

ORDINANCE NO. 1562 (Amended)

An ordinance vacating a part of Clay Street and a part of Brown Street.

WHEREAS, a petition was duly filed with the City Council of the City of Eureka Springs, Arkansas on the 9th day of November, 1993, asking the City Council to vacate and abandon all that portion of Clay Street and all that portion of Brown Street designated on the R & A Survey to the City of Eureka Springs, Arkansas, attached hereto and made a part hereof, described as follows:

That part of Clay Street lying between Lots 1 and 2, Block 98 and Lots 1 and 2, Block 99. Also part of Brown Street (or an unnamed street) lying between Lot 8, Block 100, and front Lot 1 and middle tier Lot 1, Block 99, Clay Street. Also that part of the intersection of Clay and Brown Streets lying South of a line commencing at the easternmost point of Lot 1, Block 98, to a point on Lot 8, Block 100, found by commencing at the westernmost corner of said Lot 8, thence following the lot line in a northeasterly direction 80 feet to the point.

WHEREAS, after due notice as required by law, the Council has at the time and place mentioned in the notice, heard all persons desiring to be heard on the question and has ascertained that the streets or the portion thereof hereinafter described, have heretofore been dedicated to the public use as streets herein described, have not been actually used by the public generally for a period of at least five (5) years subsequent to the filing of the plat; that the petitioners own all of the property abutting upon the portion of the streets to be vacated; and that public interest and welfare will not be adversely affected by the abandonment of the streets.

NOW, THEREFORE, be it ordained by the City Council of the City of Eureka Springs, Arkansas:

Section 1. The City of Eureka Springs, Arkansas, releases, vacates and abandons all its rights, together with the rights of the public generally, in and to the streets designated as follows:

That part of Clay Street lying between Lots 1 and 2, Block 98 and Lots 1 and 2, Block 99. Also part of Brown Street (or an unnamed street) lying between Lot 8, Block 100, and front Lot 1 and middle tier Lot 1, Block 99, Clay Street. Also

that part of the intersection of Clay and Brown Streets lying South of a line commencing at the easternmost point of Lot 1, Block 98, to a point on Lot 8, Block 100, found by commencing at the westernmost corner of said Lot 8, thence following the lot line in a northeasterly direction 80 feet to the point.

as shown on the plat of the R & A Survey of the City of Eureka Springs, Arkansas, attached hereto and made a part hereof.

As a condition of vacating the above described portions of said streets, the City of Eureka Springs, Arkansas, hereby expressly reserves to the City of Eureka Springs the right to said streets for any existing utility lines now in place, and further reserves the right to said streets for any and all future utility lines that the City of Eureka Springs may need to install in the future.

Section 2. A copy of the ordinance duly certified by the City Clerk shall be filed in the Office of the Recorder of the County and recorded in the deed records of the County.

Section 3. This ordinance shall take effect and be in force from and after its passage.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, ON THIS 22nd DAY OF February, 1994.

APPROVED:

Louise D. Berry
Louise Berry, Mayor

ATTEST:

Juanita S. Barner
Juanita S. Barner, Clerk

NOTICE OF PUBLIC HEARING

Public notice is hereby given that a petition has been filed by Roger K. Pope and Rebecca J. Pope, husband and wife, requesting that the following described portions of streets be vacated by the City Council of Eureka Springs, Arkansas, to-wit:

That part of Clay Street lying between Lots 1 and 2, Block 98 and Lots 1 and 2, Block 99. Also part of Brown Street (or an unnamed street) lying between Lot 8, Block 100, and front Lot 1 and middle tier Lot 1, Block 99, Clay Street. Also that part of the intersection of Clay and Brown Streets lying South of a line commencing at the easternmost point of Lot 1, Block 98, to a point on Lot 8, Block 100, found by commencing at the westernmost corner of said Lot 8, thence following the lot line in a northeasterly direction 80 feet to the point.

All interested persons are hereby advised that a public hearing will be held on December 14, 1993, at 9:00 A.M., in the Council Room of the Western District Courthouse, Eureka Springs, Arkansas, at which time all interested persons will be heard, the Petition acted upon and a determination made as to whether or not said portions of Clay and Brown Streets shall be vacated.

Joanna S. Barner
City Clerk

Affidavit of Publication

COUNTY OF CARROLL
STATE OF ARKANSAS

} ss.

I, Judith Hurler, do solemnly swear that I am the (editor, proprietor, manager or chief accountant) of THE EUREKA SPRINGS TIMES-ECHO, and that the same is a weekly newspaper and that it has general and bona fide circulation in Carroll County, Arkansas and is printed and published at Eureka Springs, in Carroll County, Arkansas, on THURSDAY of each week; that the advertisement hereto was printed and published in said newspaper for TWO consecutive times, weekly, and the dates of said publication are as follows:

Dec. 2 19931919
Dec. 9 19931919
.....191919

Judith Hurler

THE EUREKA SPRINGS TIMES-EC

NOTICE OF PUBLIC HEARING

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Juanita S. Barner
City Clerk

me, this 9th day of December, 1993

-12-96

Cynthia Chappell
Notary Public



BEFORE THE CITY COUNCIL OF EUREKA SPRINGS, ARKANSAS

ROGER K. POPE AND REBECCA J. POPE,
Husband and Wife

PETITIONER

PETITION TO VACATE

Comes Roger K. Pope and Rebecca J. Pope, husband and wife, and for their petition, state:

