

Memorandum

To: Mayor and Council

From: Tom Baker, Town Administrator

Date: June 18, 2013

Re: Consideration of Good Neighbor Utility Policy

Purpose: The purpose of this item is to seek Council input and direction for the creation of a “Good Neighbor” policy for Utilities. If this policy is created the Town Administrator will address pending questions regarding the March sewer clog on the south side trunk line.

Background and Discussion: In March two homes on Roderick Lane experienced damage when a grease clog in the south trunk line caused sewerage to back up into their homes. CIRSA reviewed the claims made by the property owners and renter and also reviewed the Utility Department incident report and maintenance records and determined that the Town was not liable.

Early in the process, CIRSA contracted with local insurance adjusters to visit the properties involved. The adjuster interviewed the parties and reviewed the damage. The adjuster recommended changes in the dollar value of items damaged and work done and provided CIRSA and the Town with what they believe is a valid damage estimate for each party.

In further discussions with CIRSA, staff was informed that many Colorado communities have a “Good Neighbor” policy that provides for some modest assistance to property owners in the event of an incident of this nature. One of the keys to this policy is that while it provides modest assistance to citizens it only does so under the understanding that the Town is not admitting liability, only providing assistance.

In reviewing this situation staff asked for input from two Council representatives. Council representatives requested that David McConaughy be consulted on this topic and give his opinion on the approach CIRSA is taking. Mr. McConaughy has reviewed the documents and finds that he is in general agreement with CIRSA’s approach.

Staff has reviewed “Good Neighbor” policies from a number of communities and drafted a policy for Council consideration, attached.

If Council approves the “Good Neighbor” policy, then the Town Administrator will contact CIRSA. CIRSA will assist as follows:

1. CIRSA will write a letter to each of the three parties involved and explain why the claim is denied and that the Town is not liable.

2. CIRSA will also explain that the Town has a “Good Neighbor” policy and will make an offer of financial assistance not to exceed the amount in the GN policy (the Town Administrator will set the amount of assistance based on the adjuster’s report).
3. CIRSA will require each party wishing to accept the GN assistance to sign a waiver (waiver will be reviewed by Town Attorney) and return the signed waiver to CIRSA.
4. CIRSA will inform the Town that we can release GN assistance funds to each party that signed the waiver.
5. The Town will then send GN assistance funds to the appropriate parties.

Request: Staff requests that Council give us feedback on this matter and if possible approve the attached GN policy, with modifications, if desired. If Council acts to approve the GN policy, then the Town Administrator will act to address the March sewer clog issues.

If Council has an alternative approach or needs additional information, then staff will pursue that avenue.

**Town of New Castle
Sanitary Sewer, Water Main Incident Mitigation
Good Neighbor Policy**

**Version 1
June 18, 2013**

The Town of New Castle (Town) is responsible only for the operation and maintenance of its water main and main trunk sewer lines. The responsibility for and the expense and cost of mitigating any damage from water line flood water and maintaining, servicing and replacing any lateral (service) sewer line from the point where such lateral taps (connects) the main trunk line to any point within or upon the user's property is the responsibility of the property owner. Except as required by law, the Town is not responsible for any damages caused by blockage of either a sewer main or sewer lateral or breakage of a water main. The fact that a water main break or sewer main or lateral line blockage has occurred shall not create any presumption of negligence or responsibility on the part of the Town or its employees, officials, agents or representatives.

Notwithstanding the foregoing, the Town realizes that there may be situations in which, though it is not liable for damages, it would nonetheless desire, as a "good neighbor" to extend assistance to its citizens. In these situations, the Town Administrator may, without admitting, acknowledging, assuming, or agreeing to any responsibility or liability whatsoever, authorize payment for the mitigation of any incident which, may in the Administrator's opinion, have been caused by breakage of a water main or blockage of the sewer main. The Town Administrator will not provide mitigation for sewer line backups caused by blockage of the lateral line, except if required by law. The terms and conditions of any mitigation shall be within the sole discretion of the Town Administrator but under no circumstances shall the total cost to the City exceed \$4,000 per incident. In no way whatsoever shall this Policy and any services provided hereunder be construed as a waiver of the immunity, rights, protections, defenses and limitations granted the Town in accordance with Colorado Governmental Immunity Act C.R.S. 24-10-101et. seq. as such may be amended from time to time, or as otherwise available at law.