



## ***Operations Committee - Board of Representatives***

Joseph Coppola, Jr., Chair

John Zelinsky, Jr., Vice Chair

# **Committee Report**

**Date:** Tuesday, May 30, 2017

**Time:** 7:00 p.m.

**Place:** Republican Caucus Room, 4<sup>th</sup> Floor, Government Center, 888 Washington Boulevard

The Operations Committee met as indicated above. In attendance were Chair Coppola, Vice Chair Zelinsky and Committee Member Reps. Coleman, Giraldo, Liebson, Mahoney and McMullen. Absent or excused were Committee Member Reps. Adams and Jacobson. Also present were Rep. Ryan; Ernie Orgera, Director of Operations; William Brink, WPCA; and Mike Toma, Law Department.

Chair Coppola called the meeting to order at 7:03 p.m.

Item No.	Description	Committee Action
1. <a href="#">O29.081</a>	ORDINANCE for publication; Amendment of Chapter 200, Sewers, <a href="#">Section 200-33</a> , Regarding the Responsibility for the Maintenance and Repair of Sewer Laterals within the City Right of Way. 03/08/17 – Submitted by Reps. McMullen, Mahoney, McGarry, Jacobson and de la Cruz 04/24/17 – Held in Committee	<b>Approved, as amended, 5-1-1</b>

Rep. Mahoney reviewed the history of the ordinance, noting that:

- An ordinance was proposed by the WPCA which contained a \$5000 cap on repairs in the public right-of-way
- Several concerns were expressed in last month's meeting, including negative impacts of this proposal on taxpayers, and the committee asked for an enumeration of the issues and possible solutions
- Mr. Brink's letter estimates that there are 10-15 lateral repairs per year with an average cost of \$7,000-10,000

Rep. McMullen stated that the cost to taxpayers will be \$3.40 per year

Mr. Orgera stated that:

- he cannot predict how many laterals would need to be repaired each year because most residents have not asked the City for repairs or to be reimbursed

- The City does not have the staff or expertise to make these repairs and will have to go through the RFP process to hire a contractor
- Homeowners currently are able to purchase insurance to cover this type of damage

Mr. Toma confirmed that the proposed ordinance is not prohibited by State statute, but believes that the 2<sup>nd</sup> to last sentence creates ambiguity regarding who must make the repair that should be resolved

Committee members discussed the proposed ordinance with the invited guests:

- Under the proposed ordinance, the homeowner would remain liable for damage to the lateral on their own property
- There are increased prospects for litigation if the City believes the homeowner is liable for the damage
- The risk of loss is transferred to the City
- The WPCA does not know if people repair their laterals because they generally don't contact the WPCA
- People who have lived with slow laterals because they don't want to pay for the repair may now seek repairs from the City

A motion to amend the 2<sup>nd</sup> to last sentence to clarify that a homeowner would be required to make a repair caused by the homeowner's negligent or intentional act or omission was made by Rep. McMullen and seconded by Rep. Mahoney, but after discussion, Rep. Mahoney withdrew his second.

Committee members continued to discuss the proposed ordinance:

- The City will always be required to make the repair if it is in the City's right-of-way
- If a utility or construction company causes the damage, there will most likely be litigation seeking reimbursement
- Deleting the 2<sup>nd</sup> to last sentence would still leave the City with recourse to seek reimbursement from homeowners for intentional damage
- This ordinance would also apply to commercial/industrial users, not just homeowners
- There is a need for policies regarding how these repairs would be made, since a break or blockage is usually an urgent situation
- The WPCA does investigate and clear blockages in its line if a homeowner calls, but it is the homeowner's responsibility to get someone to fix a problem in the lateral. If the problem is the result of a WPCA line, the WPCA would be responsible for consequential damages, such as damage to a home, and has an adjuster go out to investigate.
- It would be possible to create a different standard for commercial/industrial users if the City can create a reasonable basis for the distinction, but it can't be an arbitrary distinction.
- Roto-roooter would have to determine where in the lateral a blockage is located (e.g. on the homeowner's property or in the City right-of-way)

A motion to delete the 2<sup>nd</sup> to last sentence was made, seconded and approved by a vote of 5-1-1- (Reps. Zelinsky, Giraldo, Liebson, Mahoney and McMullen in favor; Rep. Coleman opposed; Rep. Coppola abstaining).

A motion to approve the ordinance, as amended, for publication was made, seconded and approved by a vote of 5-1-1 (Reps. Zelinsky, Giraldo, Liebson, Mahoney and McMullen in favor; Rep. Coleman opposed; Rep. Coppola abstaining).

Chair Coppola adjourned the meeting at 8:18 p.m.

Respectfully submitted,  
Joe Coppola, Chair

This meeting is on [video](#).