

(passed 6-3 Ruff call 2011)

RESOLUTION 03-28

TO ADOPT POLICIES FOR THE BLOOMINGTON DIGITAL UNDERGROUND

WHEREAS, the City has made a substantial investment in fiber optic assets in its public rights-of-way as part of the "Bloomington Digital Underground" program; and

WHEREAS, the stated goals of the program are (a) providing for the City's telecommunications needs, (b) protecting the City's investments in its rights-of-way and its visual attractiveness, and (c) lowering the barriers of entry for competitive telecommunications providers; and

WHEREAS, it is intended that some of the City's fiber optic assets will be made available for use by non-governmental entities; and

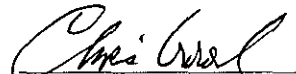
WHEREAS, it is important to have clear policies on how the City's fiber optic assets shall be used, operated, and managed;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

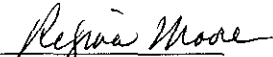
SECTION I. The attached set of policies shall govern the use, operations, and management of the fiber optic assets owned by the City of Bloomington. Section 3 of the policies, regarding governance of the Bloomington Digital Underground, shall be reviewed by the Common Council within one year after adoption of this resolution and after the C.I.O. has filed a report on the activities of the advisory committee with the Council Office.

SECTION II. This resolution shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval by the Mayor.

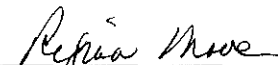
PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 15 day of October, 2003.


CHRIS GAAL, President
Bloomington Common Council

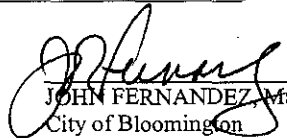
ATTEST:


REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 16th day of October, 2003.


REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 16th day of October, 2003.


JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This resolution adopts a set of policies that govern the use, operations, and management of the fiber optic assets owned by the City of Bloomington.

Note: On October 15, 2003 the Council adopted Am 01, which added the second sentence to Section 1 and requires the Council to review Section 3 of the policies within one year of the adoption of this resolution.

Signed copies to:
Reynold(5) CA/CA(2) PW
controller file telecom commie
ITS clerk

Policies for Bloomington Digital Underground

The Bloomington Digital Underground is a comprehensive program of the City of Bloomington to encourage the installation of fiber optic cable throughout the city. As part of this program, the City of Bloomington has installed, and will continue to install, City-owned fiber optic assets in the public rights-of-way. The following set of policies shall govern the use, operations, and management of the fiber optic assets owned by the City of Bloomington.

Section 1. General Principles.

Section 1.1. The goals of the Bloomington Digital Underground program are the following:

- (a) providing for the City's telecommunication needs;
- (b) protecting the City's investments in its rights-of-way and its visual attractiveness; and
- (c) lowering the barriers of entry for competitive telecommunications providers.

Section 1.2. The City shall not use its fiber optic assets to provide telecommunications services to end users. The City, however, may use its fiber optic assets for its own communications network.

Section 1.3. The City shall strive to make its fiber optic assets available to telecommunications providers on equal terms. To the greatest extent possible, the City shall remain a neutral party, maintaining a neutral playing field on which telecommunications providers can compete on equal terms.

Section 2. Definitions.

Section 2.1. The term "end user" shall mean any person to whom telecommunications services are provided, and who are not in the business of providing telecommunications services to other persons.

Section 2.2. The term "fiber optic assets" shall include the following:

- (a) fiber optic conduit installed in the public rights-of-way;
- (b) fiber optic cable installed in the public rights-of-way;
- (c) manholes and handholds installed in the public rights-of-way; and
- (d) splicing trays, fiber termination racks, and other peripheral equipment used to manage dark fiber.

Section 2.3. The term "telecommunications" shall mean the electronic transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received.

Section 2.4. The term "telecommunications provider" shall mean any person in the business of providing telecommunications services, including, but not limited to, local exchange carriers, internet service providers, and providers of dark fiber.

