



## Legislation Text

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**File #:** 150206., **Version:** 1

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### **KAD PROPERTIES, L.L.C. and DEAN G. POOLE, C.P.A., P.A. V. CITY OF GAINESVILLE; EIGHTH JUDICIAL CIRCUIT, CASE NO. 2014-CA-198 (NB)**

The City Commission 1) approve the terms of the mediated settlement agreement; and 2) authorize the City Attorney to settle the claims of KAD Properties, L.L.C. and Dean G. Poole, C.P.A., P.A. arising from an incident that occurred on or about July 10, 2011.

Plaintiffs' property was flooded on July 10, 2011 after a storm. Some years prior, pursuant to the request of a previous owner of the property, City staff had installed a grate like structure in its stormwater pipe adjacent to Plaintiffs' property. The idea was that water would drain through this grate into the pipe which would carry the stormwater to a City maintained stormwater pond. On July 10, 2011, after two days of steady rain, a very intense localized rain event occurred. Water backed up through this grate as the pipe and pond were unable to handle the volume of water. Water backing through the grate, along with other surface water, flooded Plaintiffs' business. After the flooding incident, the grate was removed and the top of the pipe sealed. Plaintiffs allege that the City was negligent in maintaining the pipe and the stormwater pond which forced the back up of water through the grate or the pipe. Specifically, Plaintiffs alleged that roots and debris had accumulated in the pipe, and that debris had clogged the control structure for the pond, reducing the holding capacity of the pond.

Per the application of Florida's limited waiver of sovereign immunity contained in section 768.28, Florida Statutes, the City's liability and authority to settle claims such as this is limited to \$100,000.00 per person and \$200,000.00 per incident. After prolonged, court-ordered mediation, a negotiated settlement was achieved. Representatives for the City agreed to recommend a total settlement in the amount of \$50,000, subject to the approval of the City Commission of the City of Gainesville. In exchange, Plaintiffs will provide a full and complete Release to the City. It is the recommendation of the City Attorney's Office and the Risk Management Department that the case be settled for that amount.

Funds are available in the City's General Insurance Fund.