



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: 5.c

Title:

Status of AT&T Pole Attachment Agreement – Information Only

Presenter:

T. Bruhl

Meeting: Government Services Committee

Date: August 22, 2016

Proposed Cost: \$NA

Budgeted Amount: \$NA

Not Budgeted:

Executive Summary (if not budgeted please explain):

The City and AT&T had entered into a rental agreement in 1984 that allowed AT&T to connect their cables to City owned poles. Among other things, the agreement defined the calculation of annual rental attachment fees and a timeframe for AT&T to transfer their cables to a new pole when the City replaces a pole. The City exercised its right to terminate the agreement for cause after AT&T failed to comply with requirements to perform timely pole transfers.

City Staff and AT&T have productively negotiated revised agreement language around the three areas where we feel the terms require improvement, but are currently deadlocked.

On annual attachment fees, the City and AT&T cannot agree on a calculation method. The main issue appears to be whether labor to install a pole is added into the “bare pole” baseline number. The City calculates the annual rate, using the formula in the old agreement to approximately \$41/pole/year. AT&T calculates the number to be \$2.55/pole/year. The rate in 2014, supposedly using this formula, was \$13.50/pole/year. AT&T has offered \$10/pole/year. For comparison, the City entered into an agreement with ComEd in 2001 for this exact same rental for fiber optic cable that runs out to D303 schools, and it was based on \$26/pole/year with a 5% escalator, which is now \$51.01/pole/year. The City negotiated an agreement with Wide Open West in February of 2015 for \$26/pole/year with a 5% escalator. The City has requested a starting annual rental fee and an escalator % to make future year cost calculations easy.

With regard to the timeliness of pole transfers, the City and AT&T are relatively close on language. The main point of contention is the financial penalty for unauthorized attachments and abandoned poles.

The biggest hurdle appears to be cooperation on overhead to underground projects. The City continues to assert that the City owns the pole and we shouldn’t have to provide a “rent to own” option. If the City wants the pole that we own to go away, we should be able to facilitate such without having to pay AT&T relocation project costs.

Staff seeks Council direction as to whether to continue to work with AT&T to come up with acceptable terms for a successor agreement, or direction to take a more assertive legal stance.

There are a significant number of poles that have been replaced since the agreement was terminated and resolution of the stalemate in a timely fashion is desirable.

Attachments (please list):

None.

Recommendation/Suggested Action (briefly explain):

None – for information only.