



ARKANSAS SECRETARY OF STATE
MARK MARTIN

December 28, 2017

The Honorable Tena O'Brien
Benton County Clerk
215 East Central St, Suite 217
Bentonville, AR 72712-5373

Re: *Notice of Dismissal Circuit Court Challenge* and filing of Bentonville Annexation Ordinance 2017-155

Dear Ms. O'Brien,

This letter serves as official notice of the resolution of Circuit Court Challenge and filing of the following municipal boundary change by the Office of the Secretary of State:

Filing Type: Annexation pursuant to A.C.A § 14-40-609 (petition by 100% of the landowners)

Effective Date: 09/12/2017

County: Benton

City: Bentonville

City Ordinance: 2017-155

Dated: 09/12/2017

County Court Order: CC-2017-20

Date filed: 09/07/2017

Circuit Court Challenge: CV-2017-2089-2 Date filed: 11/9/2017 Resolution: Defendant's Motion to Dismiss Granted

A file marked copy of the Circuit Court Order, ordinance, County Court order, and exhibits submitted to our Office are enclosed. By copy of this letter (and its enclosures), the Secretary of State hereby notifies the appropriate mapping authorities for Arkansas of a change in the official state map based on Bentonville Annexation Ordinance 2017-155. Please retain these copies as official record of the filing of the municipal boundary change by the Arkansas Secretary of State.

If you have any question or concerns regarding this filing, please contact our Office at 501-682-3401.

Sincerely,

Cynthia Fisher
Arkansas Secretary of State Legal Division
500 Woodlane St, Room 256
Little Rock, AR 72201
501-682-3401

cc: Arkansas Geographic Information Systems Office (w/ encl)
Arkansas Highway and Transportation Department Mapping Department (w/ encl)
Department of Finance and Administration (w/encl)
Arkansas Public Service Commission (w.encl)
UALR Institution for Economic Advancement (w/encl)
Tom-Tom (w/encl)
Ms. Linda Spence, Bentonville City Clerk (w/encl)
Mr. George Spence, Bentonville City Attorney (w/encl)





Arkansas Secretary of State

Mark Martin Arkansas Secretary of State, 500 Woodlane Ave, Little Rock, AR 72201-1094

Municipal Boundary Change Checklist

County: Benton City/Town: Bentonville

City Ordinance/Resolution No: 2017-155 Date approved: 09/12/2017

County Court Case No: CC 2017-20 Date Order Filed: 09/07/2017

Type: Annexation by Petition of all Landowners A.C.A §14-40-609

Date Change Effective: 9-12-17 Set by: Municipal Ordinance Emergency Clause Default
(Required by Act 653 of 2017)

For Circuit Court Challenge: Date Order Filed: 11-9-17 Upheld Overturned Other *(attach explanation)* dismissed

Initiating party:

All Landowners Majority Landowners Municipal Governing Body State Other _____

Supporting Documentation attached (check all that apply):

- File marked copy of City Ordinance/Resolution *(required)*
- File marked copy of County Court Order or certified annexation election results *(required except for island annexation)*
- Copy of Arkansas GIS Office approved printed map and certification letter *(required)*
- Proof of Publication for all Legal Notices *(include Hearing, Election, and City Ordinance/Resolution notices)*
- File marked copy of Petition Part *(if applicable)*
- File marked copy of Complaint and final Circuit Court Order *(Court Challenge only)*

Municipal Contact:

Name: Bob McCaslin Title: Mayor

Street Address: 117 W Central Ave

City: Bentonville St: AR Zip code: 72712

Complete one form per ordinance/resolution, attach it as a cover page to the supporting document set and submit to the County Clerk's Office within 45 days of the Effective Date as required by Act 655 of 2017

County Official:

Signature: [Handwritten Signature] Title: Deputy Clerk

Date: 11-9-17

Pursuant to Act 655 of 2017, County Officials must submit a file-marked copy of municipal boundary change documentation within 30 days of receipt to: Arkansas Secretary of State, Attn: Municipal Boundary Filing, 500 Woodlane Ave Suite 256, Little Rock, AR 72201-1094

Office of the Arkansas Secretary of State use only

Received by: [Handwritten Signature]

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DEC 28 2017
Arkansas
Secretary of State

ELECTRONICALLY FILED
Benton County Circuit Court
Brenda DeShields, Circuit Clerk
2017-Nov-09 14:45:36
04CV-17-2089
C19WD02 : 11 Pages

IN THE CIRCUIT COURT OF BENTON COUNTY, ARKANSAS
IN DIVISION II

CITY OF ROGERS, ARKANSAS
A Municipal Corporation
PLAINTIFF

V. **CV-2017-2089-2**

CITY OF BENTONVILLE, ARKANSAS
A Municipal Corporation;
BENTONVILLE CITY COUNCIL;
STEPHANIE ORMAN,
CHAD GOSS,
TIM ROBINSON,
CHRIS SOOTER,
THOMAS HOEHN,
BILL BURCKART,
OCTAVIO SANCHEZ, and
JIM WEBB in their official capacities as the BENTONVILLE CITY COUNCIL;
BOB MCCASLIN in his official capacity as MAYOR of the CITY OF BENTONVILLE;
BENTON COUNTY ARKANSAS;
HON. BARRY MOEHRING in his official capacity as BENTON COUNTY JUDGE
DEFENDANT

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ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

Now on this 9th, day of November, 2017, comes the this matter, the plaintiff, City of Rogers (hereafter "Rogers") by and through its attorney, Ms. Jennifer A Waymack and Mr. Andrew Hatfield and the defendants, City of Bentonville, et al (hereafter "Bentonville") by and through its attorney, Mr. George Spence, premises considered and this Court having reviewed the parties pleadings, complaints, amended complaints, motions, responses, case law and statutory law find that it is sufficiently advised as to both facts and law, finds as follows:

