

Managing Utility Cuts:

A Roundtable Discussion on
How Connecticut Towns Coordinate Utility and
Contractor Excavations in the Public Right-of-Way

Summary of discussion held on November 14, 2007
as part of the Connecticut Road Scholar Certificate Program

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Every day utility cuts are dug and restored in cities and towns across the state. These operations, in public rights-of-way, require effective coordination between the utility companies and contractors and the municipal agencies. Important issues such as public safety, roadway preservation, riding comfort, cost-effectiveness and durability of the implemented reinstatement strategy must be taken into consideration. The following is documentation created from the discussions held during the *Roundtable Discussion on Utility Cuts* that was held on November 14, 2007 in Norwalk. More than 30 municipal representatives came together from 19 different agencies to share information on their experiences with utility cuts. The following are highlights from the discussion.

Bonding and Permits:

Most towns have a permit fee in place but there are many variations on how these fees are assessed. A spreadsheet indicating the participating towns' fee structures as well as other details of their programs is included in Appendix A.

Norwalk charges by the square yard. Their ordinance is very unique – penalties are based on condition of the road. They even charge an administrative fee – 15% - on top of contractor rate plus a 50% charge for a cut on a new road. They use a contractor to do permanent repairs and that work is bonded for 2 years. They have blanket permits that get renewed each year but also have the individual permits that are for two year periods.

New Haven brought up the point that bonds are important but relying solely on them is not a successful way of managing a program. Towns should have a high enough bond to guarantee catastrophe but shouldn't count on it as a way of getting things done. Enforcing a bond requires a great administrative effort. It is best to use other methods to guarantee quality control. In the event of an emergency, it could take more than a year to call a bond and depends on the severity of the issue. Another good idea is to restrict their opportunity to get future permits – can't get a future permit if current permit projects are under question.

Permits are required in New Haven's program and they also require that the contractor have a police officer for traffic control. It also allows utility contractors to do permanent repairs of cuts. Contractors must have their permit on site at all times. Non-utility contractors do temporary repairs and the city collects money from them up front to do restoration. Contractors must also do any repairs between the time a temporary restoration is done and the time the city can get the permanent repair completed.

Cash Deposits:

Is anyone requiring a cash deposit? If so, how much?

New Haven requires a cash deposit. They get \$600 for an average patch. They put all that money into an escrow account and use that pot of funds to do the permanent patch. If there is a higher cost for a certain patch, they can go back to the contractor to get more money but mostly it covers the cost. This program works in a city where they have 500-600 patches each year but it might not work for a small town. It has been in place for at least three years. They do not require it from the utility companies - only with individual contractors. They came up with this program to avoid the issues of contractors disappearing a year after and not being able to go after them for money to repair a bad patch. Their permits department handles everything. Public Works gets a report broken down by street from the permit office that includes street, original contractor and scope of project. They go out to bid yearly on the contractor to do the permanent repair.

Emergency Cuts:

Several towns are having issues with emergency cuts in that, although contractors are supposed to pull a permit within a day after the emergency, many do not and it is hard to track them afterwards. Both Ridgefield and Waterbury expressed concerns of this nature and asked the group how they handle such issues.

Greenwich has a fax/email system where utilities email or fax them to let them know where they are each day. Emergencies go through the police department and they forward the information on to the highway department to let them know what happened. They will issue a blanket permit to a utility for any emergency issues but if they are going to do a service related project – mains, etc – they come in for specific permit and have a meeting with highway officials to discuss specifications and expectations.

Most towns use the CBYD rules for what is an emergency....work has to be done within 24-28 hours and a permit must be drawn within 24-48 hours after the emergency.

Utility Companies and Subcontractors:

Plymouth is having an issue with subcontractors. The contractors performing the work say they are covered under utility company bonding and don't need a permit and the utility companies say the subcontractors are not covered and should have their own permits. How are other towns handling utility subcontracting issues?

New Haven– Utilities are required to pull a permit and are required to supply a list of cuts and what contractor is doing work.

Norwalk's regulations state that whoever applies for the permit has to have the bonding and insurance. The applicant is responsible for the project, regardless of who completes the work.

They have been meeting with utilities each month and have been doing some forecasting with them....”here is what we are going to be paving in the next year or two so better budget to do any cuts before then or else it is going to cost you a lot more”. There are also significant upcharges for cutting new roads.

Greenwich holds the applicant responsible for the entire job. If they choose to use subcontractors then they are responsible for their work. Must have utilities pay permit fees and only allow utilities to sign the permits. If they are found to be working without a permit, they should be removed from the road and issued citations from the police department if necessary. They are working with Verizon and CLP to establish standards with utilities before projects begin. The optimal goal is to have a meeting before the excavation begins to provide the contractor with the town’s standards and get information about the contractor’s plan so they know what the expectations are. Rules of engagement need to be clear from outset.

Greenwich also had an issue where a contractor was doing a very poor job. The town informed the utility and they realized the contractor wasn’t meeting the utility’s standards. The utility held the contractor responsible and got the work corrected. Overall, they find that as long as they establish a good relationship from the start they have had few problems. They have quarterly meetings with utilities to do planning and discuss issue so they don’t have bigger issues down the road. It is when they don’t have the relationship that things fail.

