#### ORDINANCE NO. 2017-<u>03-6</u>24

# AN ORDINANCE TO VACATE A UTILITY EASEMENT LOCATED WHITHIN THE DAVENSHIRE SUBDIVISION IN THE CITY OF TONTITOWN, ARKANSAS.

WHEREAS, upon information provided to the Mayor and City Council of the City of Tontitown, the utility easement more particularly described herein is of no use for any public purpose and has no value to the citizens of the City of Tontitown, and;

WHEREAS, it has been requested by the owner of the property on which the utility easement sits that the utility easement be abandoned, and;

WHEREAS, the Tontitown Planning Commission has reviewed the Petition to Vacate and recommends to the City Council that this request be approved; and

WHEREAS, the City Council of the City of Tontitown is empowered to vacate a utility easement which it concludes is no longer needed for city purposes.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED,** by the City Council of the City of Tontitown as follows:

**Section 1**. That the utility easement located on private property located at 1893 Pocco Lane, more specifically identified on the attached Exhibit "A" and also described in the legal description set forth below is hereby vacated by the City of Tontitown:

A PORTION OF AN EXISTING UTILITY EASEMENT LOCATED IN A PART OF LOT, DAVENSHIRE SUBDIVISION, TO THE CITY OF TONTITOWN, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 23 AT PAGE 281, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A POINT WHICH IS S87°14'31"E 22.49' AND N02°23'29"E 15.00' FROM THE SOUTHWEST CORNER OF SAID LOT 8 AND RUNNING THENCE N02°23'29"E 208.50', THENCE S87°14'31"E 12.50', THENCE S02°23'29"W 208.50', THENCE N87°14'31"W 12.50', TO THE POINT OF BEGINNING, CONTAINING 0.06 ACRES, MORE OR LESS.

**Section 2**. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 3. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this ordinance shall be adjudged invalid, unenforceable or unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any part or provision, other than the part so decided to be invalid,

unenforceable or unconstitutional, and the remaining provisions of this ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

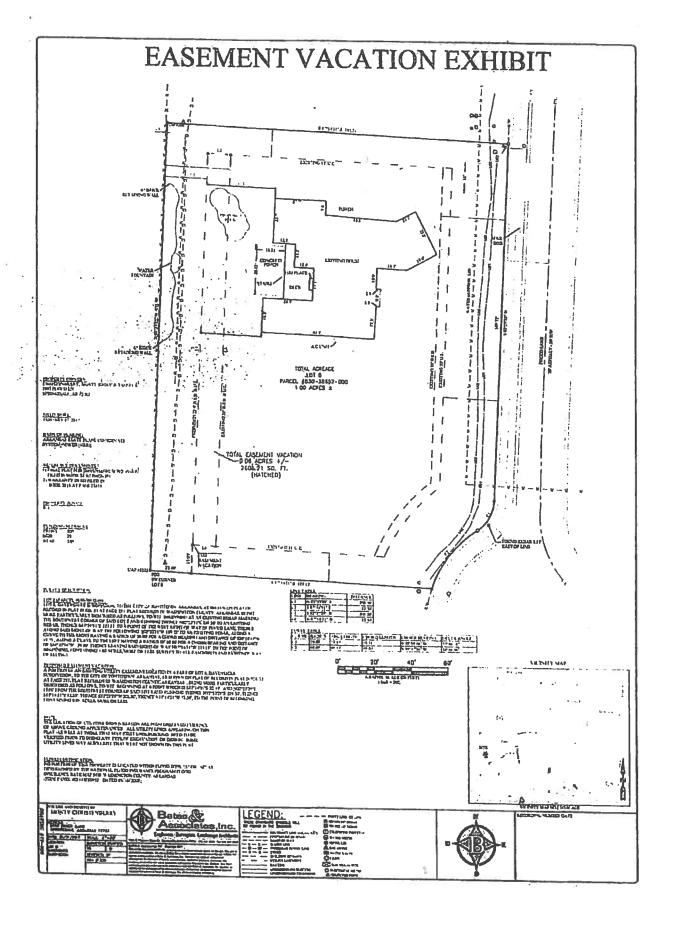
PASSED AND APPROVED this \_\_\_\_\_ day of March, 2017.

