MEMORANDUM

TO: Melinda Coleman, City Manager

FROM: Michael Thompson, Director of Public Works / City Engineer

DATE: May 18, 2015

SUBJECT: Approval of Gas Franchise Ordinances

a. Approval of First Reading of Revised Gas Franchise Ordinance
b. Approval of First Reading of New Gas Franchise Fee Ordinance to Fund Additional Road Repairs

Introduction

The City Council will consider approval of a first reading for two ordinances. The first ordinance is a revised Gas Franchise Ordinance (*Attachment 1*) and the second is a new Gas Franchise Fee Ordinance (*Attachment 2*). The notice of first reading for both ordinances was published in the local newspaper on May 13 and 20, 2015. The revised Gas Franchise Ordinance is required because it requires language about the implementation of a Gas Franchise Fee Ordinance through separate ordinance. The revised Gas Franchise Ordinance would supersede the current one, Ordinance 853, which was passed on September 27, 2004. This is consistent with past practice in how the Electric Franchise Ordinance and Electric Franchise Fee Ordinance were treated.

Background

On October 2, 2014, the city held an open house at the Londin Lane fire station to discuss the concern about deteriorating road conditions and the desire to accelerate repairs beyond the city's currently adopted 5-year improvement plan (CIP). This meeting was a result of a grass roots effort by citizens in the south leg of Maplewood. During the meeting the idea of a franchise fee was raised as an option to help fund the fixing of more streets. The information related to that open house can be found in *Attachment 9*.

At the November 10, 2014 city council workshop, staff presented the idea of a gas franchise fee to help fund local street repairs. The workshop presentation included information on the pros and cons of a franchise fee and how the franchise fee revenue would greatly improve the overall condition of Maplewood's streets. A copy of this PowerPoint presentation can be found as *Attachment 10*.

In addition, it was identified what a typical Xcel gas customer would pay per month to generate the revenue of $470,000 per year to allow an additional 2-3 miles of street to be repaired. The proposed fee table is shown in the table below:

Rate Classification	Gas Franchise Fee Amount Per Premise
Residential	$ 2.50
Commercial Non Demand	$ 6.00
Commercial Demand	$ 75.00
Small Interruptible	$ 50.00
Medium and Large Interruptible	$ 100.00

According to Xcel Energy there are about 22 users in the city that would fall into a category outside the Residential and Commercial Non Demand ($50.00-$100.00 per month). There are about 1,000 Commercial Non Demand users ($6.00 per month), with the remaining users defined as Residential ($2.50 per month), which is over 12,000 users.

Staff coordinated with the Xcel Energy representative to gather the comparative data regarding similar suburban cities and associated franchise fee structure on the gas utility. As shown in the *Attachment 5* a number of cities collect a franchise fee to help pay for city related programs and costs. Cities in this area that have already have implemented what Maplewood is now considering are Forest Lake, Cottage Grove, Bayport, Afton, Newport, Saint Paul, North St. Paul, Oakdale, and South St. Paul.

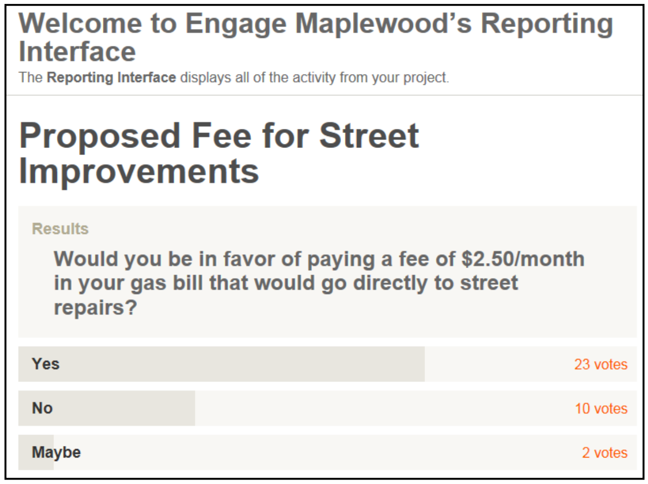
Public Outreach Summary

City staff has worked to gather public input through public meetings, news articles, webpage publication, a MindMixer survey, and City Council Workshops. The following is a summary of the different public outreach activities to date:

