

COUNTY OF SAN MATEO

Inter-Departmental Correspondence

Date: September 20, 2001
Board Meeting Date: October 2, 2001

TO: Honorable Board of Supervisors
FROM: Neil R. Cullen, Director of Public Works
SUBJECT: Sewer Lateral Encroachments in County Maintained Roads - County Wide

RECOMMENDATION

Adopt a resolution:

- 1. determining that all sanitary sewer laterals - the sewer line that connects the property plumbing to the sewer main - where such sewer laterals are located within County roads proposed for reconstruction are, for the purpose of the reconstruction project, encroachments that may need to be removed or relocated; and
2. directing the Director of Pubic Works to give notice to the property owners:
a) that said encroachment may need to be relocated; and
b) that the County will relocate said encroachment, if relocation is necessary, at the expense of the property owner as provided by Section 1480 et. seq. of the Streets and Highways Code.

Previous Board Action

Authorized the Department of Public Works to proceed with plans and specifications for road reconstruction projects.

Key Facts

- 1. Section 1480 of the Streets and Highways Code defines an encroachment in a county highway as any structure or object of any kind placed in, under or over any county highway. County Counsel has confirmed that sanitary sewer laterals are encroachments as defined by Section 1480.
2. Our past reconstruction work in the West Menlo Park area required the relocation of sanitary sewer laterals that were too shallow. The West Bay Sanitary District (West Bay), the sanitary sewer provider serving this area, which had previously paid for or relocated these laterals, notified us during our most recent project that they do not take responsibility for individual sewer laterals if the lateral does not meet West Bay's standards.

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3. We have found that other sanitary sewer service providers either do not take responsibility for property laterals that are located in the street, or only assume limited responsibility. Therefore we need some method to expeditiously have sanitary sewer laterals that conflict with our work relocated, in order to avoid the additional cost of claims for delays that can occur if work on a project has to stop while the owner of the sewer lateral decides how they will relocate their facilities. The exact location of sewer laterals, as with other underground utility lines, are unknown at the time of contract award.
4. We believe that providing notices at the beginning of a project that conforms to the provisions of Section 1480 et. seq. of the Streets and Highways Code provides the required notice and will allow us to expeditiously relocate the laterals and be reimbursed for the costs of relocating these encroachments that must remain in the public road.

Discussion

Generally, utility providers distribute a commodity or service to private property and the termination of the provider's maintenance of the facilities is usually at a meter located either at the property line or on the structure (i.e., at the gas or electric meter on the structure, the water meter at the property line, the cable TV service box at the property line, the junction box on the structure for telephone). Our experience has been that these utility providers take responsibility for the service connections to private property and relocate these service connections as necessary in conjunction with road reconstruction projects.

However, sewer service providers, in contrast to the other utilities, are not providing a commodity but are collecting waste from private property, and we have found that the sewer service providers have different policies or are changing their policies as to where their services begin (i.e., at the property line, at the sewer cleanout or at the connection to the sewer main in the street or easement).

Our experience with West Bay in the West Menlo Park area is an example of changing policies. We previously contacted West Bay when there were conflicts with sewer laterals, had the necessary work done on the laterals to avoid delay claims, and billed West Bay for the work. West Bay has now rejected the cost of the work on laterals that they consider to be nonstandard. We have not pursued charging the individuals property owners for this work as we believe property owners can reasonably argue that we did not meet the notice provisions of Section 1480 et. seq. of the Streets and Highways Code in order to give them time to have any necessary work done. In addition, we believe the cost of the delay claim that would have occurred if we stopped the contractor's work while we provided the necessary notices, would have resulted in additional costs to the project that exceeded the cost of the lateral relocation work.

We are moving forward with other reconstruction projects and are concerned that sewer laterals may be a significant problem in some of the other areas of the County, especially in the MidCoast, as it is our understanding that the older sewer laterals may not have been installed to a sufficient depth. We are recommending that your Board authorize the Department to send letters to owners with property adjacent to a road proposed to be reconstructed notifying them that their property sewer lateral is an encroachment in the County road; that the lateral may have to be relocated to facilitate construction; if it is necessary to relocate the lateral that we will have the

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work done and bill the property owner for the work. We will also notify the property owner that they may want to determine the location of their lateral relative to the proposed construction and make any adjustments that may be necessary prior to our work, or contact their sewer service provider to determine if the sewer service agency will take responsibility for their lateral or reimburse the property owner for any costs that they may incur.