1. That this Court has personal and subject matter jurisdiction and that the venue is proper.

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Findings of Fact

2. That on August 22, 2017, Rogers adopted an ordinance pursuant to A.C.A. 14-40-303(b)(1) to annex approximately 3,175 acres of land by “special election” to qualified electors. The largest portion includes approximately 2,838 acres between Rogers and the City of Highfill. The ordinance called for a “special election” to be held on November 14, 2017 to submit the question of annexing the above lands from its unincorporated area to the City of Rogers.
3. However, on August 30, 2017, eight (8) days after Rogers adopted its ordinance to annex the lands by “special election”, thirty nine (39) property owners or one hundred percent (100%) of the real estate owners in the proposed annexation area initiated a petition which requested Benton County to allow their lands to be annexed to the City of Bentonville pursuant to A.C.A. §14-40-601(b) and §14-40-609(b)(1).
4. That on September 7, 2017, Benton County Judge Barry Moerhing entered an order which certified that the above property owners petitions were accurate and that all the necessary documents which were presented were in compliance with A.C.A. §14-40-609(b)(2). He then directed the Benton County Clerk to forward a copy of his order and the landowner’s petitions to Mr. Bob Mc Caslin, the Mayor of Bentonville.
5. That on September 12, 2017, twenty one (21) days after the Rogers “special election” annexation was adopted, Bentonville’s city council and Mayor Mc Caslin voted “unanimously” to adopt ordinance No. 2017-155 which granted

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Arkansas
Secretary of State

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the landowners petitions to annex their lands to Bentonville. That pursuant to A.C.A. §14-40-609 (f)(1), the adopted annexed lands were to become final with the above lands being annexed within the corporate limits of Bentonville on October 11, 2017.

6. That on October 10, 2017, Rogers filed its complaint in this matter, and requested in part, this court to “find that the adoption of or any action taken by Defendants (Bentonville) to adopt or verify the Bentonville Petition or Bentonville ordinance No. 2017-155 is void and unenforceable...” Rogers claimed in part:

- a. in paragraph 16 that “the Defendants have failed to comply with the provisions of A.C.A. §14-40-609;
- b. in paragraph 29 through 32 “Bentonville has no valid, proper or legally authorized municipal purpose for annexation of the lands in Bentonville ordinance No. 2017-155 under A.C.A. §14-40-302(a)(1) through (a)(5);
- c. In paragraph 36 that “The Bentonville Petition is insufficient under and violates the provisions of “A.C.A. §14-40-609;
- d. In paragraph 38 that ...”The Bentonville Ordinance No.2017-155 was adopted after the City of Rogers called a “special election” under A.C.A. 14-40-303 in violation of subsection (f) of that section.”

7. Also that on October 10, 2017, Rogers filed its Motion for Preliminary Injunction and Temporary Restraining order against Bentonville.

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8. That on October 11, 2017, this Court entered a Temporary Restraining Order (TRO) which restrained Bentonville from providing municipal services to the above proposed annexation of land.
9. That on October 16, 2017, a hearing was held on Roger's Motion for Preliminary Injunction and Temporary Restraining Order (TRO). Due to a stipulation by both parties, this Court found there was no immediate or irreparable harm to Rogers and therefore this court vacated the above TRO which had been issued on October 11, 2017.
10. That on October 25, 2017 Bentonville filed its Motion and Supporting Brief to Dismiss Rogers Complaint pursuant to Ark. Rules of Civ. Pro. 12(b)(6) and /or 12(b)(7). Bentonville claimed that Rogers lacked "standing; that it failed to "state sufficient facts" to support its claim for relief; and that it failed to "join necessary parties, specifically the property owners who bought the petition for annexation..."
11. That on October 27, 2017, this Court set a hearing for Bentonville's Motion to Dismiss to be held on November 9, 2017 at 8:30am.
12. That on October 31, 2017, Rogers filed its Motion to extend cutoff dates.
13. That on November 01, 2017, this Court ordered that Rogers's time to respond to Bentonville's Motion to Dismiss be shortened to November 6, 2017 at 11:59pm pursuant to Ark. Rule of Civ. Pro. 6(c).
14. That on November 6, 2017, Rogers timely filed its Response and Supporting Brief to Bentonville's Motion to Dismiss.

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15. That on November 7, 2017 Rogers filed its First Amended Complaint which was identical to its original Complaint filed October 10, 2017 with exception that the above Amended Complaint corrected some scrivener's errors in the original complaint and additionally requested "attorney's fees and costs to be paid to" Rogers.
16. That on November 9, 2017, a hearing was held in this matter on Bentonville's Motion to Dismiss.

Conclusions of Law

In order to dismiss a complaint pursuant to Arkansas Rule of Civ. Pro. 12(b)(6), a trial court must treat the facts alleged in the complaint as true and view them in the light more favorable to the party who filed the complaint. (Billy/Dot Inc. US. Fields, 322 Ark. 272 (1995); (Clayborn vs. Bankers Std. Ins. Co., 348 Ark. 557 (2002). In testing the sufficiency of the complaint on a motion to dismiss, all reasonable inferences must be resolved in favor of the complaint, and the pleadings are to be liberally construed. (Id.)

In deciding a motion to dismiss, the trial court must look only to the allegations in the complaint and not to the matters outside the complaint. (Neals vs. Wilson. 316 Ark. 558 (1994) In determining whether a plaintiff has standing to bring a complaint, the trial court treats only the facts alleged in the complaint as true but not a plaintiff's theories, speculation or statutory interpretation. (Billy/Dot, supra). For example, Rogers argues in its Response that the landowners petitions do not substantially comply with A.C.A. §14-40-609: that Bentonville secretly assisted the landowners with their petitions; and that some of the proposed annexed land falls outside the land claimed in the petition itself. However,

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paragraph 16 and 36 of Rogers Complaint merely claims Bentonville failed to comply with the provisions of A.C.A. §14-40-609. In contrast, the complaint also alleges that the County Judge verified and approved the landowners petition which complied with A.C.A. §14-40-609. This Court looks only to the complaint to determine whether to grant Bentonville's Motion to Dismiss.

That A.C.A. §14-40-302(a) States in part: "By vote of two-thirds (2/3) of the total number of members making up its governing body, any municipality "may" adopt an ordinance to annex lands..."

That A.C.A. §14-40-303(b)(1) states in part: "the annexation ordinance shall not become effective until the question of annexation is submitted to the qualified electors of the annexing municipality and of the area to be annexed...at a special election.

That A.C.A. §14-40-303(f)(1) states in part: "In the event thatone (1) city calls for an annexation 'election',... then both annexation elections shall be held..."

Here, Rogers chose to annex unincorporated lands pursuant to A.C.A. §14-40-303(b)(1) by "special election". It is undisputed that Bentonville did not "call for an annexation election" pursuant to A.C.A. §14-40-303(f)(1). Moreover, A.C.A. §14-40-302(a)(1) states that a municipality "may" adopt an ordinance to annex lands "by special election". This Court finds that "may" does not mean "shall" and that Bentonville is not obligated or required to call an annexation by "special election" merely because Rogers has previously done so.

