

City of Scottsbluff, Nebraska

Monday, November 19, 2018

Regular Meeting

Item Reports4

Council to consider a sewer claim from Mike and Marsha Green for property located at 314 East 27th Street.

Staff Contact: Nathan Johnson, City Manager

City of Scottsbluff

CITIZEN INCIDENT REPORT

All tort claims under the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall be filed with the clerk, secretary, or other official whose duty it is to maintain the official records of the political subdivision, or the governing body of a political subdivision may provide that such claims may be filed with the duly constituted law department of such subdivision. It shall be the duty of the official with whom the claim is filed to present the claim to the governing body. All such claims shall be in writing and shall set forth the time and place of the occurrence giving rise to the claim and such other facts pertinent to the claim as are known to the claimant.

Date: 9/9/18

Date and location of Incident: 314 E. 27th St. 8/24/18

Claimant Name: Mike & Marsha Green Phone: 632-5202

Address: 1818 3rd Ave City: Scottsbluff State and Zip: NE 69361

City Department Contact: _____

Narrative of what happened: _____

On August 24, 2018, at approximately 12:45 pm our tenant, Meera Scribner, called to say she had just walked downstairs to clean and there was a small puddle of water. I asked her to check the water heater, water softener, toilet, sink shower etc. for a possible source. She found nothing. I called Pipe Works Plumbing and asked them to go over. Within 30 minutes the basement was covered with sewer water coming in the floor drain. When Levi Reinmuth went over to check the situation he found that there was no water being used inside the home but the floor drain was bubbling sewer water. He called the city. When the city employee arrived, he lifted the manhole lid in the front yard to find the city main sewer was plugged. The city then brought a big truck to clear the pipe and once that was cleared, the water drained immediately. It was up to my ankles by the time the city cleared the line. The basement is finished completely with 8 month old plank flooring and fresh paint. Consolidated Services was called to clean up the sewer mess and make the necessary repairs to the walls, floors and painting. I have attached photos of the process and the invoices for the repair.

Thank you

Estimated amount of damages \$ 16,810.89 (attach estimates)

Attachments: Photos: ✓ Estimates: ✓ Medical Bills: 0

Witnesses: Levi Reinmuth, plumber 641-0481
Meera Scribner, tenant - 631-1915
Bob Sargent, Cons. Services 631-8211

Citizen insurance information: _____

Reported by (city staff): _____

Received Date: _____

Signature of Claimant(s): [Signature] Marsha Green

SUBMIT TO: KIM WRIGHT, CITY CLERK, CITY OF SCOTTSBLUFF
2525 CIRCLE DRIVE, SCOTTSBLUFF, NE 69361

From: **Bob Sargent** bobsargent1974@gmail.com
Subject: Rental Sewage Loss Mitigation & Repairs
Date: September 6, 2018 at 3:37 PM
To: Marsha Green marshag9@gmail.com

BS

Hi Marcia,
Attached:

- 1) Billing cover page
- 2) Mitigation & dry out billing \$7,264.11
- 3) Sewage loss repair estimate \$9,546.78

Please call or E-mail if you have questions.
We started the drywall repairs today!
We will need you to pick out the wall paint color & flooring if you have time.

Thank you,
Bob Sargent



Consolidated Services, Inc.

1224 Broadway
Scottsbluff, Nebraska 69361
(308) 632-7466
1-800-657-2166
FAX: (308) 632-4996

INVOICE

Michael & Marcia Green
1818 3rd Ave.
Scottsbluff, NE 69361

September 6th, 2018

RE: Rental - Sewage Loss
Tenant: Meera Serinder 637-1315
314 East 27th Street
Scottsbluff, NE 69361

Page # 1

DESCRIPTION	QNT	EA	PRICE	TOTAL
Sewage Loss - Repair Estimate Dated 9/6/2018 (Not completed to Date)				\$ 9,546.78
Sewage Loss - Mitigation & dry out dated 9/6/2018 (Completed to Date)				\$ 7,264.11
Mitigation and Estimated Sewage Loss Repair Total				\$ 16,810.89
BILLING				
Mitigation & Dry Out Completed to Date				\$ 7,264.11
50 % Down Payment Repair Estimate				\$ 4,773.39
Billing Total Amount Due				\$ 12,037.50
Note: Items to address				
A) Content cleaning, replacement & or repairs to be determined. Tenants contents are Not included.				