- Regular Website Updates – Franchise Fee Proposal under Projects Pull Down Menu
- October 2, 2014 – Open House
- November 10, 2014 – City Council Workshop
- December 1, 2014 – Article in Citywide Newsletter
- December 16, 2014 – Open House
- January 14, 2015 – Article in Maplewood Review about Proposal
- February 9, 2015 – City Council Workshop
- February 23, 2015 – MindMixer Survey Begins
- March 30, 2015 – MindMixer Survey Ends
- April 29, 2015 – Article in Maplewood Review about Proposal and Date
- May 1, 2015 – Article in Citywide Newsletter
- May 13, 2015 – First Reading/Public Hearing Notice in Maplewood Review
- May 20, 2015 – First Reading/Public Hearing Notice in Maplewood Review
- May 26, 2015 – First Reading/Public Hearing

During the second City Council workshop on February 9, 2015 staff was requested to provide an update on public feedback to date along with comparative data on city taxes and franchise fees. This information was previously provided to council and can be found in *Attachment 6*.

The MindMixer results are shown below (23 in favor, 10 opposed, and 2 as maybe):



The following is the comprehensive results of public input (open house, phone calls, and e-mails):

Yes – 33 votes
No – 21 votes
Maybe – 5 votes

The summary of the e-mails and phone calls received as of May 18, 2015 can be found in *Attachment 4*.

<u>Discussion</u>

There are varying opinions on this topic, however, to date more have been in favor than opposed. It is important to remember the underlying reason for this proposal being that residents are requesting the City to expand the number of street repair projects. The franchise fee will generate revenue of approximately $470,000 per year that will be put directly back into fixing streets. This is specifically written into the proposed ordinance. The first area in need of these accelerated improvements is in the south leg where the pavement stripping issues are prevalent. However, this proposed additional investment will reach all other parts of the city over the coming years through preservation and repair projects including mill and overlays, full depth reclaim, and fog seals for example. The Franchise Fee Ordinance is proposed to sunset after 20 years which will allow all areas of the City to benefit from this additional investment.

A number of questions were asked about special assessments and fairness concerns. To reiterate special assessments will continue to be used even on projects where franchise fee revenue is expended. What we heard from residents is more projects must be done and there was no support for substituting funding sources. There were also many opinions shared from those that have recently been assessed for projects; that it would be unfair to not levy special assessments on new projects as this was not consistent with the City's approach that all properties must make an overall investment into the roadway system through special assessments.

The League of Minnesota Cities published an article about the use of franchise fees and various pros and cons. This article can be found in *Attachment 7*.

If this proposal is not passed the city will maintain its current 5 year CIP and additional street repairs will not be viable unless the city cuts other services, takes on additional debt through issuance of bonds, or raises the tax levy.

Attachment 3 is an estimate on the additional streets that would be fixed in the next five years assuming the focus is the pavement stripping problems, and that a full depth reclaim is required due to extensive pavement damage. If, in some cases, a mill and overlay treatment is warranted, which is cheaper, it may allow for expanded project areas. If the franchise fee is approved then due diligence would begin in collecting pavement coring samples and obtaining a geotechnical analysis to accurately develop the "additional investment CIP program."

Budget Impact

This would affect all users of Xcel gas as listed in the premises fee schedule:

Rate Classification	Gas Franchise Fee Amount Per Premise
Residential	$ 2.50
Commercial Non Demand	$ 6.00
Commercial Demand	$ 75.00
Small Interruptible	$ 50.00
Medium and Large Interruptible	$ 100.00

Recommendation

It is recommended that the City Council approve the first reading for the **Revised Gas Franchise Ordinance.** It is additionally recommended that the City Council approve the first reading of the **New Gas Franchise Fee Ordinance**. These approvals require two separate motions and approvals.

