

Claims Board Committee Minutes of

May 16, 2024 (unapproved)

Present: Ed Lohnes, Kris Bugara, Jenn Kiko, Mayor Andy Grove, Mike Dreger, Desirae Roberts, Sherry Harp, Morgan Huxtable.

5:04pm Chairman Lohnes called the meeting to order and read the Public Notice and read Section (b) of C.O. 121.03

5:07pm Lohnes asked Roberts to discuss her claim. Her complaint was given to the committee chair following the City Council meeting of May 6th. She is asking for \$9,113 for damages to property that was ruined during the sewage back-up that occurred March 7th, 2024 and March 20th, 2024. She made a claim with her Insurance company and received \$5,000 that paid for the water mitigation company. Her water trough was clogged due the waste which caused more backup. The water was turned off March 27th for further repair by the city. She used her line insurance to get 10 feet of sewer pipe replaced and a backflow preventor valve/pipe installed. She stated she also had foundation damage to her sandstone foundation.

5:18 Lohnes asked if appliances can be repaired, answer: no

Lohnes then read insurance letter dated 3/21/24 from JWF Specialty: "Our investigation has revealed that the City of Alliance was not negligent..." and "It is further our position that the application of Ohio Revised Code Section 2744 would grant political subdivision sovereign immunity....."

Lohnes then read section 911.405 elevation from the City's Wastewater Rules & Regulation.

5:23 Dreger discussed the interpretation of 911.405 that it is the owner's responsibility for any damage to any property below grade. He clarified that the blockage on 3/7/24 was in the 12" line and a manhole, not a lift station, 900 feet away but that the blockage was likely closer to the house.

5:27 Bugara asked Dreger about what happened on the 20th. He responded that the sewer was clear on the 20th when the inspector arrived, maybe slow flow could have caused the back-up.

Kiko: asked have there been any problems since the 20th? Answer: No

5:29 Dreger referred to work reports provided to the committee. 8/24/2020, 3/12/2024, 3/20/2024, and an email from 5/9/2024 summarizing the 3/7/2024 sewage backup.

5:30 Sherry Harp, mother of Roberts asked the committee to do the right thing. That this is her daughter's dream home. She asked if there was an option if this committee did not fund for Roberts. Lohnes responded there is a legal appeal available through the court in Canton.

5:32 Lohnes asked and received consent to schedule the next Claims Board meeting for June 3rd, 5:30 at the municipal courthouse.

5:33 Lohnes asked for motion to adjourned, meeting was adjourned.



The City of

Alliance, OHIO, 44601-2415

"The Carnation City"

504 EAST MAIN STREET

Mayor's Office: 330-821-3110

Planning and Development: 330-829-2235

Fax: 330-821-9362

ACCIDENT / CLAIM REPORT

(Please print or type)

Name of person filing report: Desirae Roberts

Address: 11255 Webb Ave. NE Alliance, OH 44601 Telephone: 330-203-0650

Date of Loss: 3-7-24 Name of insurance company or agent: Openly insurance

Was a claim filed with your insurance company? Yes No If so, please attach response

Description of accident or event: Main city sewer by our house was blocked and it lead to having between 6+8 inches of water across the entire basement.

Please describe injury and/or damages: Furnace, water tank, deep freezer food, 2 dehumidifiers. Also have to have company come to clean up water from sewer. Vacuum cleaner was also ruined. Secondary washer and dryer damaged.

If claim involves a motor vehicle, please complete the following:

Owner of Vehicle: _____ Year of vehicle: _____

Make: _____ Model: _____ Is vehicle insured? Yes No

Please provide names and addresses of any passengers in vehicle: _____

Please attach copies of all medical bills and-or other proof of losses. Submit two (2) estimates for the repair of any damages. Attach additional pages to this form, if necessary, to answer the above questions. List any payments made by any insurance companies. Return completed form and attachments to the Safety-Service Director, 504 E. Main Street, Alliance, OH 44601.

I HEREBY CERTIFY THAT THE FOREGOING STATEMENTS ARE TRUE AND ACCURATE

NAME: Desirae Roberts DATE: 3-8-24

121.03 CLAIMS BOARD.

(a) There is hereby created a Claims Board for the City which shall consist of the members of the Finance Committee of Council.

(Ord. 74-97. Passed 6-16-97.)

(b) The Claims Board shall have the power to review all claims filed against the City and shall determine if payment of an amount of one thousand five hundred dollars (\$1,500) or less shall be made by the City. The Claims Board is hereby authorized to negotiate, comprise and resolve submitted claims in an amount not to exceed one thousand five hundred dollars (\$1,500) without further Council approval. The Claims Board is authorized to seek assistance from the City insurance carrier for investigation and recommendations on claims filed.

(Ord. 74-97. Passed 6-16-97.)

