

ORDINANCE NO. 2009-04

AN ORDINANCE OF THE CITY OF REPUBLIC, WASHINGTON, REPEALING ORDINANCE NO. 119 WHICH VACATED A PORTION OF NEWTON STREET AND A PORTION OF 8TH STREET AND WHICH CONTAINED A CONDITION PRECEDENT IN SUCH ORDINANCE THAT CANNOT BE MET, AND REPEALING ORDINANCE NO. 2007-11 WHICH AMENDS ORDINANCE NO. 119 AND CONTAINS AN ERRONEOUS LEGAL DESCRIPTION.

WHEREAS, Ordinance No. 119 was passed on October 4, 1955, and was filed for record on August 27, 2007, as Ferry County Auditor's File No. 269621, and which vacated a portion of Newton Street and a portion of 8th Street subject to a condition precedent which cannot be met; and,

WHEREAS, Ordinance No. 2007-11 was passed on October 1, 2007, which amended Ordinance No. 119, and which contained an erroneous legal description in the amending section; and,

WHEREAS, a new street vacation has been initiated and completed by the City of Republic to correct the deficiencies contained in Ordinance No. 119 and Ordinance No. 2007-11; and,

WHEREAS, Ordinance No. 2009-03 was passed on February 17, 2009, which correctly vacates those portions of Newton Street and 8th Street as contemplated within Ordinance No. 119 and Ordinance No. 2007-11; and,

WHEREAS, it is necessary to repeal Ordinance No. 119 and Ordinance No. 2007-11 to clear title and to delete the deficiencies contained in such Ordinances.

NOW, THEREFORE, the City Council of the City of Republic do ordain as follows:

Section 1. Repealer. Ordinance No. 119 and Ordinance No. 2007-11 are hereby repealed in their entirety.

Section 2. Effective Date. This Ordinance shall become effective from and after the date of passage by the Council, approval by the Mayor and five days after publication of this Ordinance, or a summary thereof, as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF REPUBLIC,
WASHINGTON, THIS 17th DAY OF FEBRUARY, 2009.

APPROVED:

By: _____
Alexander W. Wirt, Mayor Pro

Tempore
ATTEST:

By: _____
Margo Sattler, City Clerk-Treasurer

APPROVED AS TO FORM:

By: _____
W. Scott DeTro, City Attorney

ORDINANCE NO. 2009-03

AN ORDINANCE OF THE CITY OF REPUBLIC, WASHINGTON, VACATING PORTIONS OF NEWTON STREET AND 8TH STREET WITHIN THE CITY LIMITS OF REPUBLIC.

WHEREAS, the statutory process pursuant to RCW 35.79 was initiated by Resolution of the City Council of the City of Republic to vacate portions of Newton Street and 8th Street to correct prior deficiencies in Ordinance No. 119 and Ordinance No. 2007-11; and,

WHEREAS, a second Resolution was passed by the City Council setting a public hearing for February 17, 2009, at 7:00 p.m. in the Council Chambers of Republic City Hall, 987 South Clark Avenue, Republic, Washington; and,

WHEREAS, the City Clerk gave the statutory notice of the pendency of the action as required by law; and,

WHEREAS, the public hearing was held as noticed; and,

WHEREAS, the City Council of the City of Republic finds it to be in the public interest to vacate those portions of Newton Street and 8th Street set forth herein; and,

WHEREAS, no written objections were filed pursuant to RCW 35.29.020.

NOW, THEREFORE, the City Council of the City of Republic, Washington, do ordain as follows:

Section 1. Those portions of Newton Street and 8th Street described as follows:

A. That portion of Newton Street commencing at the

northeast corner of Lot 20, Block 8, Schoolhouse Addition, thence southerly to the southeast corner of Lot 20, Block 7, Schoolhouse Addition;

- B. That portion of 8th Street commencing at the southwest corner of Lot 12, Block 3, Schoolhouse Addition, and thence westerly to the southwest corner of Lot 1, Block 8, Schoolhouse Addition;

are hereby vacated. Fee title to said property shall belong to the abutting property owners, one-half to each.

Section 3. A certified copy of this Ordinance shall be recorded in the Office of the Auditor of Ferry County, Washington.

Section 4. Ordinance No. 119 and Ordinance No. 2007-11, previously passed, and which are deficient, and such vacation process shall be repealed.

Section 5. Effective Date. This Ordinance shall become effective from and after the date of passage by the Council, approval by the Mayor and five days after publication of this Ordinance, or a summary thereof, as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF REPUBLIC, WASHINGTON, THIS 17th DAY OF FEBRUARY, 2009.