Attachments

1. Revised Gas Franchise Ordinance
2. New Gas Franchise Fee Ordinance
3. Additional Projects Able to Be Completed in Next 5 Years
4. Stakeholder Feedback/Comments as of May 18, 2015
5. Franchise Fees of Other Cities
6. Comparative Data with nearby Cities (Taxes/Fees)
7. League of MN Cities Article on Franchise Fees
8. December 16, 2014 Open House Summary
9. Recap of Open House at Fire Station (October 9, 2014)
10. November 10, 2014 Workshop Presentation

ORDINANCE NO. XXX
(Supersedes Ordinance No. 853)

An ordinance granting to Northern States Power Company, a Minnesota Corporation, D/B/A/ Xcel Energy its successors and assigns, permission to erect a gas distribution system for the purposes of constructing, operating, repairing and maintaining in the City of Maplewood, Minnesota, the necessary gas pipes, mains and appurtenances for the transmission or distribution of gas to the City and its inhabitants and others and transmitting gas into and through the City and to use the public ways and public grounds of the City for such purposes.

THE CITY COUNCIL OF THE CITY OF MAPLEWOOD, RAMSEY COUNTY, MINNESOTA, DOES ORDAIN:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City. The City of Maplewood, County of Ramsey, State of Minnesota.

City Utility System. Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government which preempts all or part of the authority to regular Gas retail rates now vested in the Minnesota Public Utilities Commission.

Company. Northern State Power Company, a Minnesota corporation, d/b/a/ Xcel Energy its successors and assigns.

Gas. “Gas” as used herein shall be held to include natural gas, manufactured gas, or other form of gaseous energy.

Gas Facilities. Pipes, mains, regulators, and other facilities owned or operated by Company for the purpose of providing gas service for public use.

Notice. A written notice served by one party on the other party referencing one or more provision of this Ordinance. Notice to Company shall be mailed to the General Counsel, 414 Nicollet Mall, 5th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Clerk, City Hall, 1830 East County Rd B, Maplewood, MN 55109. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.

Public Ground. Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

Public Way. Any street, alley, walkway or other public right-of-way within the City.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 Grant of Franchise. City hereby grants Company, for a period of 20 years from the date passed and approved by the City, the right to transmit and furnish Gas energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Ways and Public Grounds of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement.

2.2 Effective Date; Written Acceptance. This franchise agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Company, and its publication as required by law. The City by Council resolution may revoke this franchise agreement if Company does not file a written acceptance with the City within 90 days after publication.

2.3 Service and Rates. The service to be provided and the rates to be charged by Company for Gas service in City are subject to the jurisdiction of the Commission.

2.4 Publication Expense. The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

2.5 Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 Location of Facilities. Gas Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Gas Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Gas Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground gas facilities in place, provided, at City's request, Company will remove abandoned metal pipe interfering with a City improvement project, but only to the extent such metal pipe is uncovered by excavation as part of the City's improvement project.

3.2 Field Locations. Company shall provide field locations for its underground Gas Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3 Street Openings. Company shall not open or disturb any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities work. Company may, however, open and disturb any Public Way or Public Ground without permission from the City where an emergency exists requiring the immediate repair of Gas Facilities. In such event Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than second working day thereafter, Company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any Public Way or Public Ground, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for one year thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Way or Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City' permission to install, replace or maintain facilities in a Public Way.

3.5 Avoid Damage to Gas Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Gas Facilities while performing any activity.

3.6 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Ways or Public Ground where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Ways and Public Grounds upon which the improvements are to be made, (iii) the extent of the improvement, (iv) the time when the City will start the work, and (v) if more than one Public Way or Public Ground is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Gas Facilities.

SECTION 4. RELOCATIONS.

4.1 Relocation of Gas Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Gas Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Gas Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. If a relocation is ordered within five years of a prior relocation of the same Gas Facilities, which was made at Company expense, the City shall reimburse Company for Non-Betterment Costs on a time and materials basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Gas Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 Relocation of Gas Facilities in Public Ground. City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Ground upon finding by City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of Public Ground.

4.3 Projects with Federal Funding. City shall not order Company to remove or relocate its Gas Facilities when a Public Way is vacated, improved or realigned for a right-of-way project or any other project which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation are first paid to Company. The City is obligated to pay Company only for those portions of its relocation costs for which City has received federal funding specifically allocated for relocation costs in the amount requested by the Company, which allocated funding the City shall specifically request. Relocation, removal or rearrangement of any Company Gas Facilities made necessary because of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the rights herein granted to Company are valuable rights.

4.4 No Waiver. The provision of this franchise apply only to facilities constructed in the reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Way or Public Ground was established, or Company's rights under state or county permit.

SECTION 5. TREE TRIMMING.

