

FILE

LAUDERDALE CITY COUNCIL MEETING AGENDA
5:30 P.M. MONDAY, JULY 30, 2012
LAUDERDALE CITY HALL, 1891 WALNUT STREET

The City Council is meeting as a legislative body to conduct the business of the City according to Robert's Rules of Order and the Standing Rules of Order and Business of the City Council. Unless so ordered by the Mayor, citizen participation is limited to the times indicated and always within the prescribed rules of conduct for public input at meetings.

- 1. **CALL THE MEETING TO ORDER**
- 2. **ROLL CALL**
- 3. **APPROVALS**
 - a. Agenda
- 4. **CONSENT**
- 5. **SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS**
- 6. **INFORMATIONAL PRESENTATIONS / REPORTS**
- 7. **PUBLIC HEARINGS**

Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings all affected residents will be given an opportunity to speak pursuant to the Robert's Rules of Order and the standing rules of order and business of the City Council.

- 8. **DISCUSSION / ACTION ITEMS**
 - a. Sanitary Sewer Overflow Emergency Response Policy
 - b. Discussion with City Attorney regarding the City's Response to the MPCA about the March 30 Sanitary Sewer Overflow
 - c. Fires at 1816 and 1818 Walnut Street
- 9. **ITEMS REMOVED FROM THE CONSENT AGENDA**
- 10. **ADDITIONAL ITEMS**
- 11. **SET AGENDA FOR NEXT MEETING**
 - a. Presentation by Roseville Superintendent John Thein and School Board Chair Kitty Gogins
 - b. City Logo Design Discussion
 - c. 2013 Budget Discussion
- 12. **WORK SESSION**

Any member of the public may speak at this time on any item not on the agenda. In consideration for the public attending the meeting for specific items on the agenda, this

portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to four (4) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue shall be continued at the end of the agenda. Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address, and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter any discussion without permission of the presiding officer.

Your participation, as prescribed by the Robert's Rules of Order and the standing rules of order and business of the City Council, is welcomed and your cooperation is greatly appreciated.

13. ADJOURNMENT

**LAUDERDALE COUNCIL
ACTION FORM**

Action Requested

Consent _____
Public Hearing _____
Discussion X
Action X
Resolution _____
Work Session _____

Meeting Date July 30, 2012

ITEM NUMBER Sanitary Sewer Policy

STAFF INITIAL 

APPROVED BY ADMINISTRATOR

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

I apologize. I forgot to ensure the Council passed the Sanitary Sewer Overflow Emergency Response Policy. That has to be submitted to the MPCA before the next Council meeting in response to the Administrative Penalty Order. Let me know if you see a need for any corrections.

OPTIONS:

STAFF RECOMMENDATION:

Motion to adopt the Sanitary Sewer Overflow Emergency Response Policy.

COUNCIL ACTION:

CITY OF LAUDERDALE
SANITARY SEWER OVERFLOW EMERGENCY RESPONSE POLICY

1. Procedure

It is the City's policy to respond to sewer backups and other system problems or failures 24 hours a day, 365 days a year. During normal business hours, all calls and reported problems will be routed to City Hall. Administrative staff will then dispatch public works staff. Normal business hours are from 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. At all times other than normal business hours, emergency calls will be routed to 911/ Ramsey County Dispatch. They will report the incident to public works staff via a pager or city-issued cell phones. The public works staff share the "on-call" hours and will develop an on-call schedule.

2. Response

It is the goal of the department to provide an initial response within one hour, or as soon as possible under the circumstances, of receiving report of a problem or an emergency call. The time necessary to remedy a problem will vary depending on the number of calls, the nature and seriousness of the problem, weather, and other factors that may impact the department's ability to respond, find, and correct a reported problem.

When appropriate, a city employee will check the city's sanitary sewer main at the point of the problem. Corrective action will be taken if the city's sanitary sewer main is found to be blocked or obstructed.

When a blockage found in a sanitary sewer main is causing a backup into a private portion of the system, the first priority will be to address the problem in the city's sanitary sewer main.

After a sanitary sewer backup is remedied, efforts to determine the cause of the blockage or backup will be undertaken by those responding to the emergency. Written records of emergency response will include information and documentation concerning the cause(s) or possible cause(s) of the blockage or backup.

When investigation of a backup determines that the problem is within the private portion of the sanitary sewer system, the sewer customer will be informed of possible corrective action they may have to perform on their portion of the system.