Specialists in Restoration, Cleaning & Construction



GREEN-M-
MITIGATIO...al Draft.pdf



GREEN-M-
REPAIRS_...al Draft.pdf

Memo

To: Kimberley Wright, City Clerk
From: Lynn Garton, Water Reclamation Supervisor
CC: Mark Bohl, Public Works Director
Date: 8/27/18
Re: 314 East 27th Street Sewer Call

At approximately 2:00 p.m. on August 24, 2018 Vicky Thomason received a call from Levi Reinmuth with Pipeworks Plumbing indicating that he was returning from a job in Mitchell to respond to a sewer call from the property owner at 314 East 27th Street. The property owner had indicated that she was experiencing gurgling and smell from their floor drain. Levi asked that we please check our mainline prior to his arrival.

Robbie Burke along with Bridger Twombly responded to the site at approximately 2:10 p.m. Robbie checked both manholes at East 27th Street and East 26th Street. The manhole at East 27th Street had standing water while the other had a slow flow. Robbie felt that this could indicate a possible backup in the city sewer main and returned to the Treatment Facility to retrieve the Jet/Vac truck and return to the area to perform cleaning of the mainline. The crew proceeded to perform cleaning of the line and at approximately 175 feet experienced resistance in the line. Once they began to pull back the jet hose they visualized large amounts of paper towel or wet wipes, and then retrieved a piece of PVC pipe (see photo) that could have been the cause of holding up the debris within the line. Once the debris was removed flows returned to normal.

Robbie made contact with the property owner initiating the original call to Levi and presented them with a Backup Packet giving them instruction on filing a claim if they felt they had one, and how to clean after an event like this.

It should be noted that earlier this year the Scottsbluff High School construction project located directly across East 27th Street from the manhole that water was found standing in, was tapped for a new service lateral from the new addition. This new 8 inch lateral could have been the cause for the entry of the piece of pipe that was found within the cities mainline.

On Monday, August 27th the collection crew returned to the area to conduct a televised inspection of the mainline in question. The inspection revealed that the line was clean with no other obstructions observed.

City of Scottsbluff
Wastewater Treatment Plant Sewer Call Work Record

Reviewed by Supervisor: [Signature]

Date: 8-24-18 Time of Call: 2:00 pm Received By: Vickie Given to: Rebbie Time Given: 3:00 pm

Caller: Levi's W/PIPEWORKS PL Phone #: _____ Owner if Known: _____

Location / Address: 314 E 27th St

Work Request: The customer called Levi - said their sewer is gurgling - smell. Please check the City main.

WORK PERFORMED

Field employees must answer all items numbered 1 through 13 and turn the Work Record over to the Wastewater Supervisor for Review.

1) Time of Arrival: 2:10 pm

2) Upon arrival, the following manholes were checked to determine what was happening in the City's collection system:

Between	And...	On (What St or Ave)	Flow in Manholes: Write what was found below.	Picture Taken Yes or No
Example: E 16th St	E 17th St	12th Ave	Normal	Yes
27th Ave	26th Ave	26th Ave	Standing water in MHT on 27th Ave	Yes
			Low flow in MHT on 26th Ave	

3) After checking manholes, what additional work was performed to correct this problem:

____ I informed the customer that they will need to contact a plumber to assist them with their private lines as the City's manholes have been checked in the area and the flow is okay. Who did you inform _____
or ____ I informed the plumber that they will need to take a closer look at the customer's private lines as the City's manholes have been checked in the area and the flow is okay. Who did you inform _____
or Cleaning performed: Jetted from MHT on 26th Ave to MHT on 27th Ave, to open line. Pulled back normal debris and what looked like baby wipes / hand towels, and chunk of PVC pipe.

4) What did you find in the sewer lines or manholes? (grease/toilet paper, etc) _____

5) Number of feet jetted: 380 ft

6) If jetting was performed and the flows in manholes were normal, explain why we went ahead and jettied the City's main lines.

