

**TOWN OF HOT SULPHUR SPRINGS,
COLORADO**

ORDINANCE NO. 2010-5:1/375

AN ORDINANCE APPROVING THE VACATION OF CERTAIN PUBLIC RIGHT-OF-WAY OF THE TOWN OF HOT SULPHUR SPRINGS, IN SECTION 2, TOWNSHIP 1 NORTH, RANGE 78 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GRAND, STATE OF COLORADO, KNOWN AS SPRUCE STREET, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Part 3 of Article 2 of Title 42, C.R.S., the Board of Trustees is authorized to vacate any roadway or part thereof located within the Town of Hot Sulphur Springs by ordinance; and

WHEREAS, a dispute has arisen between the Town and Rosella S. Doughty, Trustee, the Doughty Family Revocable Trust, dated April 30, 1997 (collectively "Doughty") regarding the scope of the ownership of real property within the Town; and

WHEREAS, the Town filed a complaint against Doughty in the District Court of Grand County, Colorado (the "Litigation") seeking to quiet title to portions of Spruce Street and Maple Street; and

WHEREAS, Doughty subsequently filed counterclaims against the Town seeking to quiet title to portions of Spruce Street and Maple Street, or for compensation for the taking of its property; and

WHEREAS, pursuant to a settlement agreement between the Town and Doughty executed on May 21, 2010, the Town agreed to vacate portions of Spruce Street as described herein in exchange for the execution of a deed by Doughty to certain other portions of Spruce Street; and

WHEREAS, the Board of Trustees therefore desires to adopt an ordinance expressly approving the vacation of public right-of-way; and

WHEREAS, the Board of Trustees finds that, without the immediate passage of this Ordinance, irreparable harm may occur to the Town and to the peace, health and safety of the Town's residents because the immediate effectiveness of this ordinance is required by the settlement agreement in order to ensure that the Town receives due consideration for its vacation in the form of a deed from Doughty for portions of Spruce Street and other consideration as outlined in the settlement agreement.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF HOT SULPHUR SPRINGS, COLORADO, AS FOLLOWS:

Section 1. A portion of Spruce Street public right-of-way, as generally depicted on Exhibit A hereto, is hereby vacated, the Board specifically finding that the vacation of the following described portion of public right-of-way is in the best interests of the residents of the Town of Hot Sulphur Springs:

A PARCEL OF SPRUCE STREET RIGHT OF WAY LOCATED IN THE TOWN OF HOT SULPHUR SPRINGS, SECTION 2, TOWNSHIP 1 NORTH, RANGE 78 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF GRAND, STATE OF COLORADO, AND CONSIDERING THE NORTH LINE OF BLOCK 3, TOWN OF HOT SULPHUR SPRINGS, RECEPTION NO. 14, TO BEAR N 89°23'45" W AS MEASURED FROM THE NORTHEAST CORNER (3/4" DIAMETER IRON PIPE) LOT 1 OF SAID BLOCK 3 TO THE NORTHWEST CORNER (1/4" SQUARE BOLT) LOT 4 OF SAID BLOCK 3 AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO, SAID PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at the northeast corner (3/4" diameter iron pipe) Lot 1 of said Block 3;

Thence N 89°23'45" W along the north line of said Block 3 a distance of 106.53' to an aluminum cap, PLS #31942, said point is the true POINT OF BEGINNING;

Thence N 89°23'45" W continuing along the north line of said Block 3 a distance of 93.41' to the northwest corner (1/4" square bolt) Lot 4 of said Block 3;

Thence N 00°00'00" E a distance of 35.00' to a point;

Thence S 89°23'45" E a distance of 61.97' to a point;

Thence S 00°00'00" E a distance of 11.59' to a point;

Thence S 52°55'48" E a distance of 39.40' back to the point of beginning.

Said parcel contains 0.06 acres and/or 2,537.08 sq. ft. more or less.

Section 2. Attachment and Restriction on Transfer and Encumbrance. The vacated parcel described above shall attach to adjacent property owned by Doughty described as Lots 3 and 4, Block 3, TOWN OF HOT SULPHUR SPRINGS ("Lots"), such that the vacated parcel shall not be conveyed, transferred or encumbered separate or apart from the Lots. The foregoing restriction shall be a perpetual covenant and servitude affecting both the Lots and the vacated parcel that will run with the respective titles thereof; provided, however, that nothing stated herein shall prevent Doughty or their successors from resubdividing the Lots and the vacated property, so long as such action is not in violation of, and in accordance with, Town of Hot Sulphur Springs subdivision laws.

Section 3. Development Restriction. The vacated parcel described above shall be subject to the perpetual restriction that no permanent improvements may be constructed on, or placed upon, said land, except for perimeter fencing along the boundary thereof.

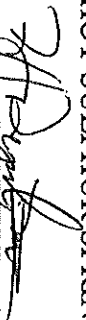
Section 4. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The Board of Trustees declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

Section 5. Emergency. The Board of Trustees finds that this Ordinance is necessary for the immediate preservation of the public peace, health and safety in that irreparable harm may occur to the Town and to the peace, health and safety of the Town's residents because the immediate effectiveness of this ordinance is required by the settlement agreement in order to ensure that the Town receives due consideration for its vacation in the form of a deed from Doughy for portions of Spruce Street and other consideration as outlined in the settlement agreement.

Section 6. Effective Date. This Ordinance shall take effect only upon its recordation with the Grand County Clerk and Recorder.

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY MEASURE AND ORDERED PUBLISHED BY A VOTE OF NOT LESS THAN ¾ OF ALL MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, AT A REGULAR MEETING HELD ON THE 27th DAY OF MAY, 2010

TOWN OF HOT SULPHUR SPRINGS

By: 
Hershel Deputy, Mayor

ATTEST:

By: 
Sandy White, Town Clerk

Approved May 27, 2010.

