



City of Broken Arrow

Request for Action

File #: 17-1901, **Version:** 1

Broken Arrow City Council
Meeting of: 03-07-2017

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

Title:

Consideration, discussion, and possible approval of Resolution No. 990, a Resolution authorizing the City Attorney to enter into a Final Journal Entry of Judgment without admitting liability in the matter of Independent School District No. 4 of Tulsa County, Oklahoma v. City of Broken Arrow, et al, Tulsa County District Court Case No. CV-2017-00125, authorizing foreclosure and vacation of an easement located on property located at Lot One (1), Block One (1), BIXBY NORTHEAST CAMPUS, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, According to the recorded plat thereof generally located north of 131st Street, ½ mile east of Garnett Road

Background:

On September 20, 2016, the City of Broken Arrow passed Ordinance No. 3452 closing a utility easement on property located in Bixby Northeast Campus, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma generally located north of 131st Street, ½ mile east of Garnett Road. Ordinance No. 3452 closed a portion of a 10' foot utility easement located along the Northwest boundary of the utility easement due to a building addition that overlaps an existing 8" inch water line. On January 31, 2017, Independent School District No. 4 of Tulsa County filed a Petition to Foreclose the Right to Reopen Easement. Plaintiff filed this Petition due to a building addition that overlaps an existing 8" inch water line. The water line will be rerouted with a new utility easement and the old easement under the building is being closed and vacated under the pending Petition to foreclose this easement.

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. 3452. The foreclosure of the right to reopen the utility easement closed by Ordinance No. 3452 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. 3452 on September 20, 2016.

Cost: Recording Costs

Prepared By: Trevor A. Dennis, Deputy City Attorney

Reviewed By: Development Services Department
Assistant City Manager - Operations

Approved By: Michael L. Spurgeon, City Manager

Attachments: Resolution No. 990

Recommendation:

Approve Resolution No. 990 and authorize its execution.