(c) The meetings of the Claims Board shall be held at the call of the chairman and at such other times as the Board may determine. All meetings shall be held in compliance with Chapter 107.

(d) All claims shall be initiated by filing a claims form with the office of the Director of Public Safety and Service who shall review and investigate each claim and report his findings at a meeting of the Board convened for this purpose. The Board shall either approve the claim as a moral or legal liability of the City or disapprove the claim. The decision of the Board shall be submitted in writing to the claimant. If the claim is approved, it shall be paid from the proper fund upon the execution by the claimant of a release to the City of all liability. All actions of the Claims Board shall be by a majority vote of its members.

(Ord. 129-82. Passed 11-15-82.)

(e) Prior to the Claims Board action on any item as a moral or legal liability of the City, the Board shall solicit a written opinion from the Law Director's office that will include the Law Director's office recommendations regarding disposition of the claim.

(f) Any claimant may petition the entire Council for a modification of the decision of the Claims Board by filing with the Clerk of Council a "Notice of Appeal" within thirty days from the date the claimant received notice of the Claims Board decision regarding the claim filed. Failure to properly file and perfect a claimant's "Notice of Appeal" shall operate as a bar to any further administrative claims by the claimant on the subject matter of the claim sought.

(g) The Claims Board shall file a report with the Clerk of Council regarding any action taken on claims reviewed by the Claims Board at the next regularly scheduled Council meeting from the date of the decision of the Claims Board.

(Ord. 74-97. Passed 6-16-97.)

911.403 Minimum Size

No gravity type lateral shall be less than four (4) inches in diameter (internal).

911.404 Alignment & Slope

Where feasible, each lateral shall be laid at uniform grade and in straight alignment. Changes in direction shall be made only with proper fittings.

Wherever possible, the grade of the building sewer shall not be less than 2%, nor greater than 10%. Grades other than those allowable must be approved by the Engineering and Building Department.

*** 911.405 Elevation**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. Any basement floor drainage and/or fixtures installed in basements are made at the owner's risk of damage. In all buildings in which any building sewer is too low to permit gravity flow to the main sewer, sanitary sewage may be lifted, by a method approved by the City Engineer, and discharged to the building sewer.

911.406 Excavations

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the health, welfare and safety of the public. Streets, sidewalks, parkways, or other public property damaged in the course of the work shall be restored in a manner satisfactory to the City of Alliance.

When excavations for building sewer installations are made anywhere within the right-of-way, the licensed sewer builder shall secure a permit as required under Chapter 901 of the Codified Ordinances of the City of Alliance, Ohio.

911.407 Lateral Blockage

In the event any person or company cleaning a private building sewer is not able to clear the obstruction to the main sewer, the existing sewer lateral shall be excavated between the main sewer conduit and one foot back of the existing curb to examine for breakage.

The person or company requesting the excavation shall pay the total cost of excavation, inspection, backfill and repair of the street. That person or company shall be responsible for all work and costs of the private sewer to the main connection. The party responsible for a broken wye connection will be determined by the City of Alliance.



The City of

Alliance, OHIO, 44601-2415

ENGINEERING, BUILDING & ZONING

"The Carnation City"

504 EAST MAIN STREET

PHONE (330) 823-5122
eng.bid.zon@allianceoh.gov

* Note: This was the only other time there was a problem with this line

Work Order #: 3109

Work Order Date: 08/24/20

Work Type:

OUPS Ticket #:

Work order issue date: 08/24/2020

Request Type:

Requestor Name:

Requester Phone/Email:

Department Work Assigned to: Wastewater Collections

Work Type: Sewer backup

Work To Be Performed: 86

Foreman: Charlie Vance

Location: N. Webb & River

Site Restoration Required: None

OUPS Submission Date:

OUPS Mark Date:

Start Time: 20:00

End Time: 21:30

Date Closed: 08/24/2020

Status: COMPLETE

Notes

08/24/2020 12" line was plugged between the 2-3 manhole NE of Webb we did get water flowing but could not get to the next manhole towards Webb

Employees

Name	Hours	Cost
Charles Vance	1.50	\$67.50
TYLER GANG	1.00	\$40.00

Employee Cost: \$107.50

Equipment

Name	Amount	Cost
T-3	1.0	\$133.32

Equipment Cost: \$133.32

Material Cost: \$0.00



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Work Order #: 10363

Work Order Date: 03/12/24

Work Type:

OUPS Ticket #:

Work order issue date: 03/08/2024

Request Type: Internal

Requestor Name: Aldridge

Requester Phone/Email:

Department Work Assigned to: Water Distribution

Work Type: Sewer backup

Work To Be Performed: Jet Sewer

Foreman: Calvin Aldridge

Location: 11255 Webb Ave. NE.

