



City of Broken Arrow
Meeting Minutes
Drainage Advisory Committee

Chair Lori Hendricks
Vice Chair Denise Mason
Member Amber Hamilton
Member Johnnie Parks
Member Donna Wallace
Member Donna Wiedower
Member Christi Gillespie

Monday, January 29, 2024

6:00 PM

Council Chambers
220 South 1st Street
Broken Arrow, OK

1. Call to Order

Chairperson Lori Hendricks called the meeting to order at approximately 6:02 p.m.

2. Roll Call

Present: 4 - Christi Gillespie, Johnnie Parks, Donna Wallace, Lori Hendricks
Absent: 3 - Donna Wiedower, Denise Mason, Amber Hamilton

3. Consideration of Consent Agenda

A. 24-173 Approval of Drainage Advisory Committee meeting minutes of November 27, 2023

MOTION: A motion was made by Christi Gillespie, seconded by Donna Wallace.

Move to approve the Consent Agenda

The motion carried by the following vote:

Aye: 4 - Christi Gillespie, Johnnie Parks, Donna Wallace, Lori Hendricks

4. Consideration of Items removed from the Consent Agenda

There were no Items removed from the Consent Agenda; no action was taken or required.

5. Presentations

There were no presentations.

6. General Committee Business

A. 24-177 Consideration, discussion and possible action to recommend to City Council to reject Mr. Leach's request for expenditure of public funds for erosion mitigation on private property outside of city limits near the Covington Creek Tributary culvert crossing Oneta Rd (Case No 24-001)

Stormwater Division Manager Patrick Wilson discussed where this property was located on the map. He stated the property was on the west side of Oneta Road, in a 500 year flood plain. He explained this was not regulatory, it meant FEMA had it mapped that at the 500 year event the area would flood, but it was not regulatory, and the City of Broken Arrow did not regulate the 500 on this property. He stated the area on the west side of Oneta Road, where the property was located, was in Wagoner County; the applicant came to Broken Arrow due to Oneta Road. He stated there was a blue line running through the property meaning the Army Corps of Engineers had jurisdiction over those waters and the stream through the property. He explained the applicant was requesting erosion mitigation near the City culvert, on the property north and south of the structure. He stated a contractor estimated it would cost approximately \$25,000 dollars to mitigate the erosion. He displayed photos of the erosion, downcutting, etc. He stated Staff did not recommend approval of this

application as it was outside the Broken Arrow city limits and from what Staff discovered, it appeared the drainage course was changed by the property owner not by the City. He displayed an aerial view of the property showing the culvert and ponds in 2011. He stated the same could be seen in the preconstruction photos of the area in 2013 when Oneta Road was being improved. He indicated the road construction along Oneta Road (from 81st to 91st) went from April 1, 2013 until April 1, 2014. He stated he went through the plans, spoke with the Engineer of Record, spoke with the Construction Administrator, and Broken Arrow did not go outside of the right-of-way and did not add any fill to this property. He noted near Highland Elementary there was a detention basin on the south side for which construction was begun April 28, 2014 (ended November 2014). He stated the City paid a contractor to haul the dirt away from this project, and when the dirt left the site, the dirt became the property of the contractor who could make arrangements to do with the dirt as he pleased. He displayed a photo from February 2014 showing the finished sod installation for the Oneta Road project. He displayed and discussed an aerial view of the property from 2017 showing what looked like fill being placed in the ponds to raise the water level. He displayed and discussed an aerial view from 2023 showing a house where one of the ponds stood, the area was dry and looked to have been drained. He stated it appeared that the landowner changed the drainage path on the property, and this was why Staff recommended denial of the application.

Committee Member Johnnie Parks asked about the directional flow for the property.

Mr. Wilson displayed a slide showing where the culvert was located and how the water flowed on the property. He said the water did not flow into the detention area built near the school.

Discussion ensued regarding where the water flowed on this property, which direction the creek flowed and where the creek led.

Committee Member Christi Gillespie asked when the house was built.

The property owner responded the home was built three years ago.

Chairperson Hendricks indicated the property owner needed to come to the podium and be acknowledged to speak. She noted the stream through the property was a blue line stream. She asked if she understood correctly that to alter the path of the stream would require a permit from the Army Corps of Engineers.