3. Reporting

The State Duty Officer (1-800-422-0798 or 651-649-5451 in the metro) will be notified by city staff when bypassing the city's sanitary sewer system or otherwise discharging sewage anywhere other than to the city's sanitary sewer system.

The State Duty Officer must be notified within one hour or in so far as practical of discovery of sewage being discharged anywhere other than to the city's sanitary sewer system.

4. Clean Up

City employees responding to a sewer emergency or back up will exercise professional judgment in implementation of this policy. To that end, staff is authorized to contract for services to address the sewer emergency and provide for any immediate clean up necessary to meet the City's obligations under the law without prior City Council approval. Staff is also authorized to contract with any outside company to address the source of the problem without prior City Council approval.

The City is not responsible for performing cleanup, remediation, or repairs when sewage is released inside of a business or home. The City is responsible for cleanup of sewage that flows over land so as to prevent it from contaminating the waters of the state. City staff will act as rapidly as possible to recover wastewater.

5. Right of Entry

City staff will not enter private property except as they determine it is necessary for purposes of public safety, to prevent discharge of pollutants to water bodies, and to meet any other obligation under law.

When practical, staff will ask owners or lessees of property to sign a waiver to permit entry onto private property.

6. Insurance Claims

All sewer backup claims must be referred to the League of Minnesota Cities Insurance Trust (LMCIT) for determination of liability. City employees are instructed to not discuss or comment on city liability for backups in the municipal sanitary sewer system.

Adopted by the city council of the City of Lauderdale on July 24, 2012.

Signed: _____
Mayor Dains

Date: _____

PERMISSION TO ENTER PRIVATE PROPERTY AND WAIVER

I/We _____ owner/lessee of _____

in the City of Lauderdale, do hereby grant the City, and any agents, employees, or others as may be designated by the City of Lauderdale, permission to enter the above premises for the purposes of public safety, to prevent discharge of pollutants to water bodies, and to meet any other obligation under law. Even if you do not agree to this document, the City, via its agents, employees and others may enter your property to perform work to repair or eliminate a condition that poses an imminent threat to the public's safety, health, or welfare.

I/We further agree to hold the City harmless from any and all property damages on the above-described premises or other injury as may be caused by any entry permitted under this waiver.

Owner/Lessee Signature: _____

Owner/Lessee Printed Name: _____

Date: _____

For City Use Only:

Staff Member: _____

Date/Time Signature Collected: _____

Notes: _____

EMERGENCY RESPONSE CONTACTS

State Duty Officer: 651-649-5451

Ramsey County Dispatch: 911 or 651.767.0640

County Area Supervisor Charlie Markham: 651.248.0032

City Staff and Officials:

Mayor Jeff Dains: 612-219-7929

City Administrator Heather Butkowski: 612-205-1208

Public Works Coordinator David Hinrichs: 612-296-4124

Public Works Maintenance Joe Hughes: 612-382-3548

City Engineer Darren Amundson: 651.604.4894 or 651.775.5623

Spill Management Advice:

Barr Engineering Company:

Sam Johnson 612-207-3538

Eric Lund 612-207-7187

Brian Sillanpaa 612-799-1683

Clean Up Contractors:

VEIT USA, Inc.

14000 Veit Place

Rogers, MN 55374

Brent Johnson: (763) 422-3867/612-369-4510 or Gary Elmes 612-490-8681

Bay West, Inc.

5 Empire Drive

St. Paul, MN 55103

Contact: Pat Martin 651-291-3412

Sewer Contractors:

BevLor Utilities Inc.

Sonny Richert (o) 651-464-1035 or (c) 612-801-8145

McDonough's

Barb Deetz: 651-436-3370 or 612-333-3700

Municipal/Commercial Sewer Service

Jay: 651-489-5185

Visu-Sewer Clean & Seal Inc.

Matt Loberg: 612-741-9357 or 888-876-8478

**LAUDERDALE COUNCIL
ACTION FORM**

Action Requested

Consent _____
Public Hearing _____
Discussion X
Action X
Resolution _____
Work Session _____

Meeting Date July 30, 2012

ITEM NUMBER Sewage Spill Response

STAFF INITIAL AB

APPROVED BY ADMINISTRATOR

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

At the last meeting, the Council voted to have the sewage spill matter heard before an administrative law judge. I have been talking with the city attorney, Ron Batty, on how to proceed. He will be at the meeting to discuss the next steps with the Council.

I updated the letter you received in the last packet that I will be sending to my contact at the MPCA.