APPROVED:

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Recorder Treasurer





## **Vacate Permit**

Application & Checklist
Application can be found at www.tontitown.com

## FEB 0 8 2017 FEEED 0 802017

#### PERMIT FEES WILL DOUBLE IF WORK BEGINS BEFORE PERMIT IS APPROVED

		ompletely, suppl POCCO LN	ying all necessary in	SWALE.	on and documentation	on to support your request.  ype being vacated:
Property Information	Parcel No. 830-38	8652-000		ject	☐ Alley R-O-W	☐ Drainage Easement
		STEEL STATE		Project Information	☐Street R-O-W	☐ Public Access Easement
三百	Subdivision. DAVE	LIVOLIIVE			Utility Easement	☐ Other
	Property Owner M	ONTY AND	TAMMY CHRIST	ENBE	RRY Office Phon	e
erty	Business Name				Cell Phone 8	317-366-4471
Property Owner	Mailing Address 1893 POCCO LANE				ristenberry@pssi.co	
4	SPRINGDALE, AR 72762			Chec	ck here if this is the primary contact.	
ive	Representative JL					479-442-9350
sant ntat	Business Name B	BATES AND ASSOCIATES, INC			Cell Phone _	
oplic rese	Mailing Address 7230 S. PLEASANT RIDGE DR.				n@batesnwa.com	
EAVETTEVILLE AD 70704			ck here if this is the primary contact.			
□ 3. Ne □ 4. Ce □ 5. Vic □ 6. Reeasemer □ 7. Leg current s □ 8. Pe applicati Applicati herewith incorrect	ighbor Notification rtified List. Submit cinity Map. Submit corded Plat. Subm nt, drainage easem pal Description. At curvey of property). tition to Vacate I on.  nt/ Representative submitted are in all or false information in t not approγe what	n Forms. Submit the certified list an exhibit / vicin nit a copy of the ent, public accestach an accurate Form. Submit a e: I certify that the is grounds for inv I am applying for	t the signed forms of for all adjacent property map which clearly recorded plat or considerable recorded plat or considerable legal description of accurate and considerable foregoing statements best of my knowled	f all adja erty own y portra opy of ti right-of- the are mplete s and a ge and n comple	ners (exclude utility e ys the easement you ne filed document(s) way or alley you are a being vacated. (ma Petition to Vacate F Inswers herein made a belief, true and corre teness. determination.	s (exclude utility easements)
Signature Date 2-6-2017						
read this	Owner/ Authorized application and consignity that the agent is a	ed Agent: I certified to its filing. (If authorized to act of	signed by the author	of the pro	operty that is the subjection and letter from the	ct of this application and that I have property owner must be provided
Sign	atureMonty C	Christenberry			Date 2-6-2017	
Staff		nitted:	Zone		Fee: \$	Receipt#
Oı	aly CC Meeting	Date	Date Approved		Cash Chec	ck Credit Card

## § 152.028 VACATION OF STREET RIGHT-OF-WAY, EASEMENTS OR ALLEYS.

- (A) Application for easement/alley vacation. The application shall be submitted to city staff pursuant to the filing schedule approved by the Planning Commission and shall consist of the following:
- (1) Application. Completed and signed application form as provided by the appropriate city official or city staff.
  - (2) Fee. Pay the filing fee specified in the application forms.
  - (3) Petition. A petition to vacate street right-of-way, alley or easement.
- (4) Consent for property owners. Written consent of all property owners abutting the street right-of-way, alley or easement to be vacated.
- (5) Ownership. Proof of ownership of all property abutting the street right-of-way, alley or easement to be vacated.
- (6) Consent from utilities. Written consent from all utilities affected by street right-of-way, alley or easement to be vacated.
- (B) Review and approval. The appropriate city staff will review the request and recommend approval or denial of the request for a vacation. The City Council shall make the final determination on approval of vacations by adopting an ordinance stating that the legal description as provided by the applicant, and verified by the city, is vacated.

(Ord. 2013-04-417, passed 4-2-13; Am. Ord. 2013-09-440, § 152.300.06, passed 9-3-13)

## PETITION TO VACATE

which is described as follows:

PETITION TO VACATE AN	UTILITY EASEMENT	
LOCATED AT	1893 POCCO LANE	
TO: The Tontitown City Cou	uncil	CITY OF TONTITOWN, ARKANSAS
We, the undersigned, being all	the owners of the real estate of	or adjacent to the UTILITY EASEMENT
	ught to be abandoned and	vacated, lying in Tontitown, Arkansas, a municipal which is described as follows:
Legal Description to of area to I		CATED IN A PART OF LOT 8, DAVENSHIRE
		SAS, AS SHOWN ON PLAT OF RECORD
		WASHINGTON COUNTY, ARKANSAS,
——————————————————————————————————————		DWS, TO-WIT: BEGINNING AT A POINT
		ROM THE SOUTHWEST CORNER OF SAID LOT 8
		887°14'31"E 12.50', THENCE S02°23'29"W 208.50',
		ING, CONTAINING 0.06 ACRES, MORE OR LESS.
That the real estate affected by	v said abandonment of the UTIINE, SPRINGDALE AR 72762	
to the City of Tontitown, Arkar	nsas, a certified copy of the or	iginal plat located in the Circuit Clerk's Office for the and made part hereof as though set out herein word
Petitioners state that the abov would also not be adversely aff	e described real estate will no ected by the abandonment of the	t adversely affect the public interest and welfare and he above described UTILITY EASEMENT
The petitioners recommend the estate, subject, however, to the used for their respective benefit	e existing utility easements as	nsas, abandon and vacate the above described real required, and that the above described real estate be d by law.
Tontitown, Arkansas, abandon	and vacate the above describe	commend that the governing body of the City of ed real estate, subject to said utility easements and as the public for the use of said real property.
Dated this 6 day of Febru	ıary , 2	<u> 10 17 </u>
MONTY CHRISTENBERRY		Monty Christenberry
Printed Name		Signature
TAMMY CHRISTENBERRY		Tammy Christenberry
Printed Name		Signature
	Page 3 of 5	Rev. 2013-04-03

Utility Company	Alai	Date 1/31/201/
Requested Vacation	UTILITY EASEMENT VAC	ATION
escribed as follows:	f the petition to vacate the foliow area to be vacated:	
BOOK 23 AT PARTICULA 22.49' AND THENCE NO	T PAGE 281, PLAT RECORDS OF WASH RLY DESCRIBED AS FOLLOWS, TO-W N02°23'29"E 15.00' FROM THE SOUTHW 2°23'29"E 208.50'. THENCE S87°14'21"E	I LOCATED IN A PART OF LOT 8, DAVENSHIRE KANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT INGTON COUNTY, ARKANSAS, BEING MORE ///IT: BEGINNING AT A POINT WHICH IS S87°14'31"E ///EST CORNER OF SAID LOT 8 AND RUNNING 12 50', THENCE S02°23'29"W 208.50', THENCE , CONTAINING 0.06 ACRES, MORE OR LESS.
No objections to the	e vacation(s) described above,	the applicant's provided address).  byided the following described easements are retained.  lescribed below.
ayne Rho		Digitally signed by Layne Rhodes  DN: cn=Layne Rhodes, o=AT&T, ou=Construction and Engineering, email=lr1592@att.com, c=U  Date: 2017.02.01 10:43:28 -06'00'
Printed Name & Title of	of Utility Company Representative	Signature

Utility Company	BLACK HILLS ENERGY	Date 1/31/2017
lequested Vacation	UTILITY EASEMENT VACATION	
I have been notified of the petition to vacate the following UTILITY EASEMENT described as follows:  Legal Description to of area to be vacated:		
SUBDIVISION, T BOOK 23 AT PAC PARTICULARLY 22.49' AND NO2°	AN EXISTING UTILITY EASEMENT LOCATED IN A PAR O THE CITY OF TONTITOWN, ARKANSAS, AS SHOWN GE 281, PLAT RECORDS OF WASHINGTON COUNTY, A ODESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A 23'29"E 15.00' FROM THE SOUTHWEST CORNER OF SAI'29"E 208.50', THENCE S87°14'31"E 12.50', THENCE S02"Z 50', TO THE POINT OF BEGINNING, CONTAINING 0.06 A	RKANSAS, BEING MORE A POINT WHICH IS 587°14'31"E ID LOT 8 AND RUNNING
No objections to the No objections to the	OMMENTS (Send release form to the applicant's e vacation(s) described above, e vacation(s) described above, provided the folloation(s) described above, reason described below	wing described easements are retained.
Down Bondston	Slad(M://s (J)  If Utility Company Representative Signal	Marlen hure