APPROVED:

By: _____
Alexander W. Wirt, Mayor Pro

Tempore
ATTEST:

By: _____
Margo Sattler, City Clerk-Treasurer

APPROVED AS TO FORM:

By: _____

W. Scott DeTro, City Attorney

December 31, 2008

Margo Sattler, Clerk-Treasurer
City of Republic
P.O. Box 331
Republic, WA 99166-0331

RE: **Street Vacation – Newton Street and 8th Street**

Dear Margo:

Please find enclosed the following documents:

1. Original Resolution – initiating vacation procedure;
2. Original Resolution – setting time for public hearing;
3. Original Notice;
4. Draft Ordinance – vacating portions of Newton Street and 8th Street, and cover sheet for recording purposes;
5. Original Ordinance – repealing Ordinance No. 119 and Ordinance No. 2007-11, and cover sheet for recording purposes.

I have prepared the enclosed documents to correct the problems associated with Ordinance No. 119 and Ordinance No. 2007-11. Ordinance No. 93 will remain as previously passed and recorded, as there are no problems associated with this Ordinance.

The following is a brief explanation of the documents and the procedure:

Resolution – initiating vacation procedure. I prepared the original Resolution to be passed by the City Council to initiate the vacation procedure pursuant to RCW 35.79.010. Under this statute, the City Council is authorized to initiate by resolution the vacation procedure. This Resolution will need to be passed first. Once this Resolution is passed, it is to be filed with the City Clerk which starts the vacation procedure.

Margo Sattler, Clerk-Treasurer
City of Republic
December 31, 2008
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Resolution – setting a date for public hearing. Once the first Resolution is passed, the second Resolution will need to be passed by the City Council which sets a date and time for the public hearing on the Resolution that initiates the vacation procedure. Pursuant to RCW 35.79.010, the hearing cannot be more than 60 days nor less than 20 days after the passage of this Resolution. Therefore, once this Resolution is passed, you will need to fill in the date of the public hearing, which complies with the timelines referenced.

Notice of Hearing. Once the second Resolution is passed, you are required to give 20 days notice of the public hearing. I have prepared an original Notice for that purpose. You will need to sign this Notice and make copies to comply with the procedure. Pursuant to RCW 35.79.020, you are required to give 20 days notice of public hearing by posting in three of the most public places in the City and on the streets sought to be vacated. This means that these notices must be posted at least 20 days prior to the hearing date, and in three of the most public places. Most cities use the post office, city hall and one other public place. You will also have to post copies on the streets sought to be vacated. You are also required to forward by mail at least 15 days before the date of the hearing copies of this Notice to all owners or reputed owners of any lots, tracts or parcels of land or other property abutting upon the street sought to be vacated. The addresses are the ones shown on the rolls of the County Treasurer, and may be mailed to the addresses shown. Therefore, you will need to carefully review the locations to be vacated, and make sure that all abutting owners have been notified.

You should be advised that if 50% of the abutting property owners file written objections to the proposed vacation with the City Clerk prior to the time of hearing, the City is prohibited from proceeding with this vacation.

Ordinance – street vacation. A public hearing is to be held on the date and time stated in the Resolution. The City Council is authorized by ordinance to vacate the streets, subject to the retention of a utility easement as set forth in this Ordinance. Once the utility easement location is identified, it will need to be included in the Ordinance. If you would provide me with the description, I will complete the Ordinance and forward an original to you. Once this Ordinance is passed, you will need to file a certified copy with the Ferry County Auditor completing the vacation procedure. I have also provided you with a cover sheet for this recording. Upon recording, the property vacated belongs to the abutting property owners, one-half to each.

Margo Sattler, Clerk-Treasurer
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Ordinance – repealing Ordinance No. 119 and Ordinance No. 2007-11. After the vacation procedure is complete, I have prepared a final Ordinance that repeals Ordinance No. 119 and Ordinance No. 2007-11. This Ordinance will need to be passed by the City Council and then recorded with the Ferry County Auditor. I have prepared and enclosed a cover sheet for you to use for this recording.

Once the Ordinances have been passed and recorded, this matter will be completed. This process will correct the problems associated with the previous Ordinances and will appropriately vacate those portions of Newton Street and 8th Street as set forth in the vacating ordinance.

If you have any questions regarding the enclosed documents or the procedure, please do not hesitate to call.

Very truly yours,

CALLAWAY & DETRO PLLC

W. Scott DeTro
Attorney at Law

WSD/dls
Enclosures
pc: Shirley Couse, Mayor (w/enc's.)