7) Did this location have flooding or damage occur of some sort? Yes X No _____ Unsure _____

8) If yes or unsure, did you provide them with the City's Letter from Management and EPA Brochure? yes

9) Who did you give the letter and brochure to? property owner

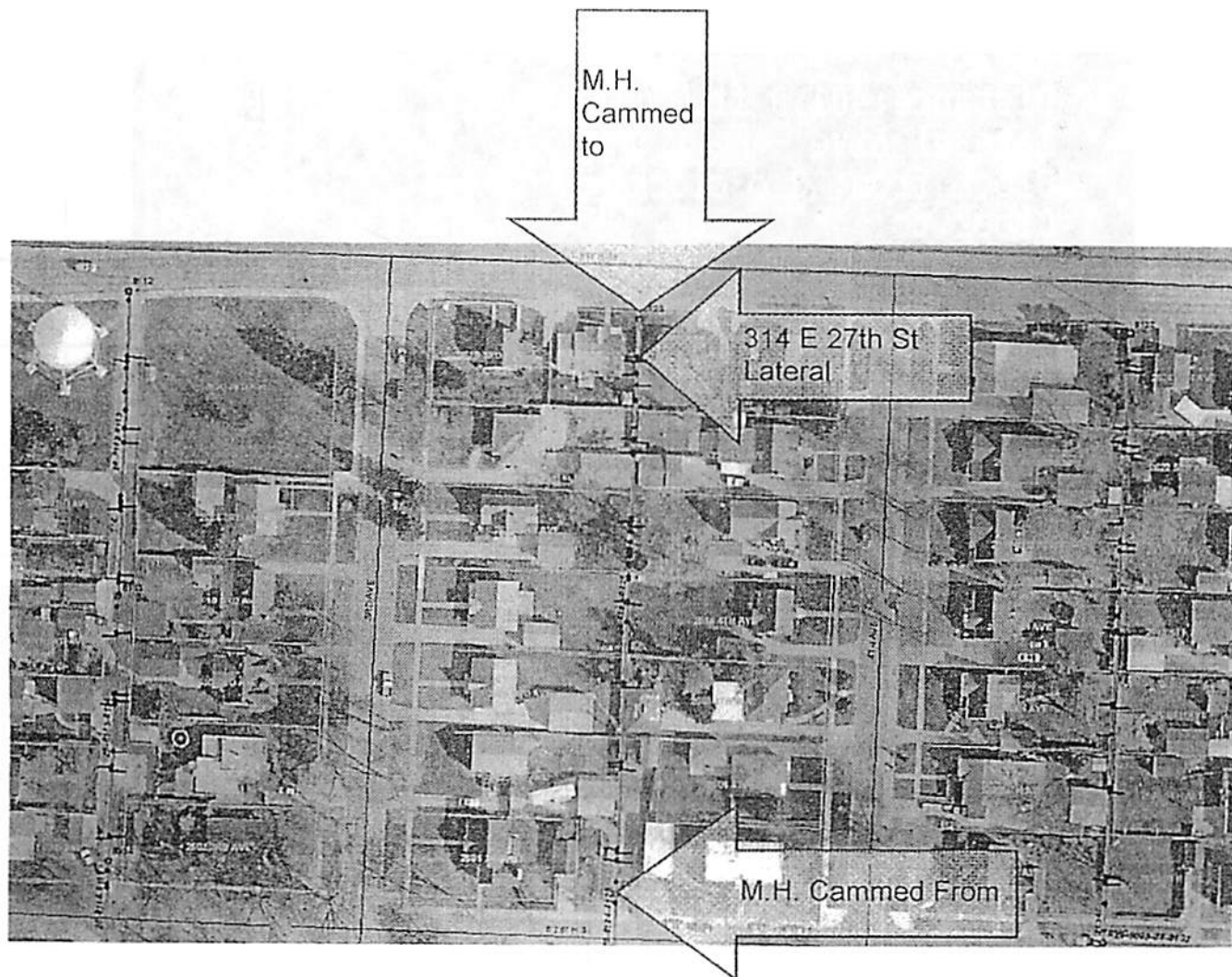
10) Date Completed: 8-24-18 11) Personnel Time Involved 2 12) Sewer Jet Hrs Involved 1.5

13) Work Performed By: [Signature]

REMINDER, please do not put work order away until secretary has initialed it after recording.