Utility Company	COX COMMUNICATIONS	Date 1/31/2017
Requested Vacation	UTILITY EASEMENT VACATION	
described as follows:	f the petition to vacate the following UTILITY I	
A PORTION ( SUBDIVISION BOOK 23 AT PARTICULAI 22.49' AND N THENCE NO	OF AN EXISTING UTILITY EASEMENT LOCATED IN A P. N, TO THE CITY OF TONTITOWN, ARKANSAS, AS SHOW PAGE 281, PLAT RECORDS OF WASHINGTON COUNTY, RLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT 02°23'29"E 15.00' FROM THE SOUTHWEST CORNER OF S '923'29"E 208 50', THENCE S87 14'31"E 12.50', THENCE S02 12.50', TO THE POINT OF BEGINNING, CONTAINING 0.06	ART OF LOT 8, DAVENSHIRE /N ON PLAT OF RECORD IN PLAT ARKANSAS , BEING MORE I A POINT WHICH IS S87º 14'31"E ARID LOT 8 AND RUNNING
<ul><li>□ No objections to th</li><li>□ No objections to th</li><li>□ Objects to the vaca</li></ul>	OMMENTS (Send release form to the applicant's e vacation(s) described above, e vacation(s) described above, provided the followation(s) described above, reason described below.	ving described easements are retained.
Construction & Pla Printed Name & Title o	anning Manager f Utility Company Representative	ire

Utility Company	OZARKS ELECTRIC	Date 1/31/2017	
Requested Vacation	UTILITY EASEMENT VACATION		
I have been notified of the petition to vacate the following UTILITY EASEMENT described as follows:			
Legal Description to of	area to be vacated:		
BOOK 23 AT PAG PARTICULARLY 22.49' AND NO2°2. THENCE NO2°23'2	N EXISTING UTILITY EASEMENT LOCATED IN A THE CITY OF TONTITOWN, ARKANSAS, AS SHO E 281, PLAT RECORDS OF WASHINGTON COUNT DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING B'29"E 15.00' FROM THE SOUTHWEST CORNER OF 9"E 208.50', THENCE S87" 14'31"E 12.50', THENCE S 0', TO THE POINT OF BEGINNING, CONTAINING 0	DWN ON PLAT OF RECORD IN PLAT Y, ARKANSAS, BEING MORE AT A POINT WHICH IS S87°14'31"E F SAID LOT & AND RUNNING	
No objections to the No objections to the	OMMENTS (Send release form to the applicate vacation(s) described above, se vacation(s) described above, provided the ation(s) described above, reason described	o following described easements are retained.	
Wes Mahaffey S Printed Name & Title of		Wesley Mahaffey Signature	

Utility Company	WASHINGTON WATER AUTHORITY Date 3/6/2017
Requested Vacation	A PORTION OF AN EXISTING UTILITY EASEMENT
described as follows:	the petition to vacate the following PORTION OF A UTILITY EASEMENT rea to be vacated:
PORTION OF AN EXISTING UTILITY E	ASEMENT LOCATED IN A PART OF LOT 8. DAVENSHIRE SUBDIVISION, TO THE CITY OF TONTITOWN, ARKANSAS, AS SHOWN ON PLAT OF RECORD
	RECORDS OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH 15 00° FROM THE SOUTHWEST CORNER OF SAID LOT 8 AND RUNNING THENCE N02°23'29'E 208 50°, THENCE S87°14'31"E 12.50°, THENCE S02°23'29'W
	THE POINT OF BEGINNING, CONTAINING 0.08 ACRES, MORE OR LESS
· •	
UTILITY COMPANY CO	MMENTS (Send release form to the applicant's provided address).
☐ No objections to the	vacation(s) described above,
No objections to the	vacation(s) described above, provided the following described easements are retained.
	ion(s) described above, reason described below.
1) PER WASHIN	NGTON WATER AUTHORITY, THE EXISTING 3" WATER LINE IS TO BE ABANDONED
	ON WATER AUTHORITY HAS THE RIGHT TO EXCAVATE THE EXISTING RETAINING WALL
AND WATER	R FOUNTAIN WITHIN THE EASEMENT IF NEEDED IN THE FUTURE
(Cara-1900)	
-	
Josu Morne	Utility Company Representative Signature
Printed Name & Title of	Utility Company Representative Signature

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Rev. 2013-04-03

Type: REAL ESTATE
Kind: WARRANTY DEED
Recorded: 9/21/2016 12:34:52 PM
Fee Amt: \$25.00 Page 1 of 3
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2016-00027618

Prepared under the supervision of: Blake Hanby, Attorney 1450 E. Zion Road, Suite 7 Fayetteville, AR 72703

#### WARRANTY DEED (TRUSTEE)

File # 16-4270

#### KNOW ALL MEN BY THESE PRESENTS:

That we, David J. Thompson and Rebecca M. Thompson, Trustees of the David J. Thompson and Rebecca M. Thompson Living Trust dated April 2, 2009, hereinafter called Grantors, for and in consideration of the sum of One and No/100-----Dollars---(\$1.00) and other good and valuable consideration in hand paid by Monty Bruce Christenberry and Tammy S. Christenberry, husband and wife, hereinafter called Grantees, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto said Grantees and unto their heirs and assigns, forever, the following described land, situated and being in the County of Washington, State of Arkansas, to-wit:

Lot 8, Davenshire Subdivision, to the City of Tontitown, Arkansas, as shown on plat of record in Plat Book 23 at Page 281, plat records of Washington County, Arkansas.