This Court finds that Rogers claims that Bentonville violated A.C.A. §14-40-302(a)(1) through (a) 5 and A.C.A. §14-40-303(f) fails to state a claim for which relief could have been granted because of Bentonville was not lawfully required to call a "special election" to annex

the proposed lands. This Court hereby grants Bentonville's Motion to Dismiss Rogers claim for Bentonville's violations of A.C.A. §14-40-302 (a)(1) through (a)(5) and A.C.A. §14-40-303 (f) pursuant to Ark. Rule of Civ. Pro. 12(b)(6).

The basic rule of Statutory Construction is to give effect to the intent of the legislature. (Coty of Little Rock vs. Rhee, 375 Ark. 491 (2009). Where the language of the statute is plain and unambiguous, the trial court determines legislative intent from the ordinary meaning of the language used. (Id) in considering the meaning of the statute, the trial court construes it just as it reads, giving the words their ordinary and usually accepted meaning in common language (Id.)

In the absence of a statutory definition for a term, the trial court must resort to the plain meaning of the term (State vs. Jernigan, 2011 Ark 487); (E.G. Calamay vs. Practice Mgmt. Servs. Inc, 2010 Ark. 432.)

To have standing under A.C.A. §14-40-304, or an annexation by election, a party must have an interest at issue in the annexation (Dover vs. Russellville, 100 S.W. 3d.689 (2003); (Reynolds vs. Guardianship of Sears, 327 Ark. 770 (1997). To be a proper plaintiff in an action, one must have an "interest" that has been adversely affected or rights that have been invaded. (Id)

The Arkansas Supreme Court has held, as far back as 1878 that counties, cities, and towns are "municipal corporations". (Roberts vs. Watts, 263 Ark. 822 (1978); Eagle vs. Beard 33 Ark. 497 (1878). "Municipal Corporations" are "creatures of the legislature" and as such have only the power bestowed upon them by statute or the Arkansas Constitution (Jones vs. American Home Life Ins. Co., 293 Ark. 330 (1987). Any substantial doubt about the existence of a

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power in a municipal corporation must be resolved against it. (Id; Coty of Little Rock vs. Cash, 277 Ark. 494 (1982); Town of Dyess vs. Williams, 247 Ark. 155 (1969);

In the City of Cave Springs vs. City of Rogers, 343 Ark. 652 (2001), the Arkansas Supreme Court clearly held that Cave Springs was not a person for purposes of asserting its due process rights under the Fourteenth Amendment. However, the Supreme Court affirmed the trial courts finding that Cave Springs was a "person" for purposes of seeking declaratory relief under A.C.A. §16-111-101.

The United States Supreme Court has held that a state legislature may enlarge a municipality "with or without the consent of the citizens". (Hunter vs. City of Pittsburgh, 207 U.S. 161 at 179 (1907). The Arkansas Supreme Court has determined "this necessarily means that citizens have no constitutional right to vote on annexation" (Pritchett vs. City of Hot Springs, 2017 Ark. 95 (2017). The Pritchett court further stated that "Pritchett has not provided a single citation to support his argument that once the right to vote on annexation has been given it cannot be taken away" (Id.)

That A.C.A. §14-40-609(g)(1) States in part:... "a cause of action may be filed in the Circuit Court of the county of annexation by a 'person' asserting and having ownership right in the property...or by any 'person' asserting a failure to comply with this section". Here, it is undisputed that Rogers is a "municipal corporation" which does not have any ownership rights in the property proposed to be annexed. Here, Roger's claims that Bentonville failed to comply with A.C.A. §14-40-609 because the land owner's petition did not substantially

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comply with the statute. Moreover, Rogers argues that plain language of A.C.A. §14-40-609 means that a “person”, asserting a failure to comply with the section means a “municipal person” for the purposes of A.C.A. §14-40-609(g). Rogers further argues that it has “an actual interest” in the proposed land to be annexed because Rogers called for a “special election” to annex the lands pursuant to A.C.A. §14-40-303(b)(1) before the landowners filed their annexation petition with the county.

This court finds that Rogers “special election” annexation ordinance does not become effective until the question of annexation is submitted to the qualified electors of the annexing municipality and the area to be annexed at a “special election”. Here, although early voting has begun, the ordinance does not take effect because the “special election” for Rogers annexation ordinance is not scheduled until Tuesday November 14, 2017. Rogers’s ordinance does not take effect until then. Moreover, Arkansas law does not bestow a constitutional right for its citizens to vote on annexation issues. Rogers cannot have an “actual interest” when the ordinance has not taken effect and the citizens have no fundamental constitution right to vote in the “special election” for annexation of lands. This Court finds that Rogers does not have an interest or a stake in the outcome in that the injury Rogers complains of is not reasonably connected to Bentonville’s conduct. There is no sufficient connection to and harm from the landowners petition to annex lands to Bentonville.

Moreover, A.C.A. §14-40-609 does not define the term “person”. There are no prior cases interpreting who may sue as a “person asserting a failure to comply with this section” under A.C.A. §14-40-609(g). Therefore this court must turn to statutory interpretation. This court

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finds that the term “person” is plain and unambiguous. Giving the term “person” its ordinary and usually accepted meaning in common language would mean a “natural person” or “individual” and not the legal definition of a “municipal person”.

Moreover, this court finds that Rogers is a “municipal corporation”. Since the law is clear that “municipal corporations” are “creatures of the legislature” and not “persons”, this court has substantial doubt of the existence of Rogers’s inherent power to bring an action in this matter under A.C.A. §14-40-609(g). Therefore, this court must resolve Rogers existence to sue as a “person” under A.C.A. §14-40-609(g) against it.

Here, Rogers is seeking to have this Court find Bentonville’s ordinance No. 2017-155 to be void and unenforceable. Rogers is not seeking declaratory relief as did the City of Cave Springs vs Rogers (Id). This court finds Rogers does not have standing in this matter because it is a “creature of the legislature” and not a “person”. This Court finds that Rogers does not have an interest at issue in the annexation and does not have standing to bring this cause pursuant to A.C.A. §14-40-609.

WHEREFORE, Bentonville’s Motion to Dismiss is granted. Rogers Complaint and Amended Complaint are dismissed with prejudice that Bentonville’s request for attorney fees and costs are hereby denied.

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IT IS SO ORDERED.

