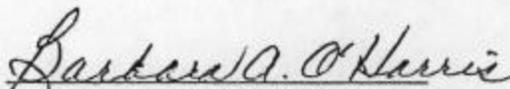
WHEREAS, residents in the Grassy Knob area have expressed a desire to incorporate and pursuant to Arkansas Code 14-38-101, the consent of Eureka Springs may be required.

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

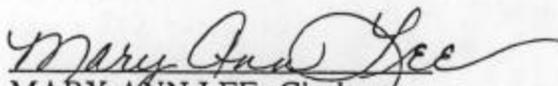
1. That the City of Eureka Springs affirmatively consents to the incorporation of the Grassy Knob area.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS THIS 10<sup>th</sup> DAY OF SEPTEMBER, 1996.

APPROVED:

  
BARBARA O'HARRIS, Mayor

ATTEST:

  
MARY ANN LEE, Clerk