Mr. Wilson responded in the affirmative; the landowner should have applied for a permit. He stated he did not know if this was done.

Chairperson Hendricks asked if the stream was still on the property.

Mr. Wilson stated it appeared the stream had been altered.

Committee Member Parks noted the stream still led to the north and crossed over.

Mr. Wilson agreed, noting once the stream crossed over Oneta it was intact.

Chairperson Klempa asked if there were any public utilities in the area.

Assistant City Manager of Operations Kenny Schwab indicated there were two water lines, Rural Water 4, and the City of Broken Arrow. He said the City of Broken Arrow had a 16 inch water line which went down the west side of the property.

Chairperson Klempa asked if there was any risk to the utilities.

Mr. Wilson responded in the negative.

Committee Member Gillespie indicated she did not understand what the claim was for.

Mr. Wilson responded erosion; there was no water flooding into a home; there was erosion around the fence causing issues to the fence.

The applicant, Mr. Bill Leach, stated the house was 15 feet above where the drainage was and the pond in the corner drained exactly where it always drained. He stated he did add fill in lots of places on the property. He stated he went in on his side of the road where the culvert was located, and on the south side the City had a large bar ditch 1,444 feet leading to the culvert and he did not believe the culvert could accommodate all the water from this ditch. He stated for 40 feet before it reached the culvert, the water was in the dirt, had to turn and run under his fence on the right-of-way and began to erode the ground around the fence. He stated the water ran off the road area into the ditch for 144 feet and could not get into the culvert without traversing his property. He continued to discuss how the water which was causing the erosion on his property was due to water draining from a City drainage ditch.

Chairperson Hendricks asked if Mr. Leach was saying the culvert was outside of the City right-of-way on Mr. Leach's property.

Mr. Leach responded the culvert was 4 feet past his fence, and the City built the fence. He stated the wings from the culvert were inside his property.

Chairperson Hendricks asked if the culvert was outside of the City right-of-way.

Mr. Leach responded in the affirmative. He said City Staff was claiming he changed his property and now the water was flowing in a different direction, but this was not true. He stated his water ran in the same direction it always had. He discussed the construction of Cambridge Estates and Supreme Drive which drained water downhill onto his property.

Chairperson Klempa asked if Mr. Leach obtained a permit from the Army Corps of Engineers regarding altering the blue line stream on his property.

Mr. Leach responded in the negative, he did not get a permit. He stated the Turnpike put the fill on his land, and the contractor which removed the fill from Oneta Road put the fill on his land. He stated he filled a 5 acre lake which was 5 feet deep.

Chairperson Hendricks asked how long Mr. Leach owned his property.

Mr. Leach responded he bought the property in 2012.

Chairperson Hendricks asked if the fill was put onto Mr. Leach's property with his consent.

Mr. Leach responded in the negative.

Chairperson Hendricks asked if all of the fill which the Turnpike and the contractor put on Mr. Leach's property was done without Mr. Leach's consent.

Mr. Leach stated he consented to that fill. He stated he wanted to fill that 5 acre lake, but he did not change the water flow. He stated the water which was causing problems was flowing onto his land from Cambridge and under his fence. He discussed the work he had done on his land and noted his problem arose after Broken Arrow built the road and the bar ditch.

Committee Member Gillespie stated she did not understand how Mr. Leach putting all the fill on his land, filling up the existing 5 acre pond, did not change the water flow on his land.

Mr. Leach stated after he drained the 5 acre pond, before he added the fill, the area looked like a desert. He noted it did get water when it rained, but water flowed in the same direction after he filled the pond.

Discussion ensued regarding Mr. Leach's property, whether the fill altered the flow, where the water was flowing, what was causing Mr. Leach's erosion problems, and what the aerial views showed of the land.

Mr. Wilson explained Cambridge was platted in Wagoner County in 1978, was annexed to Broken Arrow in 1985, and all the water from Cambridge ran onto Mr. Leach's property, into the 5 acre pond, and this was how it was built in 1978.