CLERK

Brad Karren
HON. BRAD KARREN
CIRCUIT JUDGE

I, Brenda DeShields, certify this instrument is a true
Copy of the Order Granting Def's Motion
to Dismiss.

on file in this office, dated 11-9-17

Book _____ at page _____

Brenda DeShields

Brenda DeShields, Clerk

By Bruny Washam D.C.



2017 SEP 13 AM 9:43

1000 N. JEN
CO. CLERK
BENTON COUNTY, ARK

ORDINANCE NO. 2017-155

AN ORDINANCE ACCEPTING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF BENTONVILLE, ARKANSAS, AND MAKING SAME A PART OF THE CITY OF BENTONVILLE, AND ASSIGNING SAME TO WARDS.

WHEREAS, petition was filed with the County Clerk of Benton County, Arkansas by all of the owners of the hereinafter described territory, said owners being listed in Exhibit "A" to this ordinance, praying that said territory be annexed to, and made a part of the City of Bentonville, Arkansas, and

WHEREAS, on the 7th day of September, 2017, the County Court of Benton County, Arkansas, entered an order authorizing annexation pursuant to § 14-40-609 of the Arkansas Code, finding that the petition met the requirements for annexation under that provision and directed the Clerk to forward the order to the Mayor of the City of Bentonville; and

WHEREAS, the order entered by the County Judge provides that in order to accept the annexation proposed by the petitioners, the City of Bentonville is also required to accept as part of the territory to be annexed certain dedicated public roads and rights of way abutting or traversing the property proposed to be annexed, the legal descriptions for which are included as an attachment to the County Court's order,

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS:

Section 1. That the land described on the attached Exhibit "B," which includes both the territory sought to be annexed by the petitioners and the dedicated public roads and rights of way abutting or traversing the property proposed to be annexed, is territory contiguous to and adjoining

FILED

SEP 29 2017

Arkansas
Secretary of State

2017 2840

the City of Bentonville, Arkansas, and the petition to annex that property is hereby granted and the property described in Exhibit "B" is hereby accepted as part of and annexed to and made a part of the City of Bentonville.

Section 2. That the above described territory shall be annexed to and made a part of Ward 3 of the City of Bentonville, and the same shall henceforth be a part of said ward as fully as existing parts of said ward.

Section 3. That the above described territory shall be zoned A-1, to be used in accordance with City zoning laws and the laws of the State of Arkansas.

PASSED AND APPROVED THIS 12th DAY OF SEPTEMBER, 2017.

APPROVED: Bob McCaslin
HON. BOB McCASLIN, Mayor

ATTEST:

Linda Spence
HON. LINDA SPENCE, City Clerk

2017 SEP 13 AM 9:43

2017 SEP 13 AM 9:43

2017 SEP 13 AM 9:43

2017 2841

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2017 SEP 15 PM 3:49

DEWA D'ARIE
CLERK PROBATE COURT
BENTON COUNTY, ARK

IN THE MATTER OF ANNEXING TO THE
CITY OF BENTONVILLE, ARKANSAS
CERTAIN TERRITORY CONTIGUOUS TO SAID
CITY OF BENTONVILLE, ARKANSAS

CC 2017-20

ORDER CONFIRMING ANNEXATION

Now on this day is presented to the Court the complete file for the annexation of certain land to the City of Bentonville, Benton County, Arkansas, under this file number, including specifically a copy of the plat of the annexed property and a copy of the resolution or ordinance of the governing body of the city or town accepting the property for annexation, and having reviewed the file and all things considered, the Court finds that all the requirements of § 14-40-609 of the Arkansas Code have been complied with and further that the annexation is in all respects proper, including if applicable, that the annexing city or town has included in the legal description included with its resolution or ordinance accepting the property for annexation certain dedicated public roads and rights of way abutting or traversing the property to be annexed if required by the Court's previous order entered in this file.

IT IS THEREFORE CONSIDERED AND ORDERED that the annexation of the above described lands to the City of Bentonville, Benton County, Arkansas, is hereby confirmed and that the same is and shall hence forth comprise a part of the City of Bentonville, Benton County, Arkansas.

FILED

SEP 29 2017

Arkansas
Secretary of State Date

Barry Moehring
HON. BARRY MOEHRING, County Judge

Sept. 14, 2017

2017 2879



ARKANSAS GIS OFFICE

September 8, 2017

Mr. Jim Wheelless
GIS Coordinator – City of Bentonville
305 SW A Street
Bentonville, AR 72712

RE: City of Bentonville Annexation Coordination Requirement

Mr. Wheelless,

Thank you for coordinating with our office as you seek to annex property into the City of Bentonville, AR. This letter represents confirmation that you have properly coordinated with our office (Arkansas GIS Office) as specified in *§ 14-40-101* (Act 914 of 2015) of the 90th General Assembly.

Our office will wait completion of any additional steps necessary for the proposed boundary change, which normally comes from the Arkansas Secretary of State Elections Division after any appropriate filing by your County Clerk.