Company is also granted permission and authority to trim all shrubs and trees, including roots, in the Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of Gas Facilities, provided that Company shall save City harmless from any liability in the premises.

SECTION 6. INDEMNIFICATION.

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

6.2 Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Gas Facilities, shall not operate to deprive Company of its rights to operate and maintain such Gas Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, assent and consent to all of the rights and obligations of the City provided in this Ordinance.

SECTION 9. FRANCHISE FEE.

9.1 Fee Schedule. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee, for the sole purpose of recovering the cost to maintain and operate streets, sidewalk, and trails, by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class. The parties have agreed that the franchise fee collected by the Company and paid to the City in accordance with this Section 9 shall not exceed the following amounts:

Class	Fee Per Premise Per Month
Residential	$2.50
Commercial Firm Non-Demand	$6.00
Commercial Firm Demand	$75.00
Small Interruptible	$50.00
Medium and Large Interruptible	$100.00

9.2 Separate Ordinance. The franchise fee shall be imposed by separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least 90 days after written notice enclosing such proposed ordinance has been served upon Company by certified mail. The fee shall not become effective until the beginning of a Company billing month at least 90 days after written notice enclosing such adopted ordinance has been served upon Company by certified mail. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. No action by the City to implement a separate ordinance will commence until this Ordinance is effective. A separate ordinance which imposes a lesser franchise fee on the residential class of customers than the maximum set forth in Section 9.1 above shall not be effective against Company unless the fee imposed on each other customer classification is reduced proportionately in the same or greater amount per class as the reduction represented by the lesser fee on the residential class.

9.3 Terms Defined. For the purpose of this Section 9, the following definitions apply:

9.3.1 “Customer Class” shall refer to the classes listed on the Fee Schedule and as defined or determined in Company’s gas tariffs on file with the Commission.

9.3.2 “Fee Schedule” refers to the schedule in Section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its gas tariffs after the effective date of this franchise agreement.

9.4 Collection of the Fee. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for gas service in each class. The payment shall be due the last business day of the month following the period for which the payment is made.

The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for gas service in excess of the amounts specifically permitted by this Section 9. The time and manner of collecting the franchise fee is subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company's applicable rates for gas service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers.

9.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of the energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The "same or greater equivalent amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purposes of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

SECTION 10. PROVISIONS OF ORDINANCE.

10.1 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2 Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT PROCEDURE.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 90 days after the date of final passage by the City of the amendatory ordinance.

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED

This franchise supersedes any previous Gas franchise granted to Company or its predecessor.

PASSED BY THE MAPLEWOOD CITY COUNCIL ON THIS 26TH DAY OF MAY 2015

ORDINANCE NO. ________

AN ORDINANCE IMPLEMENTING A GAS SERVICE FRANCHISE FEE ON NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY, ITS SUCCESSORS AND ASSIGNS, FOR PROVIDING GAS SERVICE WITHIN THE CITY OF MAPLEWOOD.

THE CITY COUNCIL OF THE CITY OF MAPLEWOOD DOES ORDAIN:

SECTION 1. The City of Maplewood Municipal Code is hereby amended to include reference to the following Special Ordinance.

Subdivision 1. Purpose. The Maplewood City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide gas services within the City of Maplewood.

(a) Pursuant to City Ordinance a Franchise Agreement between the City of Maplewood and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, the City has the right to impose a franchise fee on Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, in an amount and fee design as set forth in Section 9 of the Northern States Power Company Franchise and in the fee schedule attached hereto as Schedule A.

Subdivision 2. Franchise Fee Statement. A franchise fee is hereby imposed on Northern States Power Company, a Minnesota Corporation, d/b/a Xcel Energy, its successors and assigns, under its gas franchise in accordance with the schedule attached here to and made a part of this Ordinance, commencing with the Xcel Energy October, 2015 billing month.

This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for gas service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the city will control.

Subdivision 3. Payment. The said franchise fee shall be payable to the City in accordance with the terms set forth in Section 9.4 of the Franchise.

Subdivision 4. Surcharge. The City recognizes that the Minnesota Public Utilities Commission allows the utility company to add a surcharge to customer rates to reimburse such utility company for the cost of the fee and that Xcel Energy will surcharge its customers in the City the amount of the fee.