Mr. Leach continued to discuss how the filling of his pond did not cause the problems. He continued to discuss the water which flowed onto his property from other areas which was causing the problems. He stated there were no problems with the water flow until the road was built and he believed as he had raised his property level, the water should no longer flow onto his property so heavily.

Chairperson Hendricks asked if Mr. Leach had filled in his property prior to construction of the road. She noted Mr. Leach filled the pond around the same time, or after, the road was constructed.

Mr. Leach responded he gave permission to the road construction workers to dump the fill on his property without disturbing the three main streams of water.

Committee Member Gillespie noted it was not Broken Arrow workers who dumped the fill on Mr. Leach's property.

Mr. Schwab stated he was the engineer of record for Oneta Road as it was designed in-house. He explained when the City of Broken Arrow contracted a road, a competitive bid process was followed, and a contract was awarded to a contractor to construct the road. He noted the contractor was responsible for hauling waste materials off site. He stated here it sounds as if the contractor entered into a side agreement with Mr. Leach to dump the fill on Mr. Leach's property. He said the City of Broken Arrow agreements indicated waste materials of contracted projects became the property of the contractor; therefore, it was not Broken Arrow property, and the contractor owned the fill and would dispose of said fill as the contractor saw fit. He noted this was a very common practice. He stated a contractor was also hired to construct the detention pond. He indicated it was the responsibility of any property owner to obtain the necessary permits to have fill dumped on their property, for example, earth change permits, flood plain permits, Corps permits, etc. He noted Oneta Road had a lot of history and for decades the west side of the road had been a swamp area, until Oneta Road was improved, and Mr. Leach worked on his land. He noted the reason this area was a swamp was because all the sediment, debris and such flowed this way, and there had been a culvert which was blocked and clogged for years. He stated when the Muskogee Turnpike was built, OTA worked with the property owner at that point in time to dig out some dirt to raise the land for the Turnpike and Mr. Leach bought the property many years later and filled in the swampy area. He noted during the design of Oneta Road it was determined two or three large concrete culverts would be needed to drain the area. He stated the culverts drained 800 cubic feet to 1,000 cubic feet per second. He stated he had no problem going back out to see if the Broken Arrow bar ditch was creating a problem for Mr. Leach, and if this were the case it was not really a Drainage Advisory Committee issue, it would be an engineering issue. He

stated the City did negotiate right-of-way from Mr. Leach and he would be surprised if the wing walls of the culvert were on Mr. Leach's property as the City purchased an additional 25.25 feet of Mr. Leach's land, but he would check this as well. He stated based on what he could recall, he did not think the City caused any erosion issues on Mr. Leach's land, but he would be more than happy to go take a look.

Mr. Leach thanked Mr. Curtis for agreeing to come out and look at the property.

Chairperson Hendricks noted a citizen signed up to speak regarding this Item.

Citizen Edna Osborne stated the City of Broken Arrow needed to hire more qualified contractors, such as the Corps of Engineers, and not hire local contractors who were friends with the lowest bid. She stated Broken Arrow needed to pay those who were qualified to do the job right. She stated you could not sod over mistakes. She stated she was fed up with the State of Oklahoma and was almost ready to move out. She indicated her father bought a little house in Mississippi which had lasted much longer than her home in Broken Arrow. She stated she had too much water flowing across her property, and she felt the City of Broken Arrow needed to buy her out of her home and get her a home elsewhere.

Chairperson Hendricks apologized for interrupting Ms. Osborne, but noted this Item was to discuss Mr. Leach's property. She noted Ms. Osborne could address City Council regarding Ms. Osborne's home. She suggested Ms. Osborne speak with Mr. Wilson who could direct Ms. Osborne to the proper authority to hear her concerns.

Mr. Schwab noted the City did have a Drainage Advisory Committee item for Ms. Osborne's property which was previously approved. He stated the design for the project was nearing completion and the City was working to get a quote from a contractor. He noted City Staff had tried to contact Ms. Osborne, but Ms. Osborne had been out of state for a while.

Mr. Wilson stated Ms. Osborne's project was upcoming, the design was complete, the City was obtaining quotes and the easements with Knights of Columbus (Ms. Osborne's neighbor) were being finalized. He stated the Drainage Advisory Committee had already listened to and approved the project to fix Ms. Osborne's property. He stated the final step of getting a contractor was underway and then construction would begin.