Site Restoration Required: None

OUPS Submission Date:

OUPS Mark Date:

Start Time: 09:30

End Time: 11:30

Date Closed: 03/12/2024

Status: COMPLETE

Notes

03/12/2024 trunk line plugged, backed up in to basement. opened sewer, needs camera to see what problem is.

Employees

Name	Hours	Cost
Joe Henderson	2.00	\$80.00
Lee Hall	2.00	\$80.00

Employee Cost: \$160.00

Equipment

Name	Amount	Cost
T-3	2.0	\$266.64

Equipment Cost: \$266.64

Material Cost: \$0.00

Inventory Cost: \$0.00

Mike Dreger

From: Charles Vance
Sent: Thursday, May 16, 2024 3:00 PM
To: Mike Dreger
Subject: Fwd: Alliance Work Order # 10436

Charlie Vance
Alliance Water Distribution

From: Alliance <wo@iworq.net>
Sent: Thursday, May 16, 2024 2:54:53 PM
To: Charles Vance <vancecr@allianceoh.gov>
Subject: Alliance Work Order # 10436

Click [Here](#) to open Work Order # 10436



The City of

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ENGINEERING, BUILDING & ZONING

"The Carnation City"

504 EAST MAIN STREET

PHONE (330) 823-51
eng_bld_zon@allianceoh.g

Work Order #: 10436

Work Order Date: 03/20/24

Work Type:

OUPS Ticket #:

Work order issue date:

Request Type: Internal

Requestor Name: Jones

Requester Phone/Email: 330 353-4780

Department Work Assigned to: Wastewater Collections

Work Type: Sewer cleaning

JWF Specialty

a division of **EPIC**

PO BOX 13057
HAMILTON, OH 45013
PHONE: 513 868-7320
FAX: 317-588-2626
EMAIL: michael.mcguiff@wfspecialty.com

3/21/24

Desirae Roberts
11255 Webb Ave NE
Alliance, OH 44601

RE: Our Client: City of Alliance
Our Claim: 24-019329
Date of Occurrence: 3/7/24

Dear Ms. Roberts:

By introduction, we are the third party claim administrator of the Ohio Municipal Joint Self Insurance Pool(OMJSP) of which the City of Alliance is an insured member. Please allow this to serve as our response to the liability claim you submitted against the City of Alliance for damages as a result of a sewer back up on or about the above date.

Our investigation has revealed that the City of Alliance was not negligent in causing this unfortunate occurrence. In order to be held negligent, the City of Alliance must have actual or constructive notice of a problem within the sewer line in question and subsequently fail to take remedial measures to rectify that problem within a reasonable period of time. Our investigation revealed this to be a sudden, unexpected and accidental event for which the city had no prior notice of any potential problem.

It is further our position that the application of Ohio Revised Code Section 2744 would grant political subdivision sovereign immunity to the City of Alliance for any claims presented for this occurrence.

Based on our findings, we must respectfully deny liability for this claim and decline to make any payments for your damages. Please understand that it is not our obligation to pay all claims as presented, but only those for which the City of Alliance may be held legally liable.

Sincerely,

Mike McGuff
Sr. Claim Examiner



The City of
Alliance, Ohio, 44601

"The Carnation City"

470 EAST MARKET STREET

OFFICE OF LAW DIRECTOR

Caitlyn Weyer, Esq.

PHONE 330/823-6610

FAX 330/829-0622

EMAIL lawdirector@allianceoh.gov

May 30, 2024

Ed Lohnes, Chair Claims Board & Committee:

I offer this response to your request for a written opinion regarding the claim of Desirae Roberts at the Claims Board meeting from May 16, 2024. After reviewing the minutes from that meeting, the documentation provided by Ms. Roberts and the City of Alliance, as well as relevant case law, I conclude that the City is not liable in this matter.

Cities such as Alliance have limited immunity regarding sewer system operations. Section 2744.01 of the Ohio Revised Code, as relevant to this matter, provides immunity for the governmental function of "the provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system." Further in that statute, there could be liability attached to "the maintenance, destruction, operation, and upkeep of a sewer system." JWF Specialty asserts the City would have immunity under the Ohio Revised Code.

Assuming, *arguendo*, the City would not have immunity under the Ohio Revised Code, case law clearly states that a municipality is not liable when there is no notice of a potential problem. The Ohio Supreme Court has made it clear that when there is a sudden event that creates damage where the municipality has no notice, the City is not negligent for the damages sustained.

While it is unfortunate that Ms. Roberts sustained such damage, I would concur with the findings of JWF Specialty when they denied the claim.

If you should have any questions please do not hesitate to contact the undersigned.

Sincerely,

Caitlyn R. Weyer
Law Director, City of Alliance
470 E Market St.
Alliance, OH 44601
Phone: 330-823-6610