



Date: September 29, 2015

To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Marvin G. Williams, Director of Public Works
Subject: Underground Private Utility Installation Cost Recovery

Executive Summary

This staff memo is to present information about options for cost recovery for the review, permitting, and inspections of the installation of private underground utilities and related appurtenances. The attached report and presentation discuss the costs for the existing staff resources, the costs for the additional consulting staffing resources to compensate for the large backbone installation of fiber services, and chronicles the communication and information shared with private utility companies that perform work in the Durham area.

The fee recommendations are based on the historical trends associated with the private utility permit program, which have been extrapolated through calendar year 2016, and have taken into consideration feedback from representatives of the various private utility companies.

Recommendation

The Public Works Department recommends that City Council direct staff on the preferred Underground Private Utility Installation Cost Recovery option and authorize the department to proceed with a public hearing to amend the recommended fee schedule.

Background

Since 2011, the private utility permit program has seen an increase in both the number of permits and amounts of installations. Growth of the program has been substantial since the 2011 period (422 permits), doubling the number of permits issued by 2014 (921 permits) and expected to triple the 2011 number of permits in 2015.

During the early months of 2015, Google and AT&T announced that both companies would pursue large fiber installations in Durham. With this announcement, the task of administering the program became more than the current staff could absorb or effectively hire in time to provide services. In response to this effort to provide both service to the customers and protection of infrastructure for the citizens, the City of Durham responded with the decision to hire a consultant to mitigate the impacts to staff. This also provided the City the flexibility to scale up or down to meet the immediate workload needs, while not carrying unnecessary overhead when not warranted by seasonal or other variables to the workload.

During these discussions, it became evident that the revenue generated was not keeping pace with the costs of administering the program with either existing staff or proposed consultants. The attached staff report and presentation speak to the changes needed for cost recovery.

At Council's direction, in June 2015 the Department of Public Works (PW) began to develop options for revised fees associated with the administration of the program. In July 2015 the Deputy City Manager and representatives from PW met with representatives from private utility companies to share the proposed fee revisions. Invitations were sent to all companies that do work within the Durham area; however, not all companies sent a representative to those meetings. Following the July 23, 2015 work session at Council's direction, staff again met with representatives from the private utility companies and the Durham Chamber of Commerce to further discuss their thoughts and concerns. Additional fee scenarios were developed in response to their concerns and the cost for location of the City's utilities was removed from the cost analyses.

These newly revised fee scenarios have been made available to the private utility representatives for their review, along with the data and methodology that have been used throughout these discussions. Over the past few months, staff has responded to requests for additional information from the Chamber and solicited the Chamber for any alternate scenarios they wished for the City to consider. As of the writing of this memo no alternate proposals have been received from either the private utilities or the Durham Chamber of Commerce, though they have been adamant that the fee structure proposed places too great a burden on the utilities.

Google has not yet been issued a permit to begin utility installations within the City of Durham. However, the volume of installations from AT&T is trending to exceed what was initially projected by their representatives, and over the last month they have averaged 14-16 work crews per day. These crews generate daily calls from the motorists and citizens impacted by these worksites. In keeping with our projections, the scale and intensity of the work has had significant impacts on Public Works, and a great deal of administrative time and attention has been needed to address serious performance issues on the part of contractors.

Comparison to Other Cities

Charlotte, NC – The City of Charlotte pursues full cost recovery for permitting and inspection of utility work in the right-of-way by tracking staff time and issuing a bill to each utility on an annual basis. This program has been in place for over seven years. Costs are distributed proportionate to work associated with each utility. With the FY16 budget process Charlotte has also increased full-time staff from 6 FTEs to 10 FTEs, and allocated \$750,000 to hire either temporary labor or use a consultant to further augment staff.

Utilities that do not pay their bill are not allowed to renew their annual master permits. The program recovers costs associated with the following functions: permitting, plan review, inspection, training, scoping meetings and technical problem solving for the utilities, and other department and city overhead such as benefits and administrative overhead from the city manager, city attorney, and others.

Raleigh, NC – In 2014 the City of Raleigh began to review some of the language associated with the issuance of fees for work in the public right of way. That language was revised in 2015 and effective with their FY16 budget approval, they began to charge \$0.24 per linear foot with an \$82 minimum for similar private utility installations. Raleigh did not set a specific cost recovery target, though they estimate the current fee structure achieves between 25% and 40% cost recovery.

Cary, NC – The Town of Cary does not charge a permit fee or an inspection fee. In FY16 approximately \$400,000 was allocated for the permitting and observation of work associated with private utility permitting due to the volume of work anticipated from Google and other fiber installations in the area. The Town of Cary is currently doing research and will likely propose the development of a fee structure to recover costs associated with their Right of Way Encroachment program.

Chapel Hill, NC – The Town of Chapel Hill does not charge permit fees for utilities in the public right of way. Fees are waived for franchise utilities, with the exception of fees charged by the Street Division. Fees for open pit/trench are charged per square yard of street or right of way impact. There are no separate inspection fees.