Chairperson Hendricks thanked Mr. Leach for coming and addressing the Board. She stated the Drainage Advisory Committee operated within a very strict set of rules regarding what assistance it could offer, and a public benefit was required for the DAC to approve any projects.

MOTION: A motion was made by Johnnie Parks, seconded by Christi Gillespie.
Move to approve Case No. 24-001 per Staff recommendations and direct Mr. Schwab to meet with Mr. Leach to further investigate the situation

The motion carried by the following vote:

Aye: 4 - Christi Gillespie, Johnnie Parks, Donna Wallace, Lori Hendricks

B. 24-178 Consideration, discussion and possible action to recommend to City Council to expend funds for retaining an engineering consultant to design a set of construction plans to mitigate erosion along Adams Creek adjacent to the Preserve Park Regional Detention Pond (Case No. 24-002)

Mr. Wilson reported this was by Preserve Park along Adams Creek. He displayed a map illustrating the area of concern near Albany Street and 37th (209th Street). He stated there was a regional detention pond in the area, and Broken Arrow High School was also nearby. He discussed the creeks and culverts in the area. He pointed out the lift station and Preserve Park on the map noting the Preserve Park pond was a regional detention pond owned by the City.

He noted this whole area was in a flood plain and mitigation on the site was required to construct the detention pond. He displayed and discussed photos of the area and the problems with erosion in the area. He stated the sanitary sewer line, a 30 inch line, fed into the lift station and serviced 2,000 homes, at least 10 businesses, and schools. He noted Staff was negotiating with an engineer trying to determine an acceptable fee for a few mitigation options. He indicated City Staff was requesting \$50,000 dollars to retain an engineering consultant.

Committee Member Parks noted this was all public land; there was no public private partnership involved.

Mr. Wilson agreed.

Committee Member Parks asked if the sewer line was gravity flow or a pressure line.

Mr. Wilson responded the sewer line was gravity flow. He discussed some of the options which were considered to alleviate the problem. He stated water flow at 6 feet per second was erosive velocity. He stated the flow through Adams Creek was at 6.6 feet per second during a normal rain event, during a 10 year rain event it flowed at 8.6 feet per second and during a 100 year rain event it flowed at 9.7 feet per second. He noted when this was first constructed there was a rain event which took a large chunk out of the bank and erosion had only continued over the years.

Committee Member Gillespie asked why the Drainage Advisory Committee was reviewing this Item as it was all on City land.

Mr. Wilson stated the DAC had the ability to approve funds for public use if the City had a vested interest.

Mr. Schwab stated statute read the funds could be utilized for lands owned all or in part by the City.

Committee Member Parks noted the DAC had not had a project which was all on City land to consider before.

Mr. Schwab agreed, noting the funds would be for design only, and the City would have to wait to budget for the construction monies.

Mr. Wilson noted it would cost anywhere from \$500,000 dollars to \$1.5 million dollars for construction.

Chairperson Hendricks asked if construction funds were anticipated to come from another source.

Mr. Schwab responded in the affirmative. He stated Staff was trying to get the design done as soon as possible in order to get something in the upcoming budget for this project. He noted the longer the City waited, the worse the erosion would be.

Discussion ensued regarding the sewer line and whether the line was meant to be exposed.

Mr. Schwab stated City Staff would look into the situation.

Mr. Wilson stated the “exposed” sewer line was inside a casing.

MOTION: A motion was made by Christi Gillespie, seconded by Johnnie Parks.

Move to approve Case No. 24-002 per Staff recommendations

The motion carried by the following vote:

Aye: 4 - Christi Gillespie, Johnnie Parks, Donna Wallace, Lori Hendricks

7. Adjournment

The meeting was adjourned at approximately 7:01 p.m.

MOTION: A motion was made by Christi Gillespie, seconded by Johnnie Parks.

Move to adjourn

The motion carried by the following vote:

Aye: 4 - Christi Gillespie, Johnnie Parks, Donna Wallace, Lori Hendricks

Lori Hendricks, Chairperson

Lisa Blackford, Deputy City Clerk