



City of Broken Arrow

Request for Action

File #: 17-2484, Version: 1

Broken Arrow City Council

Meeting of: 08-01-17

To: Mayor and City Council
From: Office of the City Attorney

Title:

Consideration, discussion, and possible approval to grant a waiver for property owned by Ryan Adams, and Shane and Brittany Casey located within the Steeplechase Farms and Amended Glen Eagles subdivisions regarding the Assessment District for stormwater initiated in 2007

Background:

In 2007, the Broken Arrow City Council began the process of approving an Assessment District for the subdivisions of Amended Glen Eagles and Steeplechase Farms. The purpose of the Assessment District was to make improvements to the stormwater system as a result of a significant rain event. Steeplechase Farms and portions of Amended Glen Eagles were constructed pursuant to Wagoner County standards and subsequently annexed into the City of Broken Arrow. The significant rain event resulted in the flooding of numerous residences in this area and highlighted the fact that the stormwater system was undersized. Complicating factors included the fact that the system was not constructed in accordance with the design engineer's plans, the unavailability/disengagement of the developer, grossly overgrown detention ponds, and a disorganized home owner's association. To resolve the stormwater issues, the Council elected to proceed with upgrades to the system that included using the street to handle stormwater. This option was chosen as a result of the incredible expense of upgrading underground stormwater pipes, among other things. The Council voted to bear the costs of construction. The cost of materials was to be borne by the home owners.

In the Amended Glen Eagles/Steeplechase Farms District, the Assessment Roll originally contained 277 properties. Material costs attributable to each property were based upon the size of the lot. The total assessment was \$123,056.89. As of today's date, there are 76 properties that have unsatisfied assessments. Of this number, 55 properties remain with the original owners and 21 properties have been transferred or sold. Assessments for these properties with original owners total \$23,375.67. Assessments for the transferred properties total \$9,399.73. The total overall remaining assessments, excluding interest, is \$32,795.40.

As you are aware, the Municipal Clerk must certify the installment and interest due and owing to the County Treasurer on an annual basis. This certification must be accomplished between July 1st and July 10th of each year. Prior to that time, however, the Clerk must mail notice of the nature and amount of the assessment by restricted delivery on or before June 1st of each year.

This year, notification was provided to the land owners in accordance with state statute. Staff members in the Finance Department, the Legal Department, and the City Clerk have received a number of complaints regarding this assessment. The Finance Department has broken these complaints into several categories. The first involves owners who acquired the properties after passage of the Assessment Roll and adoption of the Ordinance. At the present time, there are eight (8) occupants who fall into this category. Of this number, six (6) had the closing companies contact the City of Broken Arrow. In each case City representatives, after we collected the \$25.00 fee, advised the closing company that there were no liens or other charges. The current residents and the amounts owed

are as follows:

Katie M. and Elizabeth Roberts	\$406.17
Ryan Adams	\$529.90
David Lewis	\$361.32
Shane & Brittany Casey	\$353.39
Jonathan & Lara Weber	\$353.39
James & Mary Garland	\$426.37
TOTAL=	\$2,430.54

Of the eight, one was a HUD home. The closing took place in Oklahoma City and the City of Broken Arrow was not contacted regarding assessments. The purchaser, however, was advised by the closing company that there was nothing owed on the title. The current resident and amount owed is as follows:

Nathan Vega	\$392.69
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The last of the eight involved a routine acquisition. The City of Broken Arrow was not contacted regarding assessments, but a search of Wagoner County records was completed. The current resident and amount owed is as follows:

Troy Edward Kraus	\$408.39
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The individuals referenced above requested that their assessments be waived. In support of this, they argue that they did not receive notice of the assessment. They believe if City representatives indicated that no assessments were owed, it is unreasonable for them to be charged.

There are two other assessment waiver requests. The first is a gentleman by the name of Yeshi Reshedo. He currently owes \$418.21. He has requested a hardship waiver. The final request comes from a daughter of a man by the name of Damon Arthur. Apparently, Mr. Arthur died on April 7, 2017. The current assessment is \$921.72. Further research found these two residents did not receive the City Manager's June 22, 2017 decision letter. They were mailed same letter a few days later.

City Manager Michael Spurgeon reviewed each request for waiver. He concluded that because the improvements provide an ongoing benefit to each property, that it would be unequitable to waive the assessments when most others had paid their proportional share. Each of the owners identified above were notified of this decisions letter dated June 22, 2017. They were further advised that they have a right of appeal to the City Council.

The City Clerk has received requests for consideration from:

Ryan Adams - a waiver of \$529.90

Shane and Brittany Casey - a waiver of \$353.39

Cost: **Dependent upon the waivers**

Prepared By: **Beth Anne Childs, City Attorney**

Reviewed By: **Assistant City Manager - Administration**

Approved By: **Michael L. Spurgeon, City Manager**

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Attachments: **Denial Letters dated June 22, 2017 from the City Manager**
Letters from the owners requesting waivers

Recommendation: As the Council directs