



# City of Grand Island

Tuesday, February 26, 2002

Council Session

## Item X2

### **#2002-61 - Consideration of Approving Security on Appeal**

*Nebraska Revised Statute §25-1916 requires that during an appeal to the Nebraska Court of Appeals or Supreme Court, an appellant, such as the City of Grand Island, must file a bond or other security in an amount equal to the judgment and accrued interest to insure payment if he appeal is denied. In lieu of purchasing a commercial supersedeas bond, an agreement has been made with the attorney for Richard and Patricia Hartman to substitute a pledge of the funds available to pay the judgment. In order for the pledge to be executed by the Finance Director, the Mayor and City Council must approve the pledge and authorize the Finance Director to sign and file the document. A commercial supersedeas bond would require much the same approval on the part of the Mayor and City Council and would require payment of a premium in the amount of approximately \$2,000.00. We recommend that the pledge in lieu of supersedeas bond be approved as drafted.*

Staff Contact: Charlie Cuypers



RESOLUTION 2002-61

WHEREAS, on July 20, 2001, a panel of arbitrators determined that a payment of \$100,000 by the City to Richard Hartman and Patricia Hartman would adequately compensate the Hartman's for their claims of property damage from the operation of the Platte Generating Station; and

WHEREAS, on December 26, 2001, the Hall County District Court entered judgment for the Hartmans and against the City of Grand Island in the sum of \$100,000 in an action to enforce the arbitration award; and

WHEREAS, on January 15, 2002, the City of Grand Island filed its Notice of Appeal to the Court of Appeals of the State of Nebraska; and

WHEREAS, a bond or other security is required by law to be filed with the Clerk of the District Court upon the filing of such appeal to secure payment of the judgment in the event the appeal is denied; and

WHEREAS, in lieu of providing a supersedeas bond, it is recommended that the City pledge sufficient funds to pay the judgment and accrued interest as security for the judgment.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Pledge in Lieu of Supersedeas Bond is hereby approved, and the Finance Director is hereby authorized and directed to pledge sufficient funds to pay the judgment and accrued interest in the case pending appeal from the District Court of Hall County, Nebraska, captioned Richard Hartman and Patricia Hartman, husband and wife, vs. City of Grand Island, Nebraska, a political subdivision, Case No. CI01-1011.

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Adopted by the City Council of the City of Grand Island, Nebraska on February 26, 2002.

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RaNae Edwards, City Clerk

Approved as to Form ? _____ February 22, 2002 ? City Attorney
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