Subdivision 5. <u>Record Support for Payment</u>. Xcel Energy shall make each payment when due and, if required by the City, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

Subdivision 6. <u>Enforcement</u>. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Franchise Agreement.

Subdivision 7. <u>Effective Date of Franchise Fee</u>. The effective date of this Ordinance shall be after its publication and ninety (90) days after the sending of written notice enclosing a copy of this adopted Ordinance to Xcel Energy by certified mail. Collection of the fee shall commence as provided above.

Subdivision 8. <u>Sunset Date of Franchise Fee</u>. The termination of this Ordinance shall take effect on December 31, 2035. Changes or adjustments to terms of this Ordinance shall follow the process outlined in Subdivision 11 of the Franchise Agreement.

Subdivision 9. <u>City Use and Reporting of Franchise Fee Revenue</u>. The City shall deposit said franchise fee revenue into a city fund titled "Street Use Revitalization Fund (SURF)" of which all franchise fee proceeds shall be used for the specific use of preserving and repairing city streets including, but not limited to, methods such as crack seal, fog seal, mill and overlay, hot in place recycle, cold in place recycle, and full depth reclamation. Each year the City shall prepare and publish a report detailing the additional preservation and repair projects able to be completed with said franchise revenue.

Passed and approved: ______________________, 2015.

____
Mayor

Attest:

____
City Clerk

SEAL

SCHEDULE A

Franchise Fee Rates:

Gas Utility

The franchise fee shall be in an amount determined by applying the following schedule per customer premise/per month based on metered service to retail customers within the City:

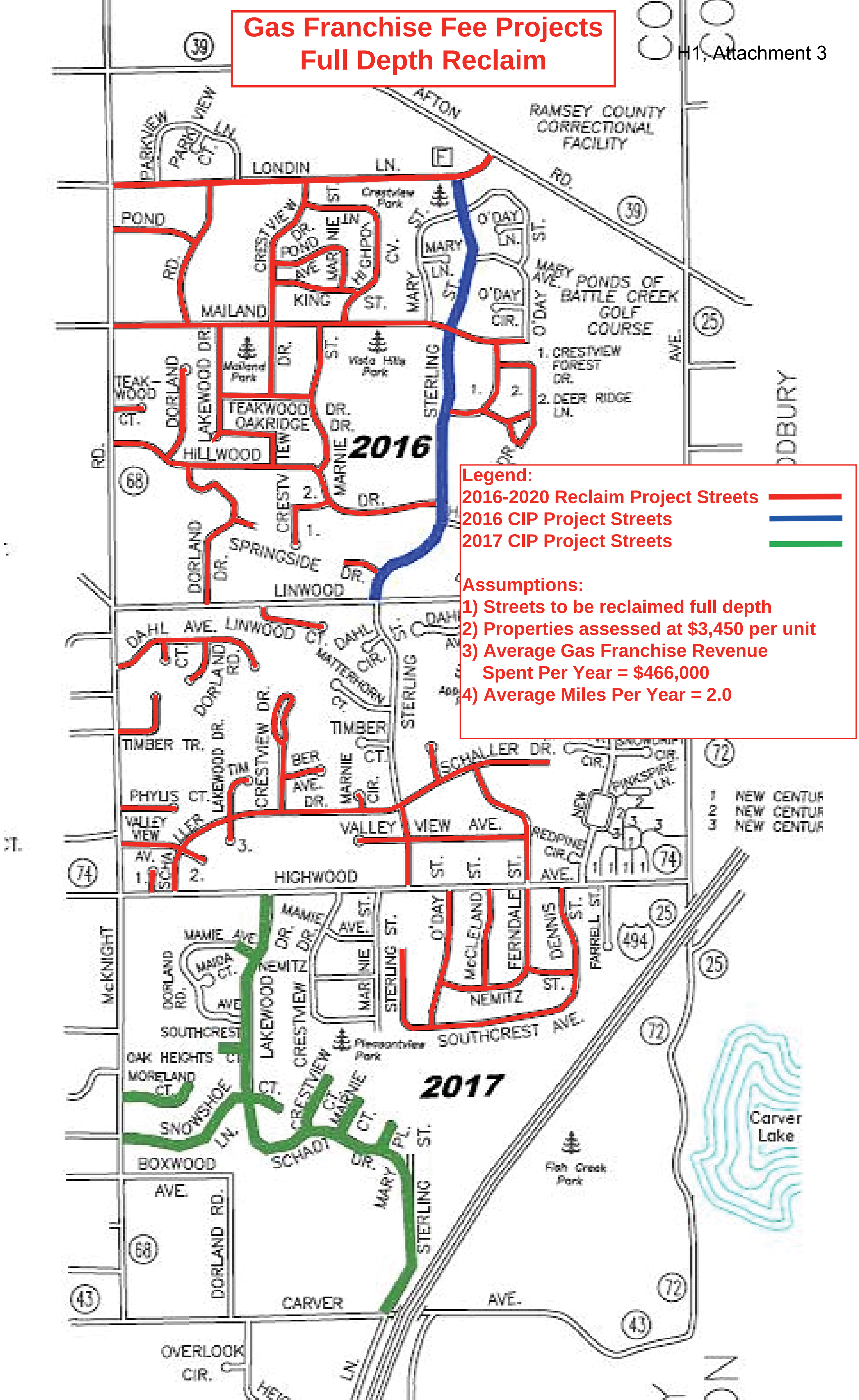
Rate Classification	Gas Franchise Fee Amount Per Premise
Residential	$ 2.50
Commercial Non Demand	$ 6.00
Commercial Demand	$ 75.00
Small Interruptible	$ 50.00
Medium and Large Interruptible	$ 100.00