Secretary initial here MA Record # 0824191

Map View Report





City of Scottsbluff
2525 Circle Drive
Scottsbluff Ne, 69361
(308) 632-4136

Still Image Report



D:\Media\Photos\SEWER CALLS-Manhole '8123'-Manhole '8124'-Lateral Live at 401.9 ft..JPG
8/27/2018

MEMORANDUM

To: Nathan Johnson
From: Kent A. Hadenfeldt
Date: November 5, 2018
Subject: Sewer-Back Up at 314 East 27th Street / Claim

On August 24, 2018 at approximately 2:00 p.m. the City was notified by a plumber about a sewer call at 314 East 27th Street. The property owner had indicated she was experiencing gurgling and smell from a floor drain. The plumber asked the City investigate the sewer main prior to his arrival.

Two City employees arrived and checked two manholes on East 27th Street and East 26th Street. The manhole on East 27th Street had standing water. It was determined a possible backup in the main was occurring. The two employees then returned to the treatment facility to retrieve the jet/vac truck to perform a cleaning of the line. At approximately 175 feet in the line resistance occurred. Once they began to pull the jet hose, they visualized a large amount of paper towels or wet wipes in the main. They also retrieved a piece of PVC pipe. It was determined the PVC pipe could have been the cause of the back up in the line.

Once the debris was removed, flows returned to normal. The City crew returned on Monday, August 27, 2018 to conduct a televised inspection of the main line in question. This inspection revealed that the line was clean with no obstructions observed. The City crew also televised the lateral to Scottsbluff City High School. It should be noted in August, 2018, a new tap was constructed for a service lateral. There was additional pipe debris observed at the bottom and along the base bench. Pieces of pipe were removed and the line was thoroughly cleaned.

There had been no previous sewer back ups in this area.

On September 9, 2018, a claim was made to the City by the Members of a limited liability company that owns the property located at 314 East 27th Street. The claim included invoices for the clean up and repair of their rental property. The invoices were sent to West Nebraska Claims for verification. They returned a report the damages were somewhat aggressive and if any loss is warranted it would be in the amount of \$12,975.69

When sewer backups occur within the City main, there are generally two claims asserted against the City. One is for inverse condemnation and the other is for negligence. From reviewing the facts, it does not appear that either would apply in this instance.

An inverse condemnation claim requires the City to take some sort of action under its eminent domain powers. The City has not exercised its power of eminent domain and, therefore, has not taken or damaged any property. In addition, there was no known or foreseeable damage the City's action would cause any damage to private property. This can occur when the property owner has shown that any invasion of property right was intended or foreseeable because there were reoccurring problems in the area.

The City had received no complaints of backups in this area. The investigation did reveal that a neighbor on 27th Street called the City because of a slow service. However, the City investigated these complaints in 2012, 2013 and 2016, ran routine inspections and discovered the cause of the slow service was root intrusion into the service lateral of the homeowner. Routine service and maintenance has been completed in the area in June of 2006 and since then inspections have occurred in November of 2012, August of 2013 and August of 2016 with no issues and no problems reported with the sewer main line.

The second possible legal claim could be under negligence. Negligence is defined as doing something that a reasonably careful person would not do under similar circumstances, or failing to do something that a reasonable careful person would do under similar circumstances. There must be a legal duty to protect from injury, a failure to discharge that duty and damages proximately caused by the failure to discharge the duty.

The City has inspected this sewer main three times over the past four years. There has never been any indication or discovery of any problems with the main on any of those inspections. The City has a routine maintenance schedule for its sewer main which was followed. The City has no control over improper or inadequate customer connections, maintenance or disposal including other unknown or undiscoverable potential causes of sewer back ups. At no time was the City aware or knew of any problems or issues in this sewer main prior to the backup. In addition, the City was unaware of any issues or potential debris that may have been

caused by the construction at the High School to include the PVC pipe and debris that may have flowed into the City Main.

The City has fulfilled its duty and was unaware and could not have possibly known of the debris that more than likely caused this particular backup. The City has fulfilled its duty in this particular instance.

In summary, because of the fact there were no reoccurring or foreseeable issues in the City's sewer main and the fact the City has inspected this sewer main three times in the past six years, the City has acted reasonably was not the proximate cause of the backup or any damage to the claimant. Therefore, neither inverse condemnation nor negligence can be a basis for a claim and it is our recommendation that the claim be denied or no further action taken.

cc: City Council