OPTIONS:

STAFF RECOMMENDATION:

City of Lauderdale
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CITY OF LAUDERDALE
LAUDERDALE CITY HALL
1891 WALNUT STREET
LAUDERDALE, MN 55113
651-792-7650
651-631-2066 FAX

July 26, 2012

Adam Gulsvig,
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

Dear Mr. Gulsvig,

I am writing in response to your letter dated July 6, 2012 regarding the Sanitary Sewer Overflow (SSO) event in Lauderdale on March 30, 2012.

My response will consist of two sections. First, I will respond to the corrective actions noted on page two of the Administrative Penalty Order (APO). The second section of this letter will be in response to your Reconnaissance Inspection Report.

Corrective Actions:

1. The City has long had the Minnesota Duty Officer's contact information posted throughout Lauderdale City Hall and on laminated emergency cards that are carried by staff, council members, and posted at the police desk.
2. You have directed us to provide the local contact information for residents, emergency responders, and others in the event of an emergency situation. The City provides that information each quarter to all residents and business owners within the City via the city newsletter. The information is also on the City's phone system should someone call City Hall after-hours. The City plans to leave this system in place and add information to the city's website and cable access channel. (We direct callers to call 9-1-1 / Ramsey County Dispatch. Dispatch contacts the employee on duty). A copy of the newsletter is attached as Appendix A.
3. You asked us to provide a copy of our Sanitary Sewer Overflow Emergency Response Plan. The plan was modeled after the policy prepared by the League of Minnesota Cities. The Policy is attached as Appendix B.

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4. You also asked for a copy of our Sanitary Sewer Operation and Maintenance Plan. The plan was modeled after the policy prepared by the League of Minnesota Cities. That Policy is attached as Appendix C.

Reconnaissance Inspection Report

The Reconnaissance Inspection took place on April 4, 2012 by Scot Sokola and yourself. You noted that you met with representatives from Twin City Die Casting (TCDC) and Hawkins Chemical, Inc. (HC). The City was not invited to participate. After reviewing the report, I find this unfortunate as city staff would have been able to provide you with information of the events as they occurred and the cleanup efforts to that point. As we were unable to share that information then, this letter will be the method through which the Lauderdale City Council and city staff clarify the events of that evening for the record.

The City of Minneapolis received notice from TCDC staff at approximately 7:00 p.m. on March 30, 2012, of a sewer overflow. Minneapolis staff responded and informed TCDC staff that the spill was not within Minneapolis. From my conversations with Mike Burton, TCDC Corporate Facility Manager, he then attempted to call the City of St. Paul. At 8:03 p.m. he called Ramsey County Dispatch. In the call to dispatch he noted that the spill had occurred about 3 hours prior and that the sewer was no longer backing up. Staff was paged at 8:08 p.m. and responded to the page at 8:29 p.m. Due to the time lapse in receiving notification, city staff could not determine with certainty the amount of sewage that had been released. Staff relied on information from TCDC and HC staff as they witnessed the event.

As noted above, the City makes every effort to keep emergency contact information in the hands of our residential and business community. As city staff has worked with Burton on another project, it is not clear to me why he didn't contact the City of Lauderdale first. I assume Corrective Action #2 stems from him not knowing whom to call. While the City will continue to do all it can to keep information at community members' fingertips, I do not feel the City is at fault for mistakes made by TCDC staff.

Even though sewage was no longer spilling once on site, city staff began working with Municipal/Commercial Sewer Service to clear the manhole to prevent a reoccurrence of the blockage. As TCDC built a structure over the City's sewer easement many years ago, the City does not have direct access to the manhole. From downstream, city staff and the contractor attempted to use water to break apart the roots. When this was not effective, the City contacted Northland

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Mechanical. Their staff entered the manhole to cut the roots apart. Again, because of our lack of access to the manhole, it took time for the contractor and staff to carry the tripod and harness equipment down the embankment from TH280 and over the railroad tracks. Ultimately, they were able to cut apart the roots the morning of March 31. The contractor removed the roots that had caused the backup in sections. Those were the roots you saw on site. From the time staff was notified of the spill until the time the contractor cleared the roots was approximately 20 hours.

You mentioned on page two of the Recon Report that:

MPCA staff was informed by representatives of the affected businesses that the roots were cut by the Regulated Party on March 31, 2012. The SSO was contained as a result of the root cutting. This notion indicates that routine operation and maintenance had not occurred in and around the manhole location and was most likely the cause of the SSO.

