

**CITY OF RUSSELLVILLE, KENTUCKY  
ORDINANCE 2007-02**

AN ORDINANCE DECLARING A CEMETERY, WITH METES AND BOUNDS DESCRIPTION,  
LOCATED IN THE CITY LIMITS OF RUSSELLVILLE, LOGAN COUNTY, KENTUCKY, TO BE  
ABANDONED; DECLARING THE CEMETERY IS NEEDED FOR A PUBLIC PURPOSE;  
AUTHORIZING JUDICIAL ACTION TO VEST TITLE IN THE CITY OF RUSSELLVILLE;  
CONTAINING A SEVERABILITY CLAUSE, REPEALER CLAUSE, AND AN EFFECTIVE DATE

\*\* \*\* \*

WHEREAS, a certain tract of land [plat is attached] known as Bowden Cemetery, or the Perry family burying ground, or the Littlejohn Cemetery, is located on the east side of North Caldwell Street, between East First Street and East Second Street, in the City of Russellville, Logan County, Kentucky and is described as follows:

All bearings contained herein are based on a record bearing along the west line of adjoining property described in Deed Book 355, at page 537, now of record in the office of the Logan County Court Clerk, Russellville, Kentucky, and is more particularly described as follows:

Beginning at a 5/8" rebar and cap, PLS #1895 (found) twenty-five (25) feet south of the centerline of East First Street, common corner with Robert Holder and Crystal Holder (Deed Book 355, at page 537); thence along a common line with same, South 17° 49' 16" East, 177.86 feet to a 5/8" rebar and cap, PLS #2474 (found), common corner with Katherine Gray (Deed Book 326, at page 475); thence along a common line with same, South 17° 52' 02" East, 176.85 feet to a 5/8" x 18" rebar with cap, PLS #2925 (set) at a small iron spike (found), 22.50 feet north of the centerline of East Second Street; thence with the north right-of-way of same, South 72° 30' 37" West, 84.29 feet to a 5/8" x 18" rebar with cap, PLS #2925 (set) 22.50 feet east of the centerline of North Caldwell Street; thence with the east right-of-way of same, North 16° 24' 02" West, 354.44 feet to a 5/8" rebar (found) (no cap) twenty-five feet south of the centerline of East First Street; thence with the south right-of-way of same, North 72° 15' 22" East, 75.36 feet to the beginning containing 28,287.491 square feet or 0.649 acre.

This being a part of Lot #55 of Hubbard Sanders Addition of the original plat of the Town of Russellville as shown in Deed Book G, Page 54, in the office of the Clerk of the Logan County Court.

This also being a part of the same property conveyed by Andrew Caldwell to Marmaduke B. Morton by deed dated August 30, 1834, as found in Deed Book T, Page 199, in the office of the Clerk of the Logan County Court, wherein Andrew Caldwell reserved in himself a 40' x 120' plot as a family burial ground.

WHEREAS, the City Council of the City of Russellville finds the tract of land described above has been abandoned by its original owners, their heirs and assigns, as evidenced by:

1. Since at least 1965, the City of Russellville, and/or the United Methodist Temple of the City of Russellville, and/or the Logan Historical Society have been the only caretakers for the cemetery;
2. No person claiming any right, title or interest in the property has ever asserted an ownership interest in the property described above;
3. No person has been buried on the property to anyone's knowledge for well over one hundred (100) years.

WHEREAS, this cemetery serves as the final resting place for numerous individuals, in both marked and unmarked graves; and

WHEREAS, this cemetery also contains the remains of John Littlejohn, an American citizen who was instrumental in safeguarding the Declaration of Independence and other important national archives during the War of 1812; John Littlejohn was buried in this cemetery in 1836; and

WHEREAS, the City Council of the City of Russellville desires to acquire the property described above for a public purpose, to wit: Restoring this property to one extending the dignity and respect which is owed to those who are buried within it, with the further intent to make the cemetery a local, state and national landmark.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Russellville, Kentucky, as follows:

**I. FINDINGS OF FACT**

- A. The City Council has reviewed newspaper clippings, scholarly journals and personally visited this cemetery;
- B. The City Council hereby finds this cemetery is, and it has been, abandoned;
- C. The City Council hereby finds this cemetery serves as a significant local, state and national historic site, which must be preserved, protected and maintained.
- D. The City Council hereby deems a public purpose will be served by the City of Russellville acquiring title to the cemetery in order for the City to apply for state and federal grants to properly maintain, improve, dignify and enhance this cemetery; City Perpetual Care income interest may then also be used to maintain this property.
- E. City Council hereby finds the Attorney General of the Commonwealth of Kentucky has been consulted concerning this action, and does not oppose the legislative intentions of the City of Russellville.
- F. City Council hereby finds that Marmaduke Beckwith Morton VIII, a direct descendant of Markmaduke Beckwith Morton, does not oppose the legislative intentions of the City of Russellville, and is expected to quitclaim any right, title or interest he may have in the property to the City of Russellville, if any he has.
- G. The City Council hereby directs the City Attorney to file suit in Logan Circuit Court, under the authority of KRS 381.720, to seek the Judgment and Order of the Court declaring the cemetery abandoned, to vest title in the name of the City of Russellville, Kentucky, for a public purpose, to wit: Restoring this property to one extending the

dignity and respect which is owed to those who are buried within it, with the further intent to make the cemetery a local, state and national landmark.

H. Should the City gain title to this cemetery, it shall thereafter be known officially as the "John Littlejohn Cemetery."

## **II. REPEALER CLAUSE**

All ordinances or parts of ordinances in conflict herewith now in effect are hereby repealed.

## **III. SEVERABILITY CLAUSE**

If any clause, provision or section of this ordinance shall be ruled void or unenforceable by any court of competent jurisdiction, the remainder hereof is intended to be enacted and shall be in force and effect notwithstanding.

## **IV. EFFECTIVE DATE**

This ordinance shall be effective upon its passage and publication as required by law.

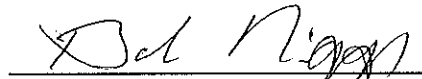
**FIRST READING** conducted this the 20<sup>th</sup> day of March, 2006.

**SECOND READING and passage** on the 3<sup>rd</sup> day of April, 2007.



**GENE ZICK, MAYOR**

ATTEST:

  
**BOB RIGGS, CITY CLERK**

**Ayes:** Davenport, Jimmy; Jones, Russell; McPherson, Lanny; Phillips, Chuck; Stratton, Mark; Whipple, Jack.

**Nays:** none

**Absent:** none

**Abstaining:** none

**PROPERTY SURVEY FOR  
CITY OF RUSSELLVILLE, BOWDEN CEMETERY  
CONTAINING 28,287.491 SQUARE FEET OR 0.649 ACRE**

This is a legal description of the property known as Bowden Cemetery located on the east side of North Caldwell Street, between East First Street and East Second Street, in the city of Russellville, Logan County, Kentucky and more particularly described as follows:

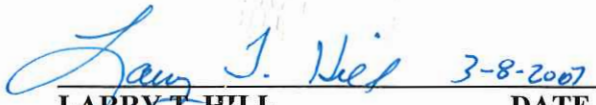
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***Legal description:***

Beginning at a 5/8" rebar and cap, PLS #1895 (found) twenty-five (25) feet south of the centerline of East First Street, common corner with Robert Holder and Crystal Holder (Deed Book 355, at page 537); thence along a common line with same, South 17° 49' 16" East, 177.86 feet to a 5/8" rebar and cap, PLS #2474 (found), common corner with Katherine Gray (Deed Book 326, at page 475); thence along a common line with same, South 17° 52' 02" East, 176.85 feet to a 5/8" x 18" rebar with cap, PLS #2925 (set) at a small iron spike (found), 22.50 feet north of the centerline of East Second Street; thence with the north right-of-way of same, South 72° 30' 37" West, 84.29 feet to a 5/8" x 18" rebar with cap, PLS #2925 (set) 22.50 feet east of the centerline of North Caldwell Street; thence with the east right-of-way of same, North 16° 24' 02" West, 354.44 feet to a 5/8" rebar (found) (no cap) twenty-five feet south of the centerline of East First Street; thence with the south right-of-way of same, North 72° 15' 22" East, 75.36 feet to the beginning containing 28,287.491 square feet or 0.649 acre.

This being a part of Lot #55 of Hubbard Sanders Addition now of record in the office of the Logan County Court Clerk in Deed Book G, at page 54.

This surveyor did not conduct a title search nor has he made an investigation or independent search for easements of record, encumbrances, restrictive covenants, or any other facts an accurate and current title search may disclose. In providing this boundary survey, no attempt has been made to obtain or show data concerning existence, size, depth, condition, capacity or location on any utility existing on the site whether privately or publicly owned.

  
LARRY T. HILL                      3-8-2007                      DATE  
LICENSED PROFESSIONAL LAND SURVEYOR #2925