Franchise fees are to be collected by the Utility at the rate listed below, and submitted to the City on a quarterly basis as follows:

January – March collections due by April 30.
April – June collections due by July 31.
July – September collections due by October 31.
October – December collections due by January 31.

H1, Attachment 3

Gas Franchise Fee Projects
Full Depth Reclaim



Legend:
- 2016-2020 Reclaim Project Streets
- 2016 CIP Project Streets
- 2017 CIP Project Streets

Assumptions:
1) Streets to be reclaimed full depth
2) Properties assessed at $3,450 per unit
3) Average Gas Franchise Revenue Spent Per Year = $466,000
4) Average Miles Per Year = 2.0

Proposed Gas Franchise Fee to Pay for Additional Street Repairs City of Maplewood, MN

Phone Call and E-mail Feedback as of May 18, 2015

	Date	In favor?	Comments
1	10/7/2014	Maybe	Should have franchise on descretionary cable tv, not gas utility
2	10/13/2014	Yes	All must pay including non-profits. Was supportive but said all need to pay because some don't even pay property taxes now
3	12/8/2014	No	Did not like the fee on the utility bill
4	12/9/2014	Yes	Agree with alternative fee of 2.50 per month.
5	12/10/2014	No	Wanted more info on the fee. Reviewed and said she does want the fee…city must live within means
6	12/10/2014	Yes	Headed in right direction. A no brainer.
7	2/13/2015	Yes	I am all in as long as some of the funds go to preventative maintenance also. Xcel bill seems like a fair way to collect
8	2/26/2015	Maybe	Maybe supportive if the roads "in my area" are repaired/fixed. No interest in paying if roads fixed somewhere else in Maplewooc
9	3/3/2015	No	Does not want the franchise fee. City should trim costs to help pay for roads. Should publish again in newsletter and put at front desk
10	4/22/2015	No	Wants to know if people don't have to pay assessments. Has concerns even if fee is not a lot since it stills adds up along with other fees/taxes
11	4/22/2015	Yes	Adamantly opposed to the frachise fee per e-mail but changed mind after learing more
12	4/24/2015	No	Unhappy. Double taxed on private roads.
13	4/24/2015	Yes	In strong favor of franchise fee instead of assessment or higher property taxes
14	4/24/2015	Maybe	Has a number of questions.
15	4/29/2015	Yes	Agree with the fee to help fix streets.
16	5/4/2015	No	Opposed to fee and should spend within means.
17	5/2/2015	No	Not in favor. On fixed income. Already pay for streets in property taxes

Franchise and other city fees, as designated below will be included in the customers' monthly bills computed under the indicated rate classes and effective in the following Minnesota communities:

The Company remits 100% of these fees collected from ratepayers to the local government unit.
— Indicates fee is not applied
* May include Negotiated Transportation Service. Any future NTS customer in a franchise city without a specific NTS franchise rate will be billed the Firm Transportation franchise fee.

