

ORDINANCE No. 2008-06-17-2

AN ORDINANCE BY THE VILLAGE COUNCIL OF THE VILLAGE OF VINTON, TEXAS AUTHORIZING THE VILLAGE ENGINEER AND OTHER VILLAGE DESIGNEES TO ENTER PRIVATE PROPERTY FOR PURPOSE OF CONDUCTING GROUND SURVEYS AND GEOTECHNICAL INVESTIGATIONS FOR DRAINAGE PROJECTS AND FURTHER ALLOWING VILLAGE MAINTENANCE PERSONNEL TO ENTER PRIVATE PROPERTY WITH VILLAGE EQUIPMENT FOR THE PURPOSE OF CLEANING AND MAINTAINING EXISTING ARROYOS AND OTHER DRAINAGE STRUCTURES AND FACILITIES.

WHEREAS, the Village of Vinton has sustained disastrous flood damage in recent years from flood waters which originate in the mountains east of the Village and overflow out of inadequate and unimproved arroyos within the Village, washing out roads and flooding homes and businesses before draining into the Rio Grande river situated immediately west of the Village, thereby creating a very significant public health and safety concern to the Village and its inhabitants.

WHEREAS, regular maintenance of the arroyos, catch basins, conduits and other presently existing drainage structures and facilities through which the flood waters drain into the Rio Grande is deemed by the Village Council to be an essential part of its efforts to help prevent flood damage.

WHEREAS, a significant portion of the presently existing arroyos, catch basins, conduits and other drainage structures and facilities are situated on property owned by private landowners for whom it is generally beyond their individual capacities to maintain.

WHEREAS, even with regular maintenance of the existing arroyos, catch basins, conduits and other drainage structures and facilities, they are inadequate and insufficient to protect the public from flooding particularly because there are areas within the Village where the existing natural arroyos have been filled in and otherwise blocked or narrowed by the unauthorized and unlawful activities of individual landowners and developers thereby causing the natural flow of the flood waters in these areas to be wholly or partially obstructed and/or diverted, substantially increasing the risk of serious harm and damage to the surrounding residents and their property.

WHEREAS, the Village Council in its capacity as the governing body of the Village of Vinton is vested with authority to preserve and protect the health, safety, comfort, security and welfare of its citizens and in the exercise of its police power is authorized to take such actions as it may deem reasonable and necessary to protect them from the ravages of the flooding.

WHEREAS, the governing body of the Village of Vinton is also vested with authority under V.T.C.A., Local Government Code Chapter 251 to acquire private property by eminent domain for drainage and flood water control purposes if it deems it advisable and in the best interests of the citizens.

WHEREAS, pursuant to its above-stated authority and responsibility to preserve and protect the health, safety and welfare of its citizens, the Village of Vinton is engaged in the evaluation and planning stages of certain drainage improvement projects which necessarily involve private property. Incident thereto, the Village Engineer and other designees of the Village must enter onto the private property in the project areas for the purpose of conducting ground surveys and geotechnical investigations. Although having been duly notified by the Village Engineer, certain private landowners have failed and neglected to authorize the right of entry, thereby delaying pending projects and risking project funding.

WHEREAS, the Village of Vinton has also encountered difficulties with private landowners refusing to authorize Village maintenance personnel and/or Village maintenance equipment access to the arroyos and/or other drainage structures and facilities located on their private property, thus impeding the ability of the Village to perform routine maintenance and thereby creating an unreasonably dangerous condition which increases the risk of harm to other Village residents.

WHEREAS, in the exercise of its police powers and incident to its authority under V.T.C.A., Local Government Code Chapter 251 to acquire private property by eminent domain for drainage and flood water control purposes, in order to protect the health, safety and welfare of the Village residents and to preserve and protect their property, the Village Council deems it reasonable and necessary to authorize its engineer and other designated Village representatives to enter upon the private property of individual landowners within the Village to conduct ground surveys and geotechnical investigations related to drainage and flood water control projects and further to authorize its maintenance personnel and Village maintenance equipment to enter upon the private property of individual landowners within the Village as may be reasonably necessary to perform necessary maintenance to the existing arroyos, catch basins, conduits and other drainage structures and facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF VINTON, TEXAS that:

1. The Village Engineer and other designated Village representatives are hereby authorized to enter upon the private property of individual landowners within the Village as may be reasonably necessary to conduct ground surveys and geotechnical investigations related to drainage and floodwater control projects.
2. Village maintenance personnel are hereby authorized to enter upon the private property of individual landowners within the Village to operate Village maintenance equipment as may be reasonably necessary to perform necessary maintenance to the existing arroyos, catch basins, conduits and other drainage structures and facilities.
3. Reasonable efforts shall be made to notify the individual landowners in advance of the intent to enter their private property for these designated purposes and to obtain their written consent to entry. The assistance of law enforcement personnel may be requested if access to the private property is denied. The Village will be responsible for repairing any damage caused to

private property resulting from its entry thereon for the purposes herein set forth.

That this ordinance was adopted with all the requisites and formalities incident thereto for the enactment of Ordinances as evidenced by the signatures below.

PASSED, APPROVED AND ADOPTED this 17th day of June, 2008.


MADELEINE PRAINO, Mayor

Attest:


JESSICA GARZA,
Village Clerk

Approved as to Form:


SHANE A. ENGLISH, Village Attorney