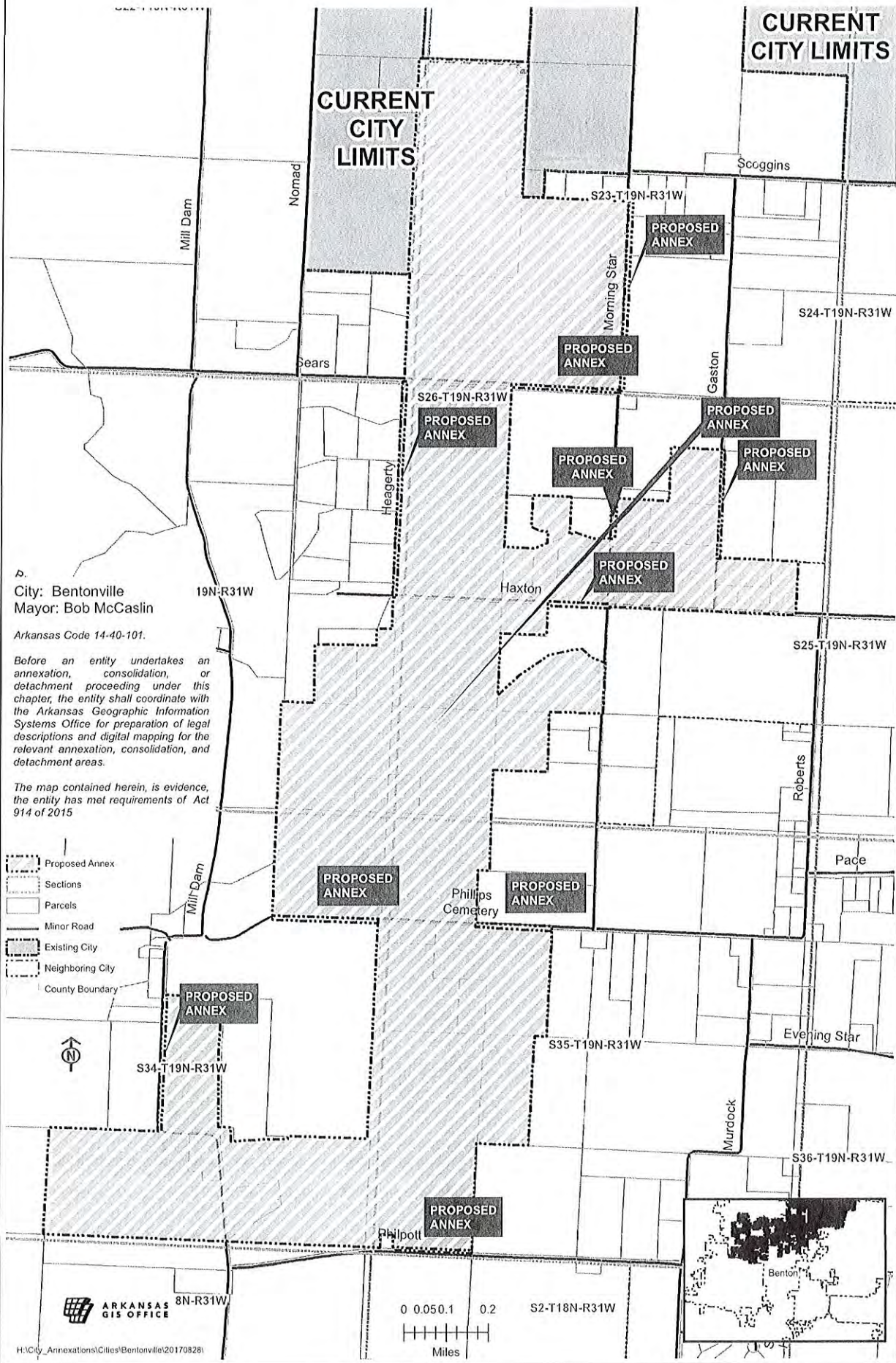
Thank you,

Jennifer Wheeler, GIS Analyst
/jjw

Attachments:
GIS Office Map of Proposed Annexation
Secretary of State Municipal Change Checklist

H:\City_Annexations\Cities\Bentonville\20170828\Doc\20170828_Bentonville_Annexation_Coordination_Letter.docx

Proposed Annex: City of Bentonville



City: Bentonville
Mayor: Bob McCaslin

Arkansas Code 14-40-101.

Before an entity undertakes an annexation, consolidation, or detachment proceeding under this chapter, the entity shall coordinate with the Arkansas Geographic Information Systems Office for preparation of legal descriptions and digital mapping for the relevant annexation, consolidation, and detachment areas.

The map contained herein, is evidence, the entity has met requirements of Act 914 of 2015

FILED

2017 SEP -7 PM 3:47

JENA O'BRIEN
CO. & PROBATE CLERK
BENTON COUNTY, ARK

IN THE MATTER OF ANNEXING TO THE
CITY OF BENTONVILLE, ARKANSAS
CERTAIN TERRITORY CONTIGUOUS TO SAID
CITY OF BENTONVILLE, ARKANSAS

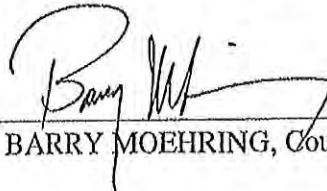
CC 2017-20

ORDER AUTHORIZING ANNEXATION PURSUANT TO ACA § 14-40-609

I, Barry Moehring, County Judge of Benton County, having reviewed the petition for annexation and verification of petition, hereby find that the petition:

- 1) is in writing;
- 2) contains an attestation signed before a notary or notaries by the property owner or owners of the relevant property or properties confirming their desire to be annexed;
- 3) contains an accurate description of the relevant property or properties;
- 4) contains a letter or title opinion from a certified abstractor or title company verifying that the petitioners are all owners of record of the relevant property or properties;
- 5) contains a letter or verification from a certified surveyor or engineer verifying that the relevant property or properties are contiguous with the annexing city or town and that no enclaves will be created if the property or properties are accepted by the city or town – additionally a copy of the letter from the State of Arkansas GIS office approving the legal description for the annexation was provided;
- 6) includes a schedule of services of the annexing city or town that will be extended to the area within three (3) years after the date the annexation becomes final; and
- 7) does not include in its description certain dedicated public roads and rights of way abutting or traversing the property to be annexed, the legal description(s) for which are included on the attached Exhibit "A" to this order, and which are depicted in the attached Exhibit "B" to this order, and any acceptance of this annexation by the City of Bentonville is required to include acceptance of the property described in Exhibit "A" and depicted in Exhibit "B" in the resolution or ordinance accepting such annexation or an order confirming the annexation will not be entered.

The County Clerk is directed to forward a copy of this order and the related Petition to the Mayor of the City of Bentonville.