Again, it is unfortunate that we were not able to meet with you that day. Your notion that lack of routine operation and maintenance had not occurred is incorrect as evidenced by a number of recent actions by the City. First, TCDC had replaced the City's sanitary sewer manhole cover with a storm sewer grate at some point in the past. The City became aware of this late in 2008 during an inflow and infiltration inspection. In the spring of 2009, the city replaced the grate with a proper covering, raised it to prevent further inflow and reconditioned the manhole. There were no roots in the area around the manhole. Next, the sewer line running through TCDC's property was televised in the summer of 2010. There was no indication of roots in the area. In the past two years, all residential city streets within Lauderdale were televised by the City and Xcel Energy. There were no roots of this size or any condition issues evident. Finally, after the SSO the City televised the line servicing TCDC which starts on Larpenteur Avenue and runs under TH280. That line also did not show evidence of roots that could have caused the overflow.

I believe it is important for the MPCA to understand that two outside entities send flow through the city's system. First, Corval Group has a private line connecting one of their buildings to the manhole before TCDC's. The City was unaware of this old line until the reconstruction of the TH280 at Larpenteur Avenue Bridge in 2009. The City found evidence of roots in this line in 2010 when city staff worked with the Corval Group to understand the cause of a backup within their building. Additionally, the City of Roseville connected the Paper-Calmonson site (Broadway and TH280) to Lauderdale's system in 2009 to eliminate a lift station

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at County Road B. The joint powers agreement requires each city to maintain their system so we do not know the condition of their system.

I understand the finding that we did not notify the Duty Officer as prescribed by law. Staff now understands that they must do this even if they know that another entity has made the call. Staff knew that Hawkins' Chemical staff had called the Duty Officer even before the City was aware of the spill. Staff understands the process they must follow in notifying the Duty Officer.

After calling the Duty Officer on April 2, city staff called the MPCA asking for guidance on cleaning up the area around the manhole as one of the affected businesses felt the City should be doing more. David Hinrichs, City of Lauderdale Public Works Coordinator, spoke to a number of MPCA staff on Monday and Tuesday regarding his plan to rake and remove the dried material around the manhole. When staff did not receive a response, staff asked the state senator for the area, John Marty, to see if he could help the City get guidance on the cleanup. Later Tuesday afternoon he received confirmation that this plan was acceptable. In hindsight, we understand that the MPCA does not provide guidance on spill cleanup. We realize that each party must develop a cleanup plan and the MPCA will only determine thereafter if the plan was adequate. In the future, we will not wait for MPCA approval before beginning cleanup efforts.

Staff planned to begin clean up Wednesday morning as the City's insurance adjuster asked to see the site first; staff honored that request. Public works staff showed the site to the insurance adjuster around 9:00 a.m. on April 4. After he left, they began cleaning up the area. It is our understanding that MPCA staff was on-site just before this.

As you know, the affected areas on the exterior of TCDC and HC had been remediated by the owners. As city staff had not experienced an overland spill before, they thought the land owner was responsible for the cleanup on private property (whether interior or exterior) as is the case when residential basement backups occur. City staff now understands that in the event of an emergency, city staff may enter private property, even without permission. The affected businesses have been compensated for their cleanup efforts.

You noted that a rain event may have exacerbated the problem. Staff saw no indication that any material from behind the building had entered the parking area due to the rain. When wet, staff noticed some material along the railroad tracks that had not been initially collected by the contracted cleaning companies.

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The City received notice that the MPCA felt remediation efforts were unacceptable at approximately 3:00 p.m. on Wednesday, April 4. City staff met with Veit, Inc. staff the evening of April 4 to prepare an action plan to have a cleanup crew mobilized for the morning of April 5. All work was completed by the end of the day on April 5, not April 6 as mentioned in your report.

The City Council has provided staff with the resources and tools to handle a subsequent emergency in a manner that will be in step with MPCA expectations. Nevertheless, the City still feels the MPCA could have been more forthright in communicating with the City, especially by meeting with city staff when MPCA staff was on-site. Additionally, the fine seems excessive considering the City did everything it could to remediate the situation once it received word from the MPCA that its cleanup efforts were subpar. The Council also finds the fine surprising as it simply means tax dollars from one government entity are being transferred to another government entity. If a fine must be levied, it seems the MPCA and the City could find a use for the money that would be beneficial to the tax payers.

As you already know, the Lauderdale City Council decided to file the documents necessary for a review by an administrative law judge. I also ask that you include this report with the other correspondence regarding the spill.

Sincerely,

Heather Butkowski
City Administrator