Other options are to require the property owners to uncover the lateral prior to our contracting for the work to insure there are no conflicts, or deferring proposed roadwork in an area until there is a consensus as to how lateral work will be financed.

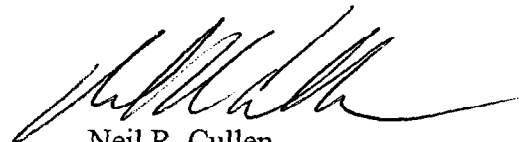
However, we believe that the recommended procedure is a fair and equitable way of providing for the relocation of the sewer laterals that are encroachments in the public road as the property owner will only incur costs if there is a conflict, and if the sewer agency does not maintain the lateral on the property owner's behalf.

Fiscal Impact

There is no direct fiscal impact by your Board adopting the procedures as recommended. There are costs associated with relocating a sewer lateral that will have to be paid for either by the property owner directly or through their sewer service charges if the sewer agency decides to pay for necessary relocations; or by the 1/2 Cent Fund or Roadway Mitigation Funds if your Board determines that the cost of relocating laterals should be paid for as part of a project cost. However, other utilities may argue that their costs of relocating facilities should also be considered as a project cost if sewer lateral costs are determine to be a project cost.

There is no impact to the General Fund.

A form of resolution has been approved by County Counsel.



Neil R. Cullen
Director of Public Works

NRC:sdd

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cc: Milt Mares, County Counsel
West Bay Sanitary District
Granada Sanitary District
Montara Sanitary District
Fair Oaks Sewer Maintenance District

Resolution No. _____

Board of Supervisors, County of San Mateo, State of California

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Resolution Determining that Sanitary Sewer Laterals Located within County Roads Proposed for Reconstruction are Encroachments That May Need to be Removed or Relocated, and Directing the Director of Public Works to Give Notice to the Property Owners that the County Will Relocate Said Encroachments if Necessary at the Expense of the Property Owner as Provided by Section 1480 et. seq. of the Streets and Highways Code

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the Department of Public Works has encountered sanitary sewer laterals that were required to be relocated to accommodate road reconstruction work within public rights-of-ways; and

WHEREAS, sewer service providers in various areas of the County have different policies with regards to their responsibility for the maintenance and relocation of sanitary sewer laterals; and

WHEREAS, Section 1480 of the Streets and Highways Code defines an encroachment in a county highway as any structure or object of any kind placed in, under or over any county highway; and

WHEREAS, a sanitary sewer lateral is an encroachment in the public rights-of-way as defined by Section 1480 of the Streets and Highways Code; and

WHEREAS, the County can incur additional costs if work on County highways needs to be halted while a property owner determines if a sewer service provider or if the property owner is responsible for the relocation of a sanitary sewer lateral that needs to be relocated; and

WHEREAS, Section 1485 et. seq. of the Streets and Highways Code provides that the County Road Commissioner may remove an encroachment from the public right-of-way after giving five (5) days notice to the owner or occupant of the land owning or controlling the encroachment, and recover said costs from said owner pursuant to an action brought in the name of the county for that purpose; and

WHEREAS, the Director of Public Works has recommended that a notice be sent prior to commencing work on a County road in order to provide a mechanism to expeditiously relocate sewer laterals that are required to be relocated to facilitate road reconstruction and to provide for the reimbursement of costs of relocating said encroachments that must remain in the public road; and

WHEREAS, this Board has considered the recommendation of the Director of Public Works.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that:

1. all sanitary sewer laterals where such sewer laterals are located within County roads proposed for reconstruction are encroachments that may need to be removed or relocated to facilitate road reconstruction.

2. the Director of Public Works is hereby directed to give notice to the owners of property adjacent to a road that is proposed for reconstruction and where the sewer lateral serving said properties are located within the public right-of-way that:

a) the sewer laterals serving said properties are encroachments in the public right-of-way and may need to be relocated to facilitate said construction; and

b) the County will relocate said encroachment, if relocation is necessary, at the expense of the property owner as provided by Section 1485 et. seq. of the Streets and Highways Code.

3. the Director of Public Works is further directed to advise the property owner that they may want to verify the depth of their lateral; do any relocation work in advance of said road reconstruction; or contact their sewer service provider to ascertain if the sewer service provider will relocate said lateral or reimburse the property owner for any costs incurred associated with the relocation of said lateral.

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