

DATE ISSUED: April 29, 2003

REPORT NO. 03-089

ATTENTION: Rules, Finance and Intergovernmental Relations Committee
Agenda of May 7, 2003

SUBJECT: Utility Trenches in City Streets

REFERENCES: Manager's Report No. 96-14
Manager's Report No. 96-88
Manager's Report No. 99-182
Manager's Report No. 00-32
Manager's Report No. 01-271

SUMMARY:

Issue: Should the Committee forward to City Council for approval the attached draft ordinance amending the Municipal Code to provide for utility trench cut limitations, excavation fees and related matters?

Manager's Recommendation: Forward to City Council for approval the attached draft ordinance amending the Municipal Code to provide for utility trench cut limitations, excavation fees and related matters.

Other Recommendation: None.

Fiscal Impact: None. The City complies with the language in the draft ordinance as we have in place a policy to resurface streets on our utility projects.

BACKGROUND

In December of 2001 the Land Use and Housing Committee considered a proposed ordinance which, in summary, would create a policy in which 1) an entity that trenches a City street that has not completed its service life would have to either pay an excavation fee, resurface the street, or provide the City with a warranty for the street and 2) enact a trenching moratorium in which any entity would be prohibited from trenching a street within three years of the street being constructed or re-surfaced (overlaid with asphalt or slurry sealed).

While the LU&H Committee approved of the ordinance for forwarding to the full City Council; it was later requested that it not be considered until after Franchise Agreement negotiations were completed as was done recently.

DISCUSSION

Because of community concerns with how some utility companies were trenching City streets without regard for the integrity of the street, adjacent private property, and the neighborhoods in which some of the work was occurring, the City Council directed staff to prepare a draft ordinance that would assist in regulating this work. To support such an ordinance, City staff completed a detailed study on how trenches effect the service life of a street as well as had numerous meetings with companies that have a need to excavate City streets. At completion, this study proved that there were negative impacts to the service life of City street and provided a nexus for the City to be able to create an excavation fee to compensate the City for this impact. After meeting with the industry, it was agreed that the fee could be waived if the company doing the excavation work resurfaced the street curb-to-curb, (similar to what the City does on its water and sewer projects) or provide the City with a warranty for their street work that satisfies both the City Manager and the City Attorney. Additionally, it was agreed that, except in case of emergency work only authorized by the City Engineer, that trenching would not be allowed within three years of a street being resurfaced. It was, and still is, believed that any utility company should be able to coordinate its work so as to avoid interfering with recent resurfacing.

Since the time of the ordinance satisfying the LU&H Committee, City staff has instituted the three-year moratorium administratively. Having this requirement codified will provide for our being able to enforce it.

It should be noted that the problem that created the need for the ordinance was, for the most part, caused by companies in a rush to install fiber optic capabilities. In large part these companies have either completed their work or no longer exist. The City Manager still recommends the approval of the ordinance so that staff is able to maintain the integrity of the City's streets.

Respectfully submitted,

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Director
Engineering and Capital Projects

George I. Loveland
Senior Deputy City Manager

Attachment: [Ordinance O-2003-128](#)