The towns agreed that if the utilities are paying some towns, they should pay all towns. Many towns are not charging because they had been told they could not. Others have been charging utilities for years and there has been no issue as a result.

Middletown had an issue with a particular utility and told them they couldn’t get additional permits. The utility came to talk to them. After their discussion, it was decided that it was more an issue with the subcontractor than the utility and Middletown told the utility that “You can do work here, your contractor can’t”. It worked and they have seen improvements since then.

New Canaan has had success with splitting the paving costs of the road with the utility – the water company comes in and does their work and then splits the paving/permanent restoration with the town. He gets bids and shows the water company the bid sheet and they split it 50-50. He gives the company a 5 year plan of their paving projects and the water company tries to get their work done on a similar basis and it is working great!

Enforcement and Testing:

The towns discussed what processes they have in place to deal with the enforcement of their standards. The issue sometimes becomes when does the responsibility switch between the initial temp patch contractor and the permanent patch contractor?

DOT requires density on major cuts but not on narrow trenches. Due to staffing issues, they do not always have an inspector on site for smaller projects. DOT holds the permit holder responsible for the project even after bond period is up; the permit holder is forever responsible for that project.

Norwalk uses their inspectors to check material for backfill, etc

Woodbury requires proof of compaction for large cuts and trenches. On smaller projects, they only do cores if there is a question as to the quality.

On the issue of prioritizing inspections due to staffing issues, most towns said that they usually know the contractors who do the job right. In general, they are more apt to inspect jobs where it is a new contractor or where there have been problems in the past.

Software systems for tracking and enforcement

CityView: Greenwich is using it. Waterbury looked at it - \$500000 for entire city administration package – permits including building and ROW, work orders, employees, etc. Stamford uses it. Public can access it – contractors can see if their permits have been issued, can apply online.

Road Manager: Middletown bought Road Manager from VHB and had them do initial input but it is really hard to keep up with it due to staffing issues. Need someone who knows how to use it and has time to do entry. Norwalk is using the permit module from Road Manager but isn't happy with scheduling options. This module is no longer being developed and won't be upgraded. They are also looking at CITY WORKS.

Greenwich is happy with their system but really wish they could get another inspector. Norwalk thinks their program is good in theory but they have issues with administration and record keeping and enforcement. They are hoping that some customized software will help them.

How do systems work with CBYD? Different towns try different things but most just try to read through the reports each day and match up with known permits and check critical areas.

Telephone Pole Replacement

CL&P has been a real issue in Norwalk...the town can't make them take out a permit to put in a pole...no recourse when something goes wrong. Plymouth is having the same issue – not being informed of projects. New Haven said there is a state statute that says that a town can mandate the movement of anything that interferes with road improvement projects and the utility has to pay the cost.

New Milford says that they found out that the utilities don't need a permit for replacement but that they do for new infrastructure.

Everyone is having issues with "double wood" - installing a new pole without taking away the old one. There is a DPUC regulation that gives a time frame in which the old pole needs to be removed. If it is a real issue, you can also ask the utility to treat you as a priority town and bump you up the list. This worked for New Milford.

Driveways:

How are you handling driveways? Greenwich had a nightmare and it went all the way to the selectman's office. The current ordinance is that contractors / homeowners need a permit if they are putting in a new driveway but not for replacement. The town regulates the width of the driveway and how many can put in on a particular property. They have different levels – residential, duplex, 3 family and commercial. They also require a 5 ft set back for cobblestone aprons.

Ridgefield requires permits for all driveway work – replacement or installation.

Greenwich finds that having sign-off authority on the Certificate of Occupancy for a building permit really helps them in enforcing many issues.

Standards, Ordinances and Drawings:

Overall, it was agreed that each town must have a strong program and solid ordinances in place. Without that backup, there are liability issues. A town can be liable if permits have expired and there is an accident on a project.

New Haven – do most communities have drawings and standards or piggyback off of DOT standards? Very important to have a standard if you are going to have an enforcement program. The two main pieces of any good program are to have a complete ordinance and to have a set standard that the permit holders need to meet for restoration. Enforcement is the hardest part due to staffing but having those two documents makes it easier when you do run into a problem.

Thomaston has the standards right in their ordinance.

Greenwich has something very similar to New Haven.

City of Hartford has a rules and regulations book that includes everything relating to utility cuts.

Gas Company “holes”:

Waterbury has had an issue with Yankee Gas drilling holes to check for gas leaks. No closure for sealing holes, etc. When can they do it how do they do it and how do you follow up? New Haven requires a permit and if they are working without a permit there will be repercussions. DOT has had a local gas company tell them that the holes must be open for set period of time. Waterbury has had them tell them that too. Norwalk says to require written documentation on “rules” and that they should follow up after that time frame. Either way, if the permit says it must be restored then it must be restored.

In the end, these are public rights of way and the utilities are obligated to restore any damage they cause when working in that right of way.