Franchise Fees										
City	Residential	Commercial Firm – Non-demand	Commercial Firm – Demand	Small Interruptible	Medium & Large Interruptible	Firm Transportation*	Interruptible Transportation	Effective Date	Expiration Date	
Afton	$2.00	$4.00	$5.00	$5.00	$5.00	$5.00	$5.00	01/2005	08/16/2024	
Bayport	$1.25	$10.00	$25.00	$10.00	$50.00	$10.00	$10.00	01/2014	05/04/2028	
Big Lake	$4.00	$8.00	$8.00	$8.00	$8.00	$8.00	$8.00	10/2014	07/23/2020	N
Chisago City	$1.00	$3.00	$35.00	$30.00	$30.00	$30.00	$30.00	06/2009	12/31/2029	
Cottage Grove	$1.65	$4.95	$8.25	$16.50	$24.75	$24.75	$24.75	01/2010	11/04/2023	
Delano	$0.0391 per therm	$0.0391 per therm	$0.0391 per therm	$0.0391 per therm	$0.0391 per therm	$0.0391 per therm	$0.0391 per therm	01/2003	--	
East Grand Forks	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	12/2005	12/19/2025	
Faribault[1]	$1.62	$3.78	$32.40	$91.80	$270.00	—	—	01/2006	11/08/2024	
Forest Lake	$3.00	$7.50	$15.00	$75.00	$15.00	$15.00	$15.00	05/2013	01/27/2033	
Goodview	$2.35	$3.50	$55.00	$30.00	—	—	—	07/2006	04/30/2026	
Kandiyohi	$1.00	$1.00	$1.00	$1.00	$1.00	$1.00	$1.00	04/2014	12/01/2033	
Lake City	2.0%	2.0%	$0.005 per therm	$0.005 per therm	$0.005 per therm	$0.005 per therm	$0.005 per therm	04/2013	04/30/2015	
Lindstrom	$1.00	$3.00	—	$30.00	—	—	—	06/2009	12/31/2029	
Moorhead	5.0%	5.0%	5.0%	5.0%	$0.005 per therm	5.0%	5.0% small $0.005 per therm medium & large	09/1991	03/01/2015	

[1] Faribault: The franchise fee excludes the city, invoices to the city, or meters on city facilities or property.

(Continued on Sheet No. 5-44.2)

Northern States Power Company, a Minnesota corporation
Minneapolis, Minnesota 55401
MINNESOTA GAS RATE BOOK - MPUC NO. 2

FRANCHISE AND OTHER CITY FEES (Continued)

Section No. 5
6th Revised Sheet No. 44.2

Franchise and other city fees, as designated below will be included in the customers' monthly bills computed under the indicated rate classes and effective in the following Minnesota communities:

The Company remits 100% of these fees collected from ratepayers to the local government unit.
— Indicates fee is not applied
* May include Negotiated Transportation Service. Any future NTS customer in a franchise city without a specific NTS franchise rate will be billed the Firm Transportation franchise fee.

Franchise Fees										
City	Residential	Commercial Firm – Non-demand	Commercial Firm – Demand	Small Interruptible	Medium & Large Interruptible	Firm Transportation*	Interruptible Transportation	Effective Date	Expiration Date	
Mounds View	4%	4%	4%	4%	4%	4%	4%	01/2014	12/31/2014	C
New Brighton	$0.017 per therm	$0.016 per therm	$0.005 per therm	$0.005 per therm	$0.005 per therm	$0.005 per therm	$0.005 per therm	01/2003	11/25/2022	
Newport	$1.00	$5.00	$10.00	$15.00	$15.00	$15.00	$15.00	01/2011	10/18/2026	
North St. Paul	2.75%	2.75%	$0.005 per therm	$0.005 per therm	$0.005 per therm	$0.005 per therm	$0.005 per therm	12/1998	09/07/2018	
Oakdale	$1.50	$5.00	$8.00	$17.00	$17.00	$17.00	$17.00	11/2013	10/27/2023	
Sauk Rapids	$2.00	$8.00	$8.00	$8.00	$8.00	$8.00	$8.00	08/2003	06/15/2023	
Shoreview	$1.30	$8.00	$112.00	$100.00	$100.00	$100.00	$100.00	10/2013	07/17/2031	
South St. Paul	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	07/2000	06/30/2015	
Spicer	$0.50	$1.50	–	–	–	–	–	02/2013	10/01/2032	
St. Augusta	$3.00	$5.00	$5.00	$5.00	$5.00	$5.00	$5.00	06/2010	03/01/2030	