1. That Roger K. Pope and Rebecca J. Pope, husband and wife, are the owners of the following described real property as shown on the R & A Survey of the City of Eureka Springs, Arkansas:

A part of Lots 8 and 9, Block 100, of the Riley and Armstrong Survey of the City of Eureka Springs, Arkansas, more particularly described as: Commencing at the most Easterly corner of said Lot 9; thence South 92.02 feet; thence West 205.66 feet to the place of beginning; thence North 43° 15' 02" West 138.50 feet; thence North 51° 09' 36" East 64.05 feet to the South side of Benton Street; thence with said street North 87° 19' 02" East 40.16 feet; thence leaving the street South 09° 49' 13" East 34.48 feet; thence South 04° 43' 12" East 45.82 feet; thence South 04° 18' 06" West 63.46 feet to the place of beginning and containing 0.18 acre, more or less, and SUBJECT TO the road right-of-way.

AND

Lot 1, Second Tier, adjoining Brown Street on the West side, Lot 1, Third Tier, adjoining Brown Street on the West side and Clay Street on the South side, Lot 2, Third Tier, adjoining Clay Street on the South side, all in Block 99, Riley and Armstrong Survey to the City of Eureka Springs, Arkansas.

The above described real property is shown on plat of survey prepared by Huston Surveying, Omaha, Arkansas, dated November 4, 1992.

AND

Lots 1 and 2, between Benton and Clay Streets, Block 98, Riley and Armstrong Survey of the City of Eureka Springs, Arkansas.

2. That the petitioners herein seek to vacate the following described portions of streets:

That part of Clay Street lying between Lots 1 and 2, Block 98 and Lots 1 and 2, Block 99. Also part of Brown Street (or an unnamed street) lying between Lot 8, Block 100, and front Lot 1 and middle tier Lot 1, Block 99, Clay Street. Also that part of the intersection of Clay and Brown Streets lying South of a line commencing at the easternmost point of Lot 1, Block 98, to a point on Lot 8, Block 100, found by commencing at the westernmost corner of said Lot 8, thence following the lot line in a northeasterly direction 80 feet to the point.

That the said portions of streets are shown on the plat of survey attached hereto and made a part hereof.

3. That the above described portions of streets sought to be vacated are not presently open and have not been used as streets for more than ten (10) years last past.

4. That it is the petition of the undersigned persons that the above described portions of streets be vacated by the City Council of the City of Eureka Springs, Arkansas, and that, if so vacated, the said property be granted by the City to the adjoining landowners, Roger K. Pope and Rebecca J. Pope, husband and wife.

5. That the City of Eureka Springs reserve an easement across said vacated portion of streets for utility lines.

WHEREFORE, it is petitioners' request that the following actions be taken:

- A. That the City Council of the City of Eureka Springs, Arkansas, set a date and time at which to hear and determine whether the above described portions of Clay and Brown Streets should be vacated by the City of Eureka Springs, Arkansas;
- B. That the City Council of the City of Eureka Springs, Arkansas, at the designated time, pass an ordinance vacating the above described portions of Clay and Brown Streets and vesting the title thereto in the landowners of the surrounding property, Roger K. Pope and Rebecca J. Pope, husband and wife, as petitioned, subject to easements reserved for the City of Eureka Springs for utility lines.

ROGER K. POPE AND REBECCA J.
POPE, Husband and Wife,
Petitioner

BY: Connie S. France
Connie S. France #89051
EPLEY, EPLEY & FRANCE, LTD.
P. O. Drawer 470
Eureka Springs, AR 72632
Their Attorney



Johnsons Street
 Maughn Street
 We 37
 Spring
 Clay
 Cherokee
 Brown
 Cross

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LAW OFFICES
EPLEY, EPLEY & FRANCE, LTD.

104 SPRING STREET
P. O. DRAWER 470
EUREKA SPRINGS, ARKANSAS 72632

LEWIS E. EPLEY, JR.
ALAN D. EPLEY
CONNIE S. FRANCE

November 9, 1993

TELEPHONE 253-8732
AREA CODE 501

Ms. Nita Barner
City Offices
Courthouse - 44 South Main
Eureka Springs, AR 72632

Re: Pope Street Vacation

Dear Nita:

I've enclosed a Petition to Vacate portions of streets for filing with the Council, along with a Notice of Public Hearing. Please file the petition and let me know the date of the council meeting at which the public hearing will be scheduled. When the public hearing is set, please fill in the date and time in the notice and send it for publication in the newspaper on two consecutive weeks.

Thank you for your help.

Sincerely yours,

EPLEY, EPLEY & FRANCE, LTD.



Connie S. France
CSF/vk

city of eureka
springs

city offices, 44 south main
eureka springs, arkansas 72632

(501) 253-9703
FAX (501) 253-6967



FAXED
11/23/93

TO: Pat -
Times Echo
clo Carroll Co. Newspaper

FROM: Nita

NUMBER OF PAGES 1 FAX NO: _____

MESSAGE: Please run this Public Notice two
consecutive weeks of Bill Epley, Epley & France -
104 Spring St, Eureka Springs