HON. BARRY MOEHRING, County Judge

9/7/17

Date

2017 2802

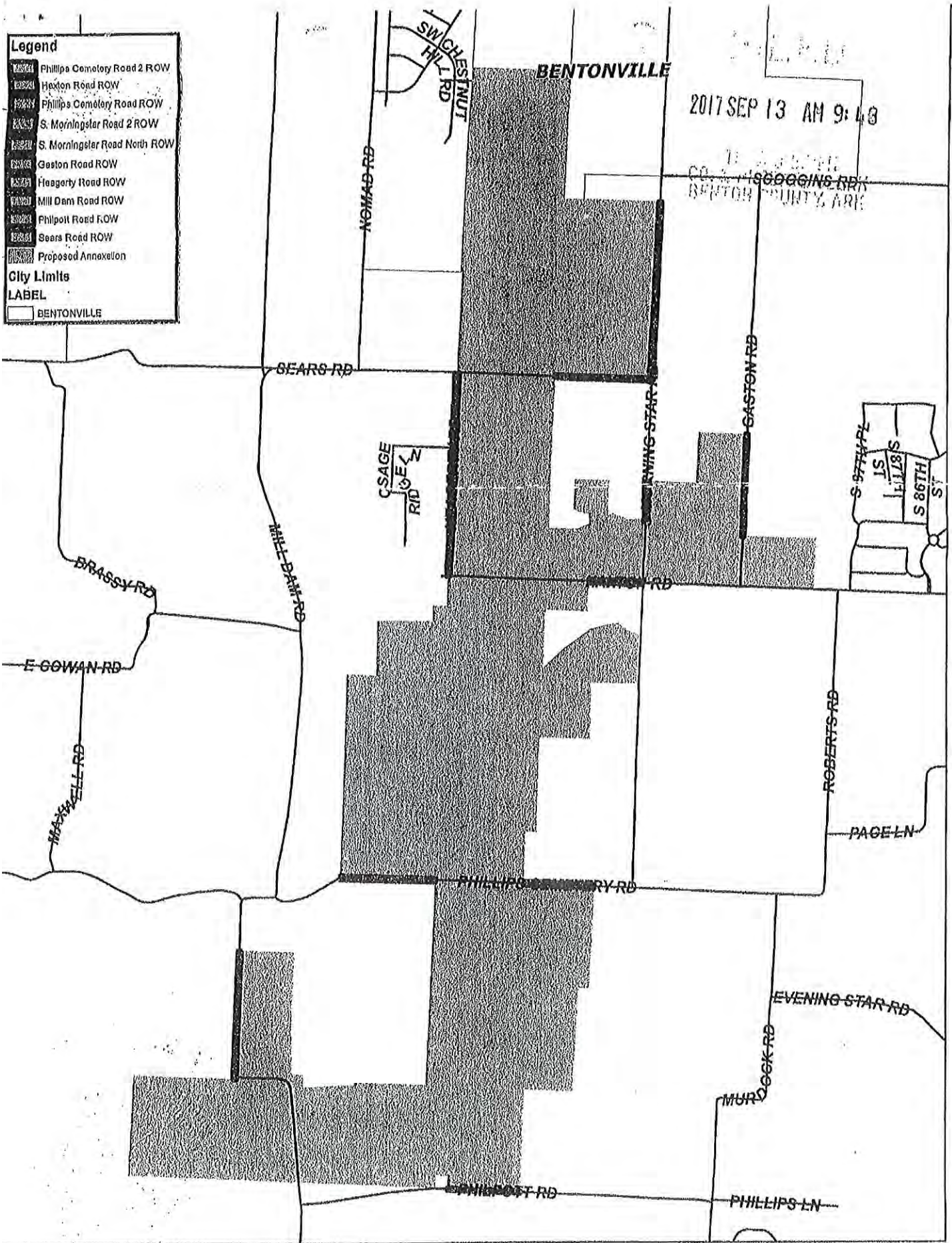
Legend

- Phillips Cemetery Road 2 ROW
- Haxton Road ROW
- Phillips Cemetery Road ROW
- S. Morningstar Road 2 ROW
- S. Morningstar Road North ROW
- Gaston Road ROW
- Heagerty Road ROW
- Mill Dam Road ROW
- Philpott Road ROW
- Sears Road ROW
- Proposed Annexation

City Limits

LABEL

BENTONVILLE



2017 2851

Exhibit "B"

1 inch = 1,592 feet

2017 SEP 13 AM 9:43

Exhibit "B"

**August, 2017 Voluntary Annexation Petition
Property petitioned for annexation
plus abutting dedicated public roads and rights of way**

CLERK
NEWTON COUNTY, ARK

Tax Parcel Numbers:

18-09129-000
18-09132-000
18-09133-000
18-09180-002
18-09182-004
18-09184-000
18-09185-000
18-09185-001
18-09185-002
18-09186-002
18-09188-000
18-09189-003
18-09189-004
18-09189-005
18-09189-007
18-09191-000
18-09192-000
18-09193-000

18-09199-000
18-09210-001
18-09219-000
18-09220-000
18-09304-000
18-09308-000
18-09317-000
18-09317-002
18-09317-004
18-09317-005
18-09334-001
18-09337-000
18-09338-000
18-09338-001
18-09338-002

18-09190-000

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18-09338-003
18-09340-000
18-09189-000
18-09190-001
18-09190-000

CLERK
COUNTY CLERK
DAWSON COUNTY, ARK

Beginning at the NW Corner of the SW ¼ of the NW ¼ of Section 23, Township 19N, Range 31W.

Thence S88°02'12"E, 1332.69' to the NE Corner of the SW ¼ of the NW ¼ of Section 23,
Township 19N, Range 31W;
Thence S02°26'18"W, 1639.03';
Thence S87°29'00"E, 1319.79';
Thence S02°31'54"W, 2316.32' to the NE Corner of the NE ¼ of the NW ¼ of Section 26,
Township 19N, Range 31W;
Thence N86°56'23"W, 1334.74' to the NW Corner of the NE ¼ of the NW ¼ of Section 26,
Township 19N, Range 31W;
Thence S02°24'03"W, 1324.19' to the SW Corner of the NE ¼ of the NW ¼ of Section 26,
Township 19N, Range 31W;
Thence S02°24'04"W, 642.97';
Thence S87°32'49"E, 365.61';
Thence N68°56'00"E, 183.28';
Thence N02°27'15"E, 138.11';
Thence N81°45'53"W, 124.18';
Thence N64°22'10"W, 95.52';
Thence N02°27'15"E, 382.14';
Thence S87°38'24"E, 473.47';
Thence S02°36'12"W, 457.57';
Thence N68°55'56"E, 71.10';
Thence S71°03'07"E, 232.35';
Thence S88°56'03"E, 250.07';
Thence N02°29'42"E, 494.51';
Thence S86°31'05"E, 661.94';
Thence N02°34'56"E, 658.28';
Thence S87°15'03"E, 661.81';
Thence S02°47'01"W, 1319.02';
Thence S87°25'42"E, 995.78';
Thence S02°26'36"W, 652.06';
Thence N87°19'54"W, 2314.57' to the NW Corner of the NW ¼ of the SE ¼ of Section 26,
Township 19N, Range 31W;
Thence N87°11'35"W, 761.94';
Thence S02°58'03"W, 383.55';
Thence N87°29'56"W, 567.23';

