

RESOLUTION NO. 1034

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO A FINAL ENTRY OF JUDGMENT WITHOUT ADMITTING LIABILITY IN THE MATTER OF *TIGER PLAZA ON KENOSHA, LLC V. CITY OF BROKEN ARROW, OKLAHOMA ET AL*, WAGONER COUNTY DISTRICT COURT CASE NUMBER CV-2017-66, AUTHORIZING FORECLOSURE AND VACATION OF A UTILITY EASEMENT GENERALLY LOCATED NORTH AND EAST OF THE NORTHEAST CORNER OF KENOSHA STREET AND 23RD STREET.

WHEREAS, on April 4, 2017, pursuant to the provisions of 11 O.S. § 42-110 the City of Broken Arrow adopted Ordinance number 3481 closing a 15ft utility easement on property located as follows:

A part of Lot 1, Block 1, Tiger Plaza, an Addition to the City of Broken Arrow, Wagoner County, State of Oklahoma, according to the Recorded Plat thereof, being more particularly described as follows:

COMMENCING at the Northeast corner of said Lot 1; Thence South 01°17'51" East and along the East line of said Lot 1, for a distance of 132.25 feet; Thence South 88°42'09" West and perpendicular to said East line, for a distance of 17.50 feet to the POINT OF BEGINNING; Thence South 01°17'51" East and parallel with said East line, for a distance of 15.00 feet; Thence South 88°52'44" West and parallel with the North line of said Lot 1, for a distance of 46.50 feet; Thence North 01°17'51" West and parallel with said East line, for a distance of 15.00 feet; Thence North 88°52'44" East and parallel with said North line, for a distance of 46.50 feet to the POINT OF BEGINNING.

WHEREAS, there is no necessity for reopening the utility easement closed by the City of Broken Arrow pursuant to Ordinance No. 3481 and this utility easement is no longer required for public purposes; and

WHEREAS, no public convenience or necessity exist for the reopening of the utility easement closed by the City of Broken Arrow pursuant to Ordinance No. 3481. The foreclosure and the right to reopen the utility easement closed by Ordinance No. 3481 will not injuriously affect the right of the owners to the property in the vicinity of the utility easement and the utility easement is no longer required for public purposes; and

WHEREAS, all Defendants in this matter are anticipated to disclaim interest in the utility easement that is a subject of the Final Journal Entry of Judgment; and

WHEREAS, the utility easement closed by Ordinance No. 3481 was originally intended to include a fire hydrant for the Tiger Plaza shopping center. However, the fire hydrant was ultimately located within a different 17.5 ft. perimeter utility easement. The subject utility

easement is vacant, no replacement easement is proposed and this utility easement encroaches upon the Eastern most tenant space of the Tiger Plaza Shopping Center; and

WHEREAS, the Legal Department and City staff recommend that the City Council authorize the City Attorney to enter into a Final Journal Entry of Judgment foreclosing and vacating the above described utility easement that was closed by the City Council pursuant to Ordinance No. 3481 on April 4, 2017; and

WHEREAS, it is the desire of the Council to authorize the City Attorney to enter into the Final Journal Entry of Judgment in the above matter.

Now, therefore, be it resolved by the City Council of the City of Broken Arrow, Oklahoma that the City Attorney is authorized to enter into the Final Journal Entry of Judgment foreclosing and vacating the utility easement previously closed by City Council on April 4, 2017, pursuant to Ordinance No. 3481.

Adopted and approved by the Mayor of the Council of the City of Broken Arrow, Oklahoma this 18th day of July, 2017.

CITY OF BROKEN ARROW, OKLAHOMA

Mayor

Attest:

City Clerk

Approved as to form and legality:

City Attorney