



# **City of Grand Island**

**Tuesday, August 23, 2005**

**Council Session**

## **Item G14**

**#2005-230 - Approving Agreement with Karl & Kathy Siemon for  
Installation of Sanitary Sewer Backup Device**

**Staff Contact: Doug Walker, City Attorney**

# **Council Agenda Memo**

**From:** Legal Department

**Meeting:** August 23, 2005

**Subject:** Approving Agreement with Karl D. & Kathy M. Siemon  
on Sanitary Sewer Backups

**Item #'s:** G-14

**Presenter(s):** Doug Walker, City Attorney

## **Background**

The City Council must approve a resolution authorizing the Mayor to sign agreements.

## **Discussion**

Karl and Kathy Siemon have experienced three sanitary sewer backups in their basement over the last several years. Wastewater Division Collection System Maintenance employees have tried numerous times to identify the cause of the backups including using television cameras, flushing and cleaning of the mains in the area, smoke testing, conducting roof drain inspections, performing storm sewer inspections, plugging manhole lid holes, etc., and have not been able to identify a cause. The Siemon's, as well as many other homes experienced sanitary sewer backups when the sanitary sewer collection system was overloaded by the infiltration into the system from the May 11<sup>th</sup> flooding.

The prior city attorney agreed that the city would pay \$1,000 towards the installation of a sanitary sewer back up prevention device on their sanitary sewer service. Without that prior commitment, the city would not be obligated to compensate the Siemon's because the backup is not due to negligence on the city's part. The agreement being presented to the council is to honor that prior commitment by the city.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve a resolution authorizing the Mayor to sign the agreement with the Siemons.
2. Disapprove authorizing the Mayor to sign the agreement.
3. Modify to meet the wishes of the Council
4. Table the issue.

## **Recommendation**

City Administration recommends that the Council approve the Resolution authorizing the Mayor to sign the agreement with the Siemons.

## **Sample Motion**

Move to approve authorizing the Mayor to sign the agreement with the Siemons.

## **AGREEMENT**

THIS AGREEMENT is made and entered into by and between the CITY OF GRAND ISLAND, NEBRASKA, a Municipal Corporation, hereinafter referred to as "City" and KARL D. SIEMON and KATHLEEN M. SIEMON, Husband and Wife, hereinafter collectively referred to as "Siemons".

## **RECITALS**

WHEREAS, Siemons own a home in the City of Grand Island, Nebraska, located at 254 South Kimball Avenue; and

WHEREAS, the Siemons residence is connected to the City's sanitary sewer system, and the Siemons have had sanitary sewer waste backup into their basement causing damage to their residence; and

WHEREAS, the Siemons have requested that the City provide financial assistance; and

WHEREAS, the City is willing to pay a pecuniary amount to Siemons for damages resulting from all sewer backups that have occurred on the Siemons property prior to the date of this agreement.

NOW, THEREFORE, the parties hereby agree as follows:

1. The City will pay One Thousand Dollars (\$1,000.00) in complete settlement to the Siemons for any and all damages from all occurrences where the sewer line has backed up into their residence prior to the date of this agreement.
2. The City, in making this agreement, does not admit any liability or responsibility to the Siemons, their heirs, successors or assigns for any damages done to their residence at 254 South Kimball Avenue in the City of Grand Island, Nebraska.
3. This agreement shall constitute the entire agreement between the Buyer and Seller and shall supersede any written or oral agreements to the contrary.
4. This agreement shall be binding on the parties hereto, their heirs, successors and assigns.

Attest:

CITY OF GRAND ISLAND, NEBRASKA,  
A Municipal Corporation,

\_\_\_\_\_  
RaNae Edwards, City Clerk

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Approved as to form by City Attorney \_\_\_\_\_  
Approved by Resolution 2003-\_\_\_\_\_

STATE OF NEBRASKA   )  
  ) SS.  
COUNTY OF HALL       )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2005, by Jay Vavricek, Mayor on behalf of the City of Grand Island, Nebraska, a municipal corporation.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
KARL D. SIEMON

\_\_\_\_\_  
KATHY SIEMON

STATE OF NEBRASKA   )  
  ) SS.  
COUNTY OF HALL       )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2005, by Karl D. Siemon and Kathy Siemon, husband and wife.

\_\_\_\_\_  
Notary Public

RESOLUTION 2005-230

WHEREAS, Karl D. Siemon and Kathleen Siemon own the residence at 254 South Kimball Street, which is connected to the City of Grand Island sewer system; and

WHEREAS, Karl D. Siemon and Kathleen Siemon have experienced sewer waste backups into their basement; and

WHEREAS, the prior City Attorney agreed to compensate the Siemon's for up to \$1,000 for a check ball device to help prevent future sewer backup damage; and

WHEREAS, the City has prepared an Agreement to compensate the Siemon's for \$1,000 toward a check ball device and in complete settlement for any and all prior occurrences and said agreement specifically states that the City does not admit any liability or responsibility for any damage done to the Siemon's residence at 254 S. Kimball Street.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the settlement agreement prepared by the City to compensate the Siemon's for \$1,000 in complete settlement for all prior occurrences and for the expense of installing a check ball device to prevent sanitary sewer backup damage is hereby approved.

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Adopted by the City Council of the City of Grand Island, Nebraska, August 23, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
August 18, 2005	☐ City Attorney