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Thence S02°37'58"W, 758.18';
Thence N47°51'32"E, 367.45';
Thence N55°58'51"E, 433.48';
Thence N77°21'19"E, 273.92';
Thence N83°56'19"E, 142.50';
Thence S46°37'26"E, 150.82';
Thence S69°36'00"E, 195.60';
Thence S03°01'01"W, 617.83';
Thence N88°13'35"W, 660.41';
Thence S01°38'36"W, 609.66';
Thence S01°29'33"W, 119.02';
Thence N87°45'47"W, 675.62';
Thence S02°39'35"W, 583.65' to the SW Corner of the SE ¼ of the SW ¼ of Section 26, Township
19N, Range 31W;
Thence S01°19'05"W, 644.78';
Thence N87°23'26"W, 150.15';
Thence S02°06'39"W, 671.77';
Thence S87°13'44"E, 954.24';
Thence S02°52'40"W, 1306.26';
Thence N87°26'14"W, 143.63';
Thence S03°41'00"W, 80.09';
Thence N86°21'43"W, 7.59';
Thence S03°12'18"W, 1246.69';
Thence N87°17'10"W, 647.15' to the SW Corner of the NE ¼ of the SW ¼ of Section 35,
Township 19N, Range 31W;
Thence S02°41'42"W, 1322.16' to the SE Corner of the SW ¼ of the SW ¼ of Section 35,
Township 19N, Range 31W;
Thence N86°53'40"W, 981.57';
Thence N01°49'46"E, 160.53';
Thence N86°43'04"W, 159.11';
Thence S01°47'13"W, 161.03';
Thence N86°53'40"W, 193.06' to the SW Corner of the SW ¼ of the SW ¼ of Section 35,
Township 19N, Range 31W;
Thence N87°35'38"W, 1672.72';
Thence N87°35'39"W, 2265.73' to the SW Corner of the SE ¼ of the SW ¼ of Section 34,
Township 19N, Range 31W;
Thence N03°09'34"E, 1289.17' to the NW Corner of the SE ¼ of the SW ¼ of Section 34,
Township 19N, Range 31W;
Thence S87°50'56"E, 1339.27' to the NE Corner of the SE ¼ of the SW ¼ of Section 34, Township
19N, Range 31W;
Thence N02°16'59"E, 1648.62';
Thence S88°03'35"E, 737.94';
Thence S02°58'32"W, 651.31';
Thence S00°05'02"W, 921.66';

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THE CLERK
COUNTY CLERK
CENTRAL COUNTY, ARK

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DEAN D. GIBSON
COUNTY PROSECUTOR
BENTON COUNTY, ARK

Thence S87°54'44"E, 153.18';
Thence S03°54'13"E, 79.64';
Thence S00°11'27"W, 87.59';
Thence N86°54'30"E, 394.59';
Thence N89°03'10"E, 307.79';
Thence N06°29'00"E, 35.02';
Thence S87°51'38"E, 957.23' to the SW Corner of the NW ¼ of the SW ¼ of Section 35,
Township 19N, Range 31W;
Thence N02°45'26"E, 1320.59' to the NW Corner of the NW ¼ of the SW ¼ of Section 35,
Township 19N, Range 31W;
Thence N02°45'24"E, 1327.56' to the NW Corner of the SW ¼ of the NW ¼ of Section 35,
Township 19N, Range 31W;
Thence N88°06'36"W, 1284.98' to the SW Corner of the NE ¼ of the NE ¼ of Section 34,
Township 19N, Range 31W;
Thence N02°08'05"E, 2623.76' to the NW Corner of the SE ¼ of the SE ¼ of Section 27,
Township 19N, Range 31W;
Thence S87°45'28"E, 402.91';
Thence N00°47'19"E, 708.28';
Thence S89°03'19"E, 744.82';
Thence N00°30'39"E, 204.17';
Thence S89°09'24"E, 187.99';
Thence N02°14'54"E, 387.82' to the NW Corner of the NW ¼ of the SW ¼ of Section 26,
Township 19N, Range 31W;
Thence N02°16'39"E, 2632.87' to the NW Corner of the NW ¼ of the NW ¼ of Section 26,
Township 19N, Range 31W;
Thence S87°38'59"E, 15.35';
Thence N02°35'59"E, 1312.13';
Thence N87°32'18"W, 15.36' to the NW Corner of the SW ¼ of the SW ¼ of Section 23,
Township 19N, Range 31W;
Thence N02°43'40"E, 2621.53';
Thence S74°59'17"E, 13.073' to the NW Corner of the SW ¼ of the NW ¼ of Section 23,
Township 19N, Range 31W said point being the Point of Beginning.

Less and Except any part already being inside the current existing City Limits of Bentonville.

-AND THE FOLLOWING DESCRIBED PROPERTY
(WHICH ARE DEDICATED PUBLIC ROADS AND RIGHTS OF WAY)-

All that part of S. Morning Star Road abutting the City of Bentonville annexation contained in CC 2017-20, more particularly described as:

Commencing at the NE Corner of the NE 1/4 of the SW1/4 of Section 23, Township 19N, Range 31W.
Thence S02°29'43"W, 331.37' to the point of beginning.

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CLERK
BENTON COUNTY, ARK

Thence S87°37'54"E, 18.39';
Thence S02°22'58"W, 992.27';
Thence S02°28'58"W, 1324.39';
Thence N86°56'23"W, 47.82';
Thence N02°31'22"E, 1324.19';
Thence N02°30'06"E, 991.90';
Thence S87°37'54"E, 26.45' back to the point beginning.
Less and Except all land presently in the City Limits of ANY municipality.

Also, beginning at the NW Corner of the SW ¼ of the NE ¼ of Section 26, Township 19N, Range 31W.
Thence S86°31'05"E, 22.95';
Thence S02°28'38"W, 493.46';
Thence N88°59'23"W, 52.95';
Thence N02°20'07"E, 495.27';
Thence S87°25'41"E, 31.21' to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

AND

All that part of Philpott Road abutting the City of Bentonville annexation contained in CC 2017-20, more particularly described as:

Beginning at the SE Corner of the SW ¼ SW ¼ of Section 35, Township 19N, Range 31W.
Thence S03°07'47"W, 15.53';
Thence N87°25'39"W, 981.37';
Thence N02°34'21"E, 32.74';
Thence S87°15'55"E, 124.51';
Thence S69°22'06"E, 17.19';
Thence S87°37'36"E, 840.71';
Thence S02°41'42"W, 14.45' to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

AND

All that part of Mill Dam Road abutting the City of Bentonville annexation contained in CC 2017-20, more particularly described as:

Beginning at the NE Corner of the SE ¼ SW ¼ of Section 34, Township 19N, Range 31W.
Thence N87°50'50"W, 22.98';
Thence N02°16'31"E, 1648.81';
Thence S87°43'29"E, 45.83';
Thence S02°23'18"W, 1648.72';
Thence N87°50'57"W, 19.61' to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

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AND

All that part of Phillips Cemetery Road abutting the City of Bentonville annexation contained in CC 2017-20, more particularly described as:

Commencing at the SE Corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, Township 19N, Range 31W.
Thence S03°39'47"W, 17.28';
Thence N88°00'49"W, 521.17' to the point of beginning.

