



# City of Blaine Anoka County, Minnesota

Blaine City Hall  
10801 Town Sq Dr NE  
Blaine MN 55449

## Legislation Details (With Text)

<b>File #:</b>	WS 20-01	<b>Version:</b>	1	<b>Name:</b>	WS Item - 3rd St Sewer Backup - Assistance Request
<b>Type:</b>	Workshop Item	<b>Status:</b>		<b>Status:</b>	Filed
<b>File created:</b>	1/6/2020	<b>In control:</b>		<b>In control:</b>	City Council Workshop
<b>On agenda:</b>	1/6/2020	<b>Final action:</b>		<b>Final action:</b>	1/6/2020
<b>Title:</b>	THIRD STREET SEWER BACKUP - ASSISTANCE REQUEST				
<b>Sponsors:</b>	Jon Haukaas				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Peper Law Offices - Request for Help, 2. 11841 3rd St Sewer Blockage Report, 3. Blaine Sewer Denial, 4. Blaine Sewer Denial - Ledbeter				

Date	Ver.	Action By	Action	Result
1/6/2020	1	City Council Workshop	Discussed	

### WORKSHOP ITEM *Jon Haukaas, Director of Public Works*

## THIRD STREET SEWER BACKUP - ASSISTANCE REQUEST

The City received a request for assistance to help pay for the damage to a home at 11841 3<sup>rd</sup> St NE from the sanitary sewer backing up into the finished basement. The request (attached) came from an attorney representing the property owner. Both the property owner and the tenant have previously submitted a claim to our insurance carrier - LMCIT and been denied. The attorney is requesting any assistance the City is willing to provide to help cover some of the costs incurred with the backup.

### History:

Public Works On-Call staff reported to a call about a sewer backup on July 28, 2019 at 11841 3<sup>rd</sup> St NE. Staff was on site within 30 minutes and were able to clear the blockage within a few hours. Their investigation determined that the blockage was caused by sticks that had been shoved into the manhole through the vent holes in the lid.

The renters had come to the City when this occurred to file a claim and were directed to the LMCIT. The homeowner later contacted the City and were also directed to the LMCIT. The LMCIT denied the claims after determining that the City was not negligent in its operation of the system. The City of Blaine is not automatically responsible for resulting damages when their sewer backs up. The City is only liable for those damages if the City's negligence caused the backup.

For the City to be found negligent, the following facts must exist: 1) There was a defect in the

City's sewer system, 2) The City had notice of the defect, 3) The City failed to remedy the defect in a reasonable amount of time, 4) The failure to remedy the defect within a reasonable amount of time was the direct cause of the damages.

The LMCIT determined that the City of Blaine was not negligent with respect to the maintenance and inspection of the City's sanitary sewer system for the following reasons: The City's response to the sewer back up was proper. The City of Blaine has a maintenance program to clean their sanitary sewer lines every five years. The most recent maintenance of the sewer line in question was performed in 2017. The City found no issues in the sewer line during their routine maintenance. The City also has no prior history of any sewer backups within this sewer line since its installation in 1973.

The City does not have control over all items put into the sewer system. Therefore an aggressive preventative maintenance program is implement to ensure the most reasonable operational capacity is maintained. This program is designed to best protect the residents from problems in the system and to protect the liability of the city in the event of unforeseeable problems.

Most other cities rely on the LMCIT to be the final say on such claims as any action counter to such can set a precedent. Some cities do provide a minimal amount of assistance at the time of the incident by covering the initial cleaning and sanitizing but not for any demolition, removals, disposal, replacement, etc.

While this is a very unfortunate incident, staff does not support financial assistance to pay for these damages.