



Board Summary Report

Date: Date Submitted to the Commissioners' Office October 15, 2020

To: Board of County Commissioners

Through: Bryan Weimer, Department Director

Through: James Katzer, Division Manager

Through: Cathleen Valencia, CIP Manager

From: Dan Wiseheart, CIP Engineer

Subject: Discussion of Utility Relocate Policy Update

Direction/Information:

Following previous BOCC concurrence for the Public Works and Development Department (PWD) to revise the Administrative Procedure 87-5 (Utility Relocation Policy), adopted under Resolution number 108-89, PWD is seeking BOCC direction regarding:

- 1) An initial evaluation of the possible alternatives shown herein, and
- 2) The extent of public involvement for receiving comments on the draft of the revised policy.

With BOCC feedback, a draft of the revised policy would be circulated to County staff for review and comment. Then, PWD staff would present the draft at the Quarterly Utility Coordination Meeting in November. PWD would follow the Coordination meeting with distributing the draft policy publically for review and comment.

Request and Recommendation

The Transportation Division recommends soliciting comments from Utility Providers located within Arapahoe County and Providers whose facilities enter into, or cross through, Arapahoe County.

Background

In 1989, a resolution was written that, despite common law and provided there was advance coordination as specified in the resolution, placed financial responsibility on the County for costs associated with relocating water and sanitary district facilities within County Right-of-Way (ROW), when such a relocation was required due solely to a conflict between the water or sewer lines and the proposed new infrastructure required by a County project. At that time, the special districts were concerned with limited revenue raising capabilities to bear the cost of relocating their facilities.

For reference, the following is the mill levy assessed in 2020 for water and sanitation districts in the County as compared to the Road and Bridge and Capital Expenditure Funds. These mill levies received yearly by these districts is in addition to monthly payments made by those within the district.

<u>District</u>	<u>Mill Levy</u>
Arapahoe Water and Wastewater	12.575
Byers Water and Sanitation	0.00
Castlewood Water and Sanitation A	0.815
Castlewood Water & Sanitation	0.564
Cherry Creek Valley Water & Sanitation District	0.00
East Cherry Creek Valley Water and Sanitation	4.075
Havana Water and Sanitation	4.066
Hi-Lin Water and Sanitation	2.037
Holly Hills Water and Sanitation	2.716
Inverness Water and Sanitation	4.50
Sheridan Sanitation #2A	0.425
South Englewood Sanitation #1A	0.00
Southeast Englewood Water	0.00
Valley Sanitation	2.372
Road and Bridge	0.481
Capital Expenditure	0.378

Pursuant to direction from a BOCC 2019 study session, PWD is reviewing and evaluating the County’s existing Utility Relocation Policy, as well as current common practices of similar policies. Specifically:

1. Reviewing and evaluating the extent of the financial obligations imposed on the County,
2. Compiling and reviewing recent costs incurred due to the existing policy,
3. Examining the contents of policies neighboring jurisdictions have in place,
4. Evaluating what type of new policy would be best for the County.

Notes from the BOCC study session in 2019 are attached

Links to Align Arapahoe

Fiscal Responsibility

The County is spending money for the betterment of the County with the Public Works and Development Capital Improvement Program (CIP), but has been burdened by the extra cost of relocating Water and Sewer facilities within the ROW. By permit, these facilities were allowed to use the County ROW without hindering County operations within the ROW. By revisiting the existing policy, the County could maximize the use of its Capital Improvement dollars.

However, the County is bearing additional burden for costs associated with relocating Water and Sanitary facilities within ROW when those facilities conflict with proposed Capital Improvement Projects. Through the evaluation of the alternatives, PWD is demonstrating fiscal responsibility to ensure County money is spent appropriately and responsibly.

Discussion

There are elements of Administrative Procedure 87-5 that are still valid and bring value to the County and the Water and Sanitation districts that serve our citizens, but in the same vein the procedure is over 30-years old and needs be reexamined to ensure the County is protected and in alignment with best practices. Over the years, the policy has added over \$1M to County Capital projects, and the County must continue to find ways to maximize the usage of its Capital dollars.