Thence N86°51'11"W, 954.01';
Thence N02°06'39"E, 48.33';
Thence S87°10'03"E, 954.60';
Thence S02°49'57"W, 53.55' back to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

AND

Beginning at the NE Corner of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 34, Township 19N, Range 31W.
Thence S02°45'24"W, 33.02';
Thence N88°03'30"W, 1284.74';
Thence N02°21'08"E, 46.91';
Thence S88°09'37"E, 1285.10';
Thence S02°45'26"W, 16.18' to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

AND

All that part of Haxton Road abutting the City of Bentonville annexation contained in CC 2017-20, more particularly described as:

Beginning at the NE Corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, Township 19N, Range 31W.
Thence S03°01'01"W, 17.96';
Thence N87°14'48"W, 761.93';
Thence N02°44'20"E, 48.44';
Thence S87°15'40"E, 761.88';
Thence S02°29'41"W, 30.67' to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

AND

All that part of Heagerty Road abutting the City of Bentonville annexation contained in CC 2017-20, more particularly described as:

Beginning at the SW Corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, Township 19N, Range 31W.

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TELLIUS ALEX
CO. CLERK
BENTON COUNTY, ARK

Thence N87°51'43"W, 16.24';
Thence N02°18'28"E, 2633.00';
Thence S87°34'34"E, 54.25';
Thence S02°36'29"W, 2633.06';
Thence N87°14'45"W, 24.20' to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

AND

All that part of Sears Road abutting the City of Bentonville annexation contained in CC 2017-20, more particularly described as:

Beginning at the SE Corner of the SE ¼ SW ¼ of Section 23, Township 19N, Range 31W.
Thence S02°26'59"W, 19.58';
Thence N86°49'45"W, 1334.76';
Thence N02°39'17"E, 34.62';
Thence S86°58'55"E, 1334.63';
Thence S02°33'33"W, 18.60' to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

AND

All that part of Gaston Road abutting the City of Bentonville annexation contained in CC 2017-20, more particularly described as:

Commencing at the NE Corner of the SW NE of Section 26, Township 19N, Range 31W.
Thence S87°35'58"E, 9.68' to the point of beginning.

Thence S02°04'06"W, 652.35';
Thence N87°17'40"W, 37.41';
Thence N02°32'42"E, 1319.02';
Thence S88°36'44"E, 34.18';
Thence S02°43'58"W, 667.49' back to the point of beginning.
Less and Except all land presently in the City Limits of ANY municipality.

AUGUST, 2017 VOLUNTARY ANNEXATION PETITION
 PROPERTY OWNERS
 EXHIBIT "A"

2017 SEP 13 AM 9:40

THE STATE OF ARKANSAS
 COUNTY OF CLARK

PARCEL #	OWNER
18-09129-000	NORTON, SUSAN
18-09132-000	WILLIS TR, MAURICE F & WILLIS TR, PAMELA D
18-09133-000	WEBB, CRYSTAL D
18-09180-002	BROWN, DEREK JOHN & SHELLIE DENISE
18-09182-004	BROWN, DEREK J & SHELLIE D
18-09184-000	MURPHY, LAURAJ
18-09185-000	BOSECKER, BARRY L & CINDY M
18-09185-001	MCDONALD, BRIAN D & JESSICA
18-09185-002	MCDONALD, BRIAN
18-09186-002	MCMURTREY, SCOTT & AMY
18-09188-000	SIMPSON MARITAL DEDUCTION TRUST-PAT
18-09189-003	BELL, BODIE & ERICA
18-09189-004	LESSLY JOINT TRUST- WILLIAM JACK & DANA CATHERINE
18-09189-005	TALL OAKS CONSTRUCTION LLC
18-09189-007	BEAVER, DANNY LEE & MARILYN LOU
18-09191-000	N & J FAMILY PROPERTIES LLC
18-09192-000	ORR TRUST
18-09193-000	ORR TRUST
18-09199-000	ORR TRUST
18-09210-001	N & J FAMILY PROPERTIES LLC
18-09219-000	N & J FAMILY PROPERTIES LLC
18-09220-000	ORR TRUST
18-09304-000	ORR TRUST
18-09308-000	LESSLY JOINT TRUST, WILLIAM JACK & DANA CATHERINE
18-09317-000	GRIMES, CRAIG A & JENNIFER A
18-09317-002	BARRETT FAMILY TRUST, BEAU S & KOURTNEY F
18-09317-004	BARRETT FAMILY TRUST, BEAU S & KOURTNEY F

William & Dana Lesley, Owners
 Norman & Jill Banwarth, Owners
 Jerry & Barbara Orr, Trustees
 Jerry & Barbara Orr, Trustees
 Jerry & Barbara Orr, Trustees
 Norman & Jill Banwarth, Owners
 Norman & Jill Banwarth, Owners
 Jerry & Barbara Orr, Trustees
 Jerry & Barbara Orr, Trustees

18-093317-005 LESSLY JOINT TRUST- WILLIAM JACK & DANA CATHERINE
18-093334-001 ORR TRUST
18-093337-000 JOYNER FAMILY TRUST, GILBERT
18-093338-000 JOYNER FAMILY TRUST, GILBERT
18-093338-001 JOYNER, GILBERT DAVID JR & MARLA L
18-093338-002 JOYNER, GILBERT DAVID JR & JOYNER, MARLA L
18-093338-003 JOYNER, GILBERT DAVID JR & MARLA L
18-093340-000 RONE FAMILY TRUST, RONE, DONALD A & MONICA L
18-09189-000 TIDWELL, JOHN & SARA W
18-09190-001 HADEN, SAM ALLEN & AMY JO
18-09190-000 ZEHER, MICHAEL A & PAMELA P

Jerry & Barbara Orr, Trustees
David Gilbert Joyner, Trustee
David Gilbert Joyner, Trustee

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FILED
CLERK OF COURT
COUNTY OF ARK

2017 2850