Published one time in the Sky-Hi News on: _____, 2010.

EXHIBIT A

Map of Vacated Portion of Spruce Street

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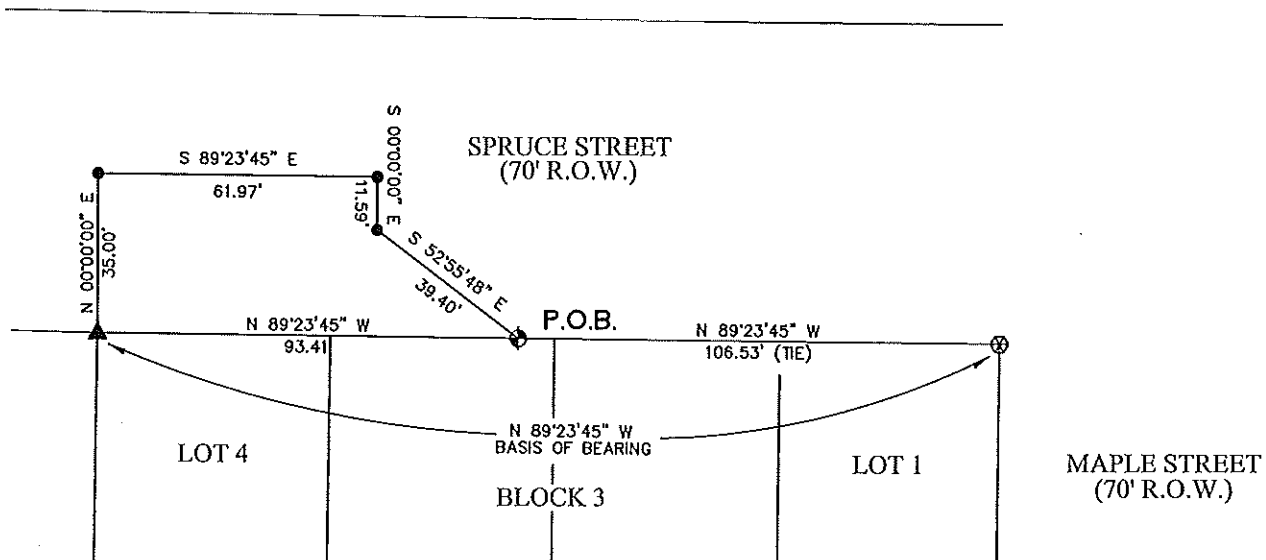
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NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF HOT SULPHUR SPRINGS, COLORADO, AS FOLLOWS:

EXHIBIT A
 PARCEL OF LAND
 SITUATED IN
 SECTION 2, TOWNSHIP 1 NORTH, RANGE 78 WEST, 6TH P.M..
 GRAND COUNTY, COLORADO
 SHEET 2 OF 2



LEGEND

- ◆ - FOUND ALUMINUM CAP, PLS #31942
- ⊗ - FOUND 3/4" DIAMETER IRON PIPE
- ▲ - FOUND 1/4" SQUARE BOLT
- - POINT



SCALE: 1"=40'

JOB: 09031	SCALE: 1"= 40'	CRD: 09031.37	REVISED:
DWG: 09031.13B	DATE: 4/30/10	DRAWN BY: HNA	REVIEWED BY: TRS

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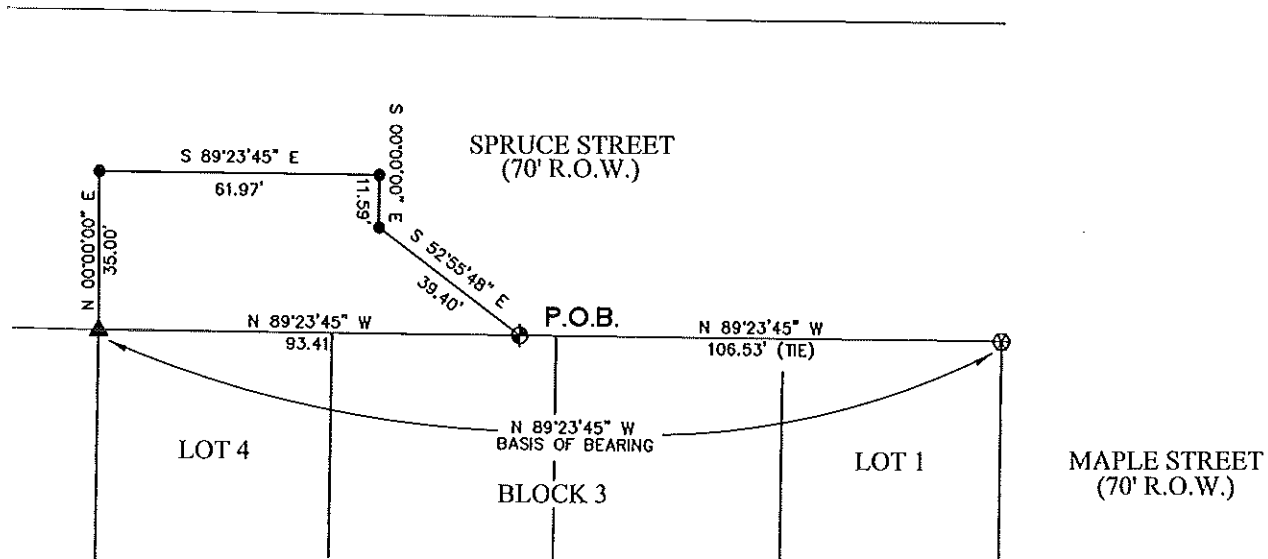
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