As part of the reexamination process an informal survey of surrounding local agencies was conducted to determine what was, or if there was, a local best/typical/standard practice. While there were some variances amongst existing policies, no local governing agency had a policy similar to Arapahoe County that covers the entire cost of a utility relocation.

Existing policies fell into one of three general categories:

1. The Utility Provider does not pay for relocations. (Arapahoe County Water and Sanitary Districts)
2. The Utility Provider bears the cost of relocations. (Colorado DOT, Adams County, Douglas County, City and County of Denver)
3. The Utility Provider and municipality share the costs of relocation based on pre-established system (Jefferson County, projects with Federal Money)

In the years since this policy was enacted, Arapahoe County Public Works has spent an estimated \$1 million to assist Water and Sanitary districts within the County from being overburdened, which benefitted both the Utility Provider and the County citizens being serviced. However, since the inception of the Policy the population of the County has grown significantly and the revenue raising capacity of the Policy benefitting districts has correspondingly also grown.

Believing Utility Providers are now capable of bearing costs associated with utility relocations Arapahoe County PWD staff and County Attorney are reviewing and evaluating the alternatives shown below for a best practice path going forward. To note: the alternatives parallel the general categories found in the informal survey.

PWD is requesting BOCC feedback on which alternative to pursue.

With BOCC recommendation(s), PWD would draft a new Utility Relocation Policy. The draft Policy would be circulated internally to PWD staff and County Attorney for review and comments. Once updated, PWD would schedule a BOCC study session to present to the Board, then, with BOCC support, the Policy would be made available for public review and comments. Final comments would be addressed and PWD would return to the BOCC for Policy approval.

Alternatives

The Transportation Division is currently evaluating three possible alternatives to the current Water and Sewer Utility Relocation Policy. Evaluation of which alternative to pursue will be based on consensus from internal discussions within PWD, discussion/review with County Attorney, and BOCC recommendations.

Alternative #1 – No Policy change

Continue to follow 1989 resolution and have County pay for Sanitary and Water facility relocations that conflict with CIP projects. It should be noted that there have been instances where the districts have required extremely conservative relocation policies* (see Example / Case Study below) resulting in substantial additional costs to the County, for replacement of extremely old water main infrastructure.

	Pro	Con
County Viewpoint	No additional administrative work necessary. Water and sanitation districts would likely agree to status quo.	Will continue to add cost to County Capital projects. Could delay County projects until funds are available.
Utility Provider View Point	No costs incurred by provider for relocations.	None

***Example / Case Study** – Recently, one water district in Arapahoe County required that water main relocation efforts be performed using only pipe deflections and not pipe elbows, pipe restraints, and/or thrust blocks (the use of which is allowed under current industry standards). The use of deflections, at an angle much less than the manufacturer allowed deflection angle, resulted in a much higher quantity of pipe being replaced, as well as additional excavation, labor, backfill, and restoration efforts. All of these additional costs were borne by the County. Additionally, the pipe was many years old and possibly at the end of its service life, i.e., fully depreciated.

Alternative #2 – Require the Individual Utility Providers to Relocate Facilities

Rescind the 1989 resolution and rely on the common law which places the burden of utility relocations on the individual utility owner. The theory behind that long-standing system stems from the thought that the utilities are being granted *conditional* access to place their facilities in the ROW. That condition being, specifically, access is granted as long as those facilities do not interfere with the operation of the ROW as it is being used by the municipality that owns it. As such, it is the utility’s responsibility to relocate their facilities as needed.

	Pro	Con
County Viewpoint	Would save County Capital dollars and allow projects to proceed in a timely manner. Would require better coordination with Utility providers regarding future project plans and require both agencies to plan accordingly.	Water and sanitation districts may resist change. May need to be phased-in to allow water and sanitation districts to plan and budget accordingly. County recourse actions would need to be explored regarding districts’ inability to pay for relocations.
Utility Provider View Point	Policy would be similar to surrounding jurisdictions.	Increased costs for the relocations.