Issues and Analysis

Prior to 2006, no fees were charged in the City of Durham for utilities installed by private companies in the public rights of way. The lack of oversight, dedicated staff, and increasing volume of private utility work resulted in damage to various public utilities and infrastructure throughout the City. In 2006, the Public Works Department developed a new initiative based on the volume of work at the time, and created the Private Utility Permitting Program. The program implemented a \$0.25 per linear foot plus a \$40.00 right of way permit fee. For the first two years of the program, the private utility companies continued to work in the public rights of way, completing the permit process but refusing to pay the new permit fees when billed. In 2008 the fee schedule was revisited, prompted by requests from the City of Durham to the various utility companies for payment of the past due bills. The utility industry joined forces with local developers on the matter and proposed a tiered fee schedule, which after many months of additional conversation eventually became the current Private Utility fee schedule (below) adopted in June 2010.

<i>Current Private Utility Permit Fee Schedule</i>	
<i>Tiered Schedule (in linear feet of installation)*</i>	<i>Fee Structure</i>
200 feet or less	\$50
Over 200 feet, up to 1,000 feet	\$120
Over 1,000 feet, up to 5,000 feet	\$460
Over 5,000 feet, Calculate per above rates	Additive for above rates (ex. 5,150 lf = \$510)

With the announcement of multiple large fiber builds in early 2015, the City of Durham engaged the services of a private consultant to provide temporary staff to support the explosion of work in the private utility program. In order to support the costs associated with the program, the Public Works Department is assessing the relevant fee structures in this agenda item.

The Public Works Department has reviewed the historic and future workload information provided by private utilities. Utilizing this information with staffing requirements needed to fulfill existing workloads and the costs associated with existing staff and proposed consultant fees, Public Works has developed the following options for cost recovery and re-inspection fees.

Proposed Base Permitting and Inspection Fees

Cost Recovery	Permit Fee (Per Installation)		Inspection (Per Installation)
	Base Fee	Fee per Linear Foot	Linear Foot
50%	\$200	\$0.025	\$0.100
75%	\$250	\$0.030	\$0.170
100%	\$300	\$0.035	\$0.230

Proposed Re-inspection and Failure to Permit Fees

The Public Works Department recommends the following fees to deal with poor quality repair and restoration work done by contractors as well as work done without appropriate permits.

Type of Fee	Fee	Comments
*Re-inspection	\$325	Will be charged for each instance for re-inspection of work where contractors fail to restore right of way per City Standards
*Work without Permit	3 times the calculated standard fee above	Will be charged for when an applicant completes work without appropriate permits and payment of fees.

** Public Works recommends that City Council grant the Public Works Director or Designee the right to grant an exception for extenuating circumstances (example: emergency work).*

Based on the suggested fees above (not including re-inspection or work without permit fees), Public Works has estimated the following revenues based on existing fee structures and proposed Cost Recovery. The estimated revenues below are composite totals for all of the private utilities that we currently have doing work in the area. The anticipated changes of the cost recovery on a specific private entity will depend on the type of work and amount of installation performed. For estimated charges on existing individual private entities please see the staff report and presentation.

Projected Revenues at the Existing Fee and Proposed Cost Recovery

Revenue Projection Year	Existing Fee Structure	Cost Recovery			Comments
		50%	75%	100%	
*2014	\$114,420	\$243,116	\$324,515	\$401,201	Projected Revenues prior to the large fiber installations with historical permitting information
**2015	\$325,190	\$590,015	\$853,654	\$1,090,748	Includes the large fiber installations projections (see note below)
2016	\$392,648	\$692,083	\$996,419	\$1,280,253	Includes the large fiber installations projections

**(Note: Year 2014 is shown to give a perspective of what revenues would be in a normal year absent large project installations)*

****(Note: Yearly revenue projections will be reduced approximately 8% to 12% for each month that fee changes are not enacted as permit requests are currently in process.)*

Alternatives

City Council can choose from the following alternatives:

- 1) Direct staff to utilize a different percentage of cost recovery.
- 2) Keep the current rates and not pursue additional revenue.

Financial Impact

The Financial Impact to the City of Durham is as follows:

- 1) 2 Year Consultant Contract Location Staff Costs (these costs are not recoverable per General Statutes): \$769,950
- 2) In addition to item 1 above, the financial impacts of each cost recovery item are stipulated in the table below.

(Note that the financial impact in the table below to the City is based off the staff costs plus the 2 year consultant contract of \$1,630,050):

Revenue Projection Year	No Change to existing fee	Cost Recovery		
		50%	75%	100%
Potential Financial Impacts to City of Durham in 2015 and 2016*	\$1,627,836	\$1,063,576	\$495,601	No Cost

**(Note: The revenue projections for these years will be reduced approximately 8% to 12% for each month that fee changes are not enacted as permit requests are currently in process which will increase financial impacts for Cost Recovery Scenarios)*

SDBE Summary

The SDBE Summary section is not applicable for this update.