Section 2.5. The term “telecommunications service” shall mean making telecommunications available to the public for a fee.

Section 3. Governance.

Section 3.1. The City’s fiber optic assets shall be managed by the Board of Public Works. The Board of Public Works shall create a standing advisory committee to provide advice and recommendations on the usage, pricing, and management of the City’s fiber optic assets. The advisory committee shall consist of seven representatives from the business, technology, economic development, and Indiana University communities, and from not-for-profit groups serving a public, educational, or charitable interest.

Section 3.2. The Chief Information Officer, with assistance from the Controller’s Office, shall be responsible for keeping track of the total capital cost of the City’s fiber optic assets and the operating income and expenses for using the City’s fiber optic assets.

Section 3.3. Income generated from use of the City’s fiber optic assets, up to a maximum of one-hundred and twenty-five percent (125%) of the total amount previously appropriated from the infrastructure portion of the Telecommunications Non-Reverting Fund (“Telecom Fund”), shall be deposited in the infrastructure portion of the Telecom Fund.

Section 3.4. All expenses needed to use, operate, and manage the City’s fiber optic assets shall be funded primarily from the Telecom Fund and shall be approved by the Common Council during the regular budgeting process or through supplemental appropriations. However, such expenses may be paid from other funding sources as approved by the appropriate authorizing agency.

Section 3.5. The Chief Information Officer shall be responsible for managing the day-to-day operations of the City’s fiber optic assets. The Chief Information Officer shall use staff and resources from the Information & Technology Services Department as needed.

Section 3.6. The Engineering Department shall be responsible for managing all construction projects in which City-owned fiber optic assets will be installed, and for supervising the connections of City-owned fiber optic assets to fiber optic conduit and cable that is owned by entities other than the City of Bloomington.

Section 4: Usage

Section 4.1. Fiber optic assets shall be used first by the City of Bloomington for its own internal network. The City shall reserve a reasonable number of fiber optic conduit and fiber strands for its current and expected future needs.

Section 4.2. Based upon a recommendation from the Chief Information Officer, the Board of Public Works shall determine an appropriate amount of fiber optic conduit and fiber strands to make available to entities other than the City of Bloomington.

(a) The City shall make fiber optic conduit and fiber strands available directly to telecommunications providers and to dark fiber providers.

(b) The City shall not make fiber optic conduit and fiber strands available directly to end users, other than public entities, governmental units, and not-for-profit groups serving a public, educational, or charitable interest.

Section 4.3. The City shall make fiber optic conduit or fiber strands available to customers on an infeasible right to use (“IRU”) lease basis. Ownership of the fiber optic assets shall remain with the City.

Section 4.4. The Board of Public Works shall approve all contracts used in leasing fiber optic assets to customers.

Section 4.5. The Board of Public Works shall enact safeguards to ensure that no entity be allowed to lease the entire available infrastructure in an attempt to prevent competitors from using it. In deciding whether to make the City’s fiber optic assets available to a private entity, the Board of Public Works shall consider (a) the scarcity of unused fiber optic assets and (b) the purchaser’s immediate need for the amount of fiber optic assets requested.

Section 5: Pricing

Section 5.1. The Board of Public Works shall set, and the Common Council shall approve, rates for leasing the City’s fiber optic conduit and fiber strands. The Board of Public Works shall set, and the Common Council shall approve, one-time charges for all related services, such as fiber splices and manhole connections.

Section 5.2. In setting rates, the City shall try to achieve the following goals:

(a) Receiving a return on investment for its capital expenditures. The City’s return on investment shall include indirect (non-monetary) returns, such as the potential for economic growth.

(b) Recovering operating expenses for managing the fiber optic infrastructure.

(c) Encouraging utilization of the City’s fiber optic assets as an alternative to new fiber installation.

Rates should be set with an awareness of the market price for leasing of fiber optic conduit and fiber strands.

Section 6: Expansion

Section 6.1. The City shall take advantage of opportunities to install fiber optic conduit during City construction projects.