



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
Sondra Smith, City Clerk/Treasurer
Jeremy Pate, Development Services Director

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: November 26, 2013

RE: Vacation of street pursuant to A.C.A. § 14-301-301

I think we need to more closely follow the statutory procedures set forth in A.C.A. § 14-301-302 and 303 prior to vacating the streets as requested by the U of A. Our power to vacate streets stated in A.C.A. § 14-301-301 ends: "the city or town council shall have the power to vacate and abandon the street or alley, or any portion thereof, by proceeding in the manner set forth in this subchapter." (emphasis added).

The next section requires the owners of the property abutting to file a petition requesting vacation. I assume our vacation application may suffice for this statutorily required petition. However, the City Council at its next meeting is supposed to "by resolution fix a day for the hearing of the petition" We need to present a Resolution fulfilling this requirement. Then "the city clerk (needs) to give notice of the meeting by publication once a week for two (2) consecutive weeks in some newspaper having a general circulation in the city"

We can still go forward to vacate the streets pursuant to our power in A.C.A. § 14-54-104 although at least our Appellate Court has held that an existing street should be vacated under A.C.A. § 14-301-301 instead of A.C.A. § 14-54-104.

MUNICIPAL STREETS GENERALLY

§ 14-301-301

Note 1

Library References

Municipal Corporations Ⓒ521.
Westlaw Key Number Search: 268k521.
C.J.S. Municipal Corporations §§ 1396, 1404.

SUBCHAPTER 3—VACATING STREETS AND ALLEYS FOR PUBLIC USE GENERALLY

§ 14-301-301. Vacating authority

(a) Cities of the first and second class and incorporated towns are given power and authority to vacate public streets and alleys within the cities and towns under the conditions and in the manner herein provided.

(b) In all cases where the owner of property within a city or town shall have dedicated, or may hereafter dedicate, a portion of the property to the public use as streets or alleys by platting the property and causing the plat to be filed for record, as provided by law, and any street or alley, or section thereof, shown on the plat so filed shall not have been actually used by the public as a street or alley for a period of five (5) years and in all cases where all property abutting any street or alley, or section thereof, is owned by any educational institution or college, whether the property shall have been actually used by the public as a street or alley for a period of five (5) years or not, the city or town council shall have power to vacate and abandon the street or alley, or any portion thereof, by proceeding in the manner set forth in this subchapter.

Acts of 1945, Act 17, §§ 1, 2; Acts of 1947, Act 88, § 1; Acts of 1949, Act 98, § 1.

Formerly A.S.A. 1947, §§ 19-3824, 19-3825.

Cross References

Vacation of public utility easements, see § 14-199-103.

Library References

Municipal Corporations Ⓒ657(2).
Westlaw Key Number Search: 268k657(2).
C.J.S. Municipal Corporations §§ 1432 to 1435, 1443.

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1. In general

A city has the power to vacate a portion of a street not needed for corporate purposes. Ark. Stats. § 19-2304. City of Sherwood v. Dupree Co., 1978, 263 Ark. 442, 565 S.W.2d 425. Municipal Corporations Ⓒ 657(2)

If determination is made that street is not needed for corporate purposes, city is not prohibited either from conveying streets to only abutting owner or from vacating street for benefit of abutting owner. Ark. Stats. § 19-2304. Freeze v. Jones, 1976, 260 Ark. 193, 539 S.W.2d

RESOLUTION NO. _____

A RESOLUTION TO FIX THE DATE FOR HEARING THE UNIVERSITY OF ARKANSAS' REQUEST TO VACATE BRENDA DRIVE, COURT STREET AND WALTON STREET ON DECEMBER 17, 2013 AT 6:00 P.M. IN THE CITY COUNCIL CHAMBERS, ROOM 219 OF THE CITY ADMINISTRATION BUILDING

WHEREAS, City Clerk Sondra Smith is requested to publish notice of the hearing date on the petition of the University of Arkansas to vacate Brenda Drive, Court Street and Walton Street once a week for two weeks pursuant to A.C.A. § 14-301-302.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby fixes the date for hearing the University of Arkansas' request to vacate Brenda Drive, Court Street and Walton Street on December 17, 2013 at 6:00 p.m. in the City Council chambers, Room 219 of the City Administration building.

PASSED and APPROVED this 3rd day of December 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

