



City of Broken Arrow

Request for Action

File #: 17-1775, Version: 1

**Broken Arrow City Council
Meeting of: 02-07-2017**

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

Title:

Consideration, discussion, and possible approval of and authorization to execute Resolution No. 972, a Resolution authorizing the City Attorney to enter into the Final Journal Entry of Judgment without admitting liability in the matter of QuikTrip Corporation v. City of Broken Arrow, et al., Tulsa County District Court Case No. CV-2017-00006, authorizing foreclosure and vacation of utility easement on property located in part of Lot Two (2), Block One (1), Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of the Broken Arrow Expressway and west of 9th Street

Background:

On March 1, 2016, Stephen Schuller of Gable Gotwals requested on behalf of the previous owner, Hillside Development, LLC, the closure of a utility easement shown on the plat of Hillside Crossing, PUD 207 A (Plat No. 6505) at the Broken Arrow City Council meeting. On March 1, 2016, the Broken Arrow City Council passed Ordinance No. 3412 closing the approximately 0.14 acre utility easement. City Staff recommended the closure of the easement to eliminate unnecessary future maintenance regarding the utility easement described in the application and that no utilities had been installed in the easement and none were planned, therefore the easement was no longer required for public purposes.

On November 7, 2016, the City Council passed Ordinance No. 3457 revising Ordinance No. 3412 closing the utility easement. Ordinance No. 3457 corrected a scrivener's error that contained the wrong Lot number on the legal description for Ordinance No. 3412.

On January 4, 2017, QuikTrip Corporation filed its Petition to partially vacate the utility easement closed by Ordinance No. 3457 and foreclose the right to reopen the vacated easement in the District Court of Tulsa County, State of Oklahoma, CV-2017-00006. The City of Broken Arrow has no objection to the vacation of the utility easement and has prepared Resolution No. 972 requesting permission to execute a Final Journal Entry of Judgment without admitting liability in the matter of QuikTrip Corporation v City of Broken Arrow, Oklahoma, et al, Tulsa County District Court Case No. CV-2017-00006, authorizing the foreclosure and vacation of the easement located in part of Lot Two (2), Block One (1), Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of the Broken Arrow Expressway and west of 9th Street.

No public convenience or necessity exists for the reopening of the utility easement closed by the City of Broken Arrow pursuant to City of Broken Arrow Ordinance No. 3457. The foreclosure of the right to reopen the utility easement closed by Ordinance No. 3457 will not injuriously affect the right of the owners of the property in the vicinity of the utility easement and the utility easement is no longer required for public purposes.

All of the Defendants in this matter are anticipated to disclaim 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. 3457.

Cost: **None**

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

Reviewed By: **Development Services Department
Assistant City Manager - Operations**

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

Attachments: **Resolution No. 972**

Recommendation:

Approve Resolution No. 972 and authorize its execution.