Alternative #3 – Require the Individual Utilities to Relocate Facilities but share in the cost

Rescind the 1989 resolution and adopt an alternative resolution and policy that would place the majority of burden on the individual utility, but would see the County contributing on a pro-rata/depreciated cost basis. The cost basis is yet to be determined, but would be based on efforts that:

- 1) Meet, or exceed, current construction industry standard procedures and policies, and
- 2) Meet, or exceed, specific product minimum standards, and

- 3) Meet, or exceed, minimum utility separation and crossing standards, and
- 4) Minimize disturbance of the existing facilities* See Example / Case Study (above).

The County’s share of the construction costs would be based on an evaluation of the facilities needing relocation, including, but not limited to: straight-line depreciation value (based on an appropriate service life) of the facilities, installation date of facilities, and condition of the facilities.

The costs the County would not be responsible for include:

- 1) Construction efforts outside the minimal disturbance requirements/area, or
- 2) Replacing any facilities at, or beyond, their expected service life, or
- 3) Facilities found whose existing condition requires replacement for any reason—except damage incurred while uncovering said facilities.

	Pro	Con
County Viewpoint	<p>Would save County Capital dollars and allow projects to proceed in a timely manner.</p> <p>Would require better coordination with Utility providers regarding future project plans and require both agencies to plan accordingly.</p> <p>Would encourage a team approach to solving conflicts, as both parties would have a cost share.</p> <p>Would still require the County to pay for the direct impact, but minimize the County paying for the replacement of aged infrastructure beyond the immediate project conflict.</p>	<p>Water and sanitation districts may resist change.</p> <p>May need to be phased-in to allow water and sanitation districts to plan and budget accordingly.</p> <p>County recourse actions would need to be explored regarding districts inability to share costs related to relocations.</p> <p>Challenge in determining and agreeing to cost sharing</p>
Utility Provider View Point	Policy would be similar to surrounding jurisdictions.	Increased costs for the relocations.

Fiscal Impact

Fiscal impacts of replacing the existing resolution boil down to shifting cost responsibility away from the County in part, or entirely.

For reference, below is a list of some of the major projects completed by the CIP Program over the past several years that have encountered additional costs due to the water and sanitary district relocations. These projects included relocation of either water or sanitary lines at the County’s expense per the Administrative Procedure 87-5 (Utility Relocation Policy).

<u>Road</u>	<u>District</u>	<u>Length</u>	<u>Cost</u>
Jordan Road	ACWWA	8000 feet	\$ 575,000
Easter Avenue	ACWWA	1575 feet	\$ 124,000
Arapahoe / Quebec	Willows/Southgate	Adjustments	\$ 21,000
Arapahoe Road	Aurora W/S	Adjustments	\$ 9,300
Broncos Parkway	ACWWA	Adjustments	\$ 9,800
Beeler Street	CCVWSD	Adjustments	\$ 14,000
Chambers Road	ACWWA	1700 feet	\$ 205,000
Iliff Avenue at Highline	CCVWSD	270 feet	\$ 55,000
Total			\$1,013,100

A change in policy would primarily affect Capital Improvement Program projects in the Transportation Division of Public Works and Development, however other divisions, like Road and Bridge or Engineering Services would be indirectly affected. Public Works and Development Staff support revising the Utility Relocation Policy.

Additionally, the 42 water and sanitary districts located within Arapahoe County would incur additional expenses if projects arose that necessitated facility relocations.

Attorney Comments

County Attorney has reviewed this Board Summary Report, and will review the proposed policy so that it can be distributed at the Quarterly Utility Coordination meeting in November.

Attachments:

- #1 - 1989 Policy
- #2 - 2019 BoCC Study Session Notes
- #3 – 2019 Presentation Materials
- #4 - 2020 Utility Relocation Presentation

Reviewed By:

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