

A Council Resolution concerning
Investigative Hearing - Building Backups of Untreated Sewage

For the purpose of inviting representatives from the Department of Public Works, Law Department, Office of Information and Technology, Health Department, Mayor's Office of Emergency Management to appear before the City Council to discuss the effectiveness and sufficiency of measures being taken to address basement backups of raw sewage in the City.

Recitals

Exposure to raw sewage poses a serious risk to human health. Raw sewage contains a variety of microorganisms, viruses, bacteria, and parasites that can cause serious illnesses including cholera, hepatitis, cryptosporidiosis, and giardiasis. In addition, moisture in homes, including moisture from sewage backups, can cause the growth of toxic fungi and mold.

In 2002, Baltimore City entered into a Consent Decree with the Environmental Protection Agency ("EPA") and the Maryland Department of the Environment ("MDE") to address violations of the federal Clean Water Act from discharges of untreated sewage from Baltimore's collection system into the Back River, Patapsco River, the Chesapeake Bay, and other waters of the United States.

Under the 2002 Consent Decree, Baltimore's Department of Public Works ("DPW") was required to conduct a thorough investigation of its wastewater collection system and undertake certain systematic and operational improvements to eliminate sanitary sewer overflows ("SSOs") and otherwise achieve compliance with the Clean Water Act and analogous State law.

The corrective measures required under the 2002 Consent Decree were to be completed by 2016, but the City failed to meet the deadline.

In 2017, the City entered into a Modified Consent Decree with the EPA and MDE that set forth new requirements and deadlines for City to achieve compliance into two phases. Phase I is to be completed by January 2, 2021, and Phase II is to be completed by December 31, 2030.

Pursuant to the Modified Consent Decree, DPW is required to establish a "Building Backup Expedited Reimbursement Program" (the "Program") to reimburse City homeowners, renters, non-commercial occupants, and residents for the costs of cleaning up and disinfecting after certain building sewage backups that are the result of surcharging in the collection system caused by wet weather events. A pilot period for the Program was initiated in 2018 and will be in effect for three years, at which time a long-term expedited reimbursement program should be implemented.

In October 2019, 18 months after the implementation of the Program's pilot, DPW, EPA, and MDE are required to assess the effectiveness of the Program's pilot in reimbursing homeowners for the costs of clean-up and disinfection for capacity-related building backups, but there is no formal mechanism for public comment and input on this evaluation.

According to Quarterly Reports published by DPW, 7,422 backups have been reported to 311 between October 2017 and March 2019. This is likely to be lower than the actual number of backups that actually occurred because not all residents report to 311.

DPW released its most recent quarterly report on progress of the Modified Consent Decree on March 31, 2019. This report stated the City has processed “over 70 applications” under the Program since it began. Information was not provided as to how many of these claims have been awarded under the Program. Indeed, the City has not published any official data relating to the processing of applications under this Program.

Under the Modified Consent Decree, the City is required to track certain information related to the Program and report it to the EPA, MDE, and the public. Specifically, the City must track “requests for reimbursement made under the Pilot Program, including the date of the building backup, the amount of the request, the request determination, including the rationale for the determination, and the date of the determination.” The City is required to report the data annually, starting with the quarterly report for the second quarter of 2019, which is the quarterly report due following the 1 year anniversary of the Program.

There is no question that building sewage backups cause significant health-related and economic hardships to the residents of Baltimore City. 2018 was the wettest year on record in Baltimore City with over 71 inches of rain that caused widespread flooding, sewage overflows, and basement backups.

Indeed, nothing prohibits the City from (1) providing more assistance to residents than is required in the Modified Consent Decree; (2) analyzing whether there are more effective ways of alleviating or addressing backups than is required in the Modified Consent Decree; and (3) more comprehensively addressing the effects of climate change than is required under the Modified Consent Decree.

Now, therefore, be it resolved by the City Council of Baltimore, That the Council invites representatives from the Department of Public Works, Law Department, Office of Information and Technology, Health Department, Mayor’s Office of Emergency Management to appear before the City Council to discuss the effectiveness and sufficiency of measures being taken to address basement backups of raw sewage in the City.

And be it further resolved, That the Council offers this investigative hearing as an opportunity for public comment on the City’s progress in handling capacity-related building sewage backups.

And be it further resolved, That a copy of this Resolution be sent to the Mayor, the Director of the Department of Public Works, the City Solicitor, the Director of 311 Services, the Health Commissioner, the Director of the Mayor’s Office of Emergency Management, and the Mayor’s Legislative Liaison to the City Council.