Subject to easements, right-of-ways, and protective covenants of record, if any. Subject to all prior mineral reservations and oil and gas leases, if any.

TO HAVE AND TO HOLD the same unto said Grantees and unto their heirs and assigns, forever, with all appurtenances thereunto belonging. And we hereby covenant with said Grantees that we will forever warrant and defend the title to the said lands against all claims whatsoever. And we, David J. Thompson and Rebecca M. Thompson, husband and wife, for and in consideration of said sum of money, do hereby release and relinquish unto said Grantees all our rights of curtesy, dower and homestead in and to the said lands.

WITNESS our hands and seals on this 19 day of Leptember, 2016.

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this document.

GRANTEE/AGENT:

GRANTEE ADDRESS:

David J. Thompson and Rebecca M. Thompson Living Trust dated April 2, 2009

By David J. Thompson, as Trustee,

And individually to relinquish curtesy and homestead

By Rebecca M. Thompson, as Trustee,

And individually to relinquish dower and homestead

File Number: 2016-00027618 Page 1 of 3

ACKNOWLEDGME	NT
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STATE OF ARKANSAS )				
COUNTY OF WASHINGTON )	SS			
COUNTY OF WASHINGTON	The state of the s			
personally known (or satisfactorily proven), we Rebecca M. Thompson Living Trust, and an by Trustee for and in the name and behalf of s	Notary Public, duly commissioned, qualified and acting, within and for the e within named <b>David J. Thompson and Rebecca M. Thompson</b> , to me who stated that they are the <b>Trustees of the David J. Thompson and</b> are duly authorized in such capacity to execute the foregoing Warranty Deed said Trust, and further stated and acknowledged that they have so signed, ne consideration, uses and purposes therein mentioned and set forth.			
In Testimony Whereof, I have hereunto	to set my hand and official seal this 19 day of September, 2016.			
Notary Public	TOTAL WEEK			
My Commission Expires:	3/24/02 NOTAR LE			
	BELLE STEEL			
	ACKNOWLEDGMENT COUNTY - NEW DOOR			
STATE OF ARKANSAS )	The state of the s			
-	SS			
On this day before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named <b>David J. Thompson and Rebecca M. Thompson, husband and wife</b> , to me personally known (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they have executed the same for the consideration, uses and purposes therein set forth.				
In Pestimony Whereof, I have hereunto	o set my hand and official seal this 192 day of September, 2016.			
Notary Public				
My Commission Expires: 3/2	Ow /3 2 MOTAN CON NOTAN CO			
After recording return to: City Title & Closing LLC 1450 E. Zion Road, Suite 7 Fayetteville, AR 72703	AND BLIC ONTY AND THE PROPERTY OF THE PROPERTY			

File Number: 2016-00027618 Page 2 of 3



#### STATE OF ARKANSAS **DEPARTMENT OF FINANCE AND ADMINISTRATION MISCELLANEOUS TAX SECTION** P.O. BOX 896, LITTLE ROCK, AR 72203-0896

#### **Real Estate Transfer Tax Stamp**

**Proof of Tax Paid** 



File Number: 277

Grantee:

**Mailing Address:** 

MONTY BRUCE & TAMMY S CHRISTENBERRY

1893 POCCO LN

SPRINGDALE AR 727620000

Grantor:

**Mailing Address:** 

DAVID J AND REBECCA M THOMPSON

2170 W COUNTY CLUB DR SEDALIA MO 653010000

**Property Purchase Price:** 

\$458,000.00

**Tax Amount:** 

\$1,511.40

County:

BENTON

Date Issued:

09/21/2016

Stamp ID:

150556672

Washington County, AR I certify this instrument was filed on 9/21/2016 12:34:52 PM and recorded in REAL ESTATE

File# 2016-00027618 Kyle Sylvester - Circuit Clerk

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this instrument

Grantee or Agent Name (printed)

Grantee or Agent Name (signature)

Address:

City/State/Zip: \

File Number: 2016-00027618 Page 3 of 3