



City of Broken Arrow

Request for Action

File #: 16-1439, Version: 1

**Broken Arrow City Council
Meeting of: 12-06-2016**

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

Title:

Consideration, discussion, and possible approval of Resolution No. 965, a Resolution authorizing the City Attorney to enter into a Final Journal Entry of Judgment in the matter of the City of Broken Arrow v. The Board of County Commissioners of Tulsa County, the City of Broken Arrow, Public Service Company of Oklahoma, Oklahoma Natural Gas Company, A Division of OneGas, Inc., Southwestern Bell Telephone Company, and Coxcom, L.L.C., in Tulsa County District Court, Case Number: CV-2016-01527, authorizing Foreclosure of a Utility Easement generally located one-quarter mile east of Elm Place and north of Albany Street

Background:

On November 1, 2016, the City Council for the City of Broken Arrow adopted Ordinance No. 3456 closing the following utility easement:

A tract of land lying in Government Lot 3 of Section 2, Township 18 North, Range 14 East, of the Indian Meridian, Tulsa County, Oklahoma and further described as:

Commencing at the northeast corner of said Government Lot 3; thence N89°59'21"W along the north line of said Government Lot 3 for a distance of 1272.39 to the point of beginning; thence S00°06'14"W for a distance of 785.64 feet; thence S55°46'19"E for a distance of 189.17 feet; thence S89°54'38"E for a distance of 235.32 feet; thence N62°23'08"E for a distance of 118.22 feet; thence S16°01'22"E for a distance of 15.31 feet; thence S62°23'08"W for a distance of 118.84 feet; thence N89°54'38"W for a distance of 243.62 feet; thence N55°46'19"W for a distance of 201.73 feet; thence N00°06'14"E for a distance of 793.57 feet to the north line of said Government Lot 3; thence S89°59'21"E along said north line for a distance of 15.00 feet to the point of beginning. The above description containing 0.46 acres more or less.

Bearings are based on a record bearing along the north line of Government Lot 3 of Section 2, Township 18 North, Range 14 East (N89°59'21" W) based on a utility easement recorded as Document Number 04122390 and filed with the Tulsa County Clerk's Office on October 8, 2004.

The above described utility easement is not presently in use and is not necessary for any public improvement. It was originally placed across the City of Broken Arrow's property several years ago for a potential water line loop that was never installed. It is not required for a county or municipal purpose, or the use of the holder of

any franchise or anyone having a special right or privilege granted by ordinance or legislative enactment. Accordingly, the vacation of the closed easement will not affect the rights of the public.

Pursuant to Resolution No. 956, the Legal Department filed a Petition to Foreclose the City of Broken Arrow's Absolute Right to Reopen Easement on November 9, 2016. Service was properly made on all interested parties, including Tulsa County, The City of Broken Arrow, and all franchise holders. Notice was properly sent to all property owners within 300 feet of the easement and published in a newspaper of general circulation as required by state law.

The hearing on this matter is set for December 16, 2016. The attached Resolution allows the City Attorney to enter into a Final Journal Entry of Judgment which will foreclose the right to reopen the easement. Title will vest to the City of Broken Arrow, as fee owner of the property.

Cost: \$0

Prepared By: Beth Anne Childs, City Attorney

Reviewed By: Development Services Department

Approved By: Michael L. Spurgeon, City Manager

Attachments: Ordinance No. 3456
Resolution No. 965

Recommendation:

Approve Resolution No. 965 and authorize its execution.