



City of Broken Arrow

Request for Action

File #: 17-2421, Version: 1

**Broken Arrow City Council
Meeting of: 07-18-2017**

**To: Mayor and City Council Members
From: Legal Department**

Title: Consideration, discussion, and possible approval of 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

Background:

On June 30, 2017, Tiger Plaza on Kenosha, LLC filed a Petition to Vacate Easement and to Foreclosure, Right to Reopen in the District Court of Wagoner County, State of Oklahoma. On April 4, 2017, City Council for the City of Broken Arrow passed Ordinance No. 3481 granting the closure of a 15-foot utility easement generally located North and East of the Northeast corner of Kenosha Street and 23rd Street. This 15ft. easement was originally intended to include a fire hydrant for the Tiger Plaza Shopping Center. However, the fire hydrant was ultimately located within a 17.5-foot perimeter utility easement. As such, the 15-foot easement area was vacant and encroached into the expansion of the Eastern most tenant space of the Tiger Plaza Shopping Center. Oklahoma Natural Gas, Public Service Company of Oklahoma, Cox Communications and Windstream all indicated that they have no objection to passage of Ordinance No. 3481 closing the subject 15-foot utility easement.

No public convenience or necessity exists of the reopening of the mutual access and utility easement closed by the City of Broken Arrow pursuant to City of Broken Arrow Ordinance No. 3481. The foreclosure for the right to reopen the 15-foot utility easement closed by Ordinance No. 3481 will not injuriously affect the right of the owners of the property in the vicinity of the utility easement as it is no longer required for public purposes.

All the Defendants in this matter are anticipated to disclaim any interest in the utility easement that is the subject of the Final Journal Entry of Judgment.

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.

Cost: None
Prepared By: Trevor A. Dennis, Deputy City Attorney
Reviewed By: Development Services Department

Approved By: Michael L. Spurgeon, City Manager

Attachments: Resolution 1034

Recommendation: Approve Resolution No. 1034 and authorize execution