



Date: January 5, 2016

To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Marvin G. Williams, Director of Public Works
Subject: Presentation on Proposed Fee Revisions for the Underground Utility Permit Program

Executive Summary

The Department of Public Works proposes to revise fees for Underground Utility Installations in public rights of ways. The fees are for the review, permitting, and inspections of the installation of private underground utilities and related appurtenances. The attached presentation discusses the costs for the existing staff resources for these functions and the costs for the additional consulting staffing resources to compensate for the large backbone installation of fiber services.

The fee recommendations are based on historical data and per hour rates to perform specific tasks associated with the private utility permit program. These recommendations take into consideration feedback from representatives of the various private utility companies.

Recommendation

To receive a Presentation on Proposed Fee Revisions for the Underground Utility Permit Program.

Background

Since 2011, the private utility permit program has seen an increase in both the number of permits and lengths 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 almost triple the 2011 number of permits in 2015 as demonstrated by 2015 actual data (1079 Permits – excluding large fiber permits installations).

At Council's direction, in June 2015 the Department of Public Works began to develop options for revised fees associated with the administration of the program to recover up to 100 percent of the cost. 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. After these discussions a new presentation was shared with Council at the October 8, 2015 work session. Following the October work session, additional meetings were held with the Chamber and utility representatives in October and December of 2015.

During the December 3, 2015 meeting, staff shared a revised methodology with the utility companies representatives that further refined the proposed fees and allowed for the use of 2015 actual data that included longer fiber installations. This new methodology made it easier to discuss the proposed fees based on hourly rates to perform specific functions of the utility program. The new fee structure was tiered, proposing different cost for utility installations greater than one mile in length. Staff again met with utility reps on December 15, 2015, for a working meeting to analyze the data and assumptions at a more granular level.

Throughout this process, the utility companies have been encouraged to submit an alternate fee proposal for staff to review. The private utility company proposal submitted to date has been a recommendation for an increase of 20% in the current fee structure. During the December 15th, 2015 meeting the utility representatives indicated that a response to staff proposals may be presented to staff for review in mid-January of 2016.

The steady increase of work in the right of way has created a burden on available staff; and the impact of the broadband fiber installations, with a heavy presence in residential areas, continues to impact multiple City departments. The high speed fiber installation crews that are currently working the Durham area generate daily calls from the motorists and citizens impacted by these worksites. The scale and intensity of the work has had significant impacts on Public Works staff workloads, and a great deal of administrative time and attention has been needed to address serious performance issues on the part of the contractors and their subcontractors.

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. 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 a 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 (see attachment A) adopted in June 2010.

The Public Works Department has reviewed historic data and future workload information provided by private utilities. Utilizing this information with 2015 actual data, staffing requirements needed to fulfill existing workloads, and the costs associated with existing staff and proposed consultant fees, Public Works has developed the following structure that provides for 100% cost recovery and fees for re-inspection and work without permits.

Proposed Permitting and Inspection Fees

<i>Permit Fee (Per Installation)</i>		
Tier	<i>Base Fee</i>	<i>Fee per Linear Foot (Permitting and Inspections)</i>
1 (5,280 feet or less)	\$300	\$0.16
2 (Greater than 5,280 feet)	\$300	\$0.40

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.

<i>Type of Fee</i>	<i>Fee</i>	<i>Comments</i>
*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.
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**Fee shall be applied to each re-inspection of work performed pursuant to a permit issued for the installation of private utilities.*

***Public Works Director or Designee shall have the right to waive the fee down to the calculated fee in 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 are currently doing work in the Durham area. The anticipated changes of the cost recovery on a specific private entity will depend on the type of work and amount of installation they perform.

Projected Revenues at the Existing Fee and Proposed Cost Recovery

<i>Revenue Projection Year</i>	<i>Existing Fee Structure</i>	<i>100%</i>	<i>Comments</i>
*2014	\$114,420	\$351,712	Projected Revenues prior to the large fiber installations with historical permitting information
2015	\$332,970	\$1,327,050	Projected Revenues with 404.5 miles of large fiber installations permitted using historical permitting information
**2016	\$704,292	\$3,255,870	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 cost recovery rate.
- 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.

Revenue Projection Year	No Change to existing fee	100%
Potential Financial Impacts to City of Durham in 2016*	\$2,551,578**	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)*

****** Potential Revenue for 2016 proposed fee structure minus the potential 2016 revenue from the current fee structure.

SDBE Summary

The SDBE Summary section is not applicable for this update.