(Continued on Sheet No. 5-44.3)

FRANCHISE AND OTHER CITY FEES (Continued)

Franchise and other city fees, as designated below will be included in the customers' monthly bills computed under the indicated rate classes and effective in the following Minnesota communities:

The Company remits 100% of these fees collected from ratepayers to the local government unit.
— Indicates fee is not applied
* May include Negotiated Transportation Service. Any future NTS customer in a franchise city without a specific NTS franchise rate will be billed the Firm Transportation franchise fee.

Franchise Fees									
City	Residential	Commercial Firm – Non-demand	Commercial Firm – Demand	Small Interruptible	Medium & Large Interruptible	Firm Transportation*	Interruptible Transportation	Effective Date	Expiration Date
St. Cloud[1]	3.0%	3.0%	3.0%	3.0%	—	3.0%	3.0% small	09/2007	08/31/2027
St. Joseph	$1.00	$1.75	$10.00	$0.005 per therm	$0.005 per therm	$0.005 per therm	$0.005 per therm	02/2004	11/19/2023
St. Paul[2]	See fee schedule in the Notes section on the following sheets.							11/2007	08/31/2026
St. Paul Park	$1.50	$4.00	$30.00	$15.00	$335.00	$150.00	$15.00	08/2005	05/15/2025
Stillwater	$1.00	$5.00	$5.00	$5.00	$5.00	$5.00	$5.00	12/2003	06/30/2015

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[1] St. Cloud: The franchise fee for residential heating customers will be 1.5% during the months of November – April.

[2] St. Paul: The monthly franchise fee will be as stated below. The residential service franchise fee will be as stated except during the winter months, November - April when there will be no fee. The fee shall not exceed $50,000 during any calendar year from any negotiated transportation service customer. The schedules below show the meter and demand factor for each year of the St. Paul franchise and for each of the customer classifications.

(Continued on Sheet No. 5-44.4)

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Notes:
[2] St. Paul:

Customer Class	Meter Factor - Monthly Charge per Account				
Start Date	1-Nov-2006	1-Nov-2008	1-Nov-2010	1-Nov-2012	1-Nov-2014
End Date	31-Oct-2008	31-Oct-2010	31-Oct-2012	31-Oct-2014	31-Oct-2016
Residential (May - October)	$3.70	$3.70	$3.70	$3.70	$3.70
Small Commercial Firm	$3.72	$3.72	$3.72	$3.72	$3.72
Large Commercial Firm	$3.72	$3.72	$3.72	$3.72	$3.72
Small Commercial Demand Billed	$3.72	$3.72	$3.72	$3.72	$3.72
Large Commercial Demand Billed	$11.17	$11.17	$11.17	$11.17	$11.17
Small Interruptible	$8.17	$8.17	$8.17	$8.17	$8.17
Medium Interruptible	$11.17	$11.17	$11.17	$11.17	$11.17
Large Interruptible	$11.17	$11.17	$11.17	$11.17	$11.17
Large Firm Transportation	$11.17	$11.17	$11.17	$11.17	$11.17
Interruptible Transportation - Small	$8.17	$8.17	$8.17	$8.17	$8.17
Interruptible Transportation - Medium	$11.17	$11.17	$11.17	$11.17	$11.17
Interruptible Transportation - Large	$11.17	$11.17	$11.17	$11.17	$11.17
Negotiated Transportation *	-	-	-	-	-
Start Date	1-Nov-2016	1-Nov-2018	1-Nov-2020	1-Nov-2022	1-Nov-2024
End Date	31-Oct-2018	31-Oct-2020	31-Oct-2022	31-Oct-2024	31-Aug-2026
Residential (May - October)	$3.85	$4.00	$4.16	$4.33	$4.50
Small Commercial Firm	$3.87	$4.02	$4.18	$4.35	$4.53
Large Commercial Firm	$3.87	$4.02	$4.18	$4.35	$4.53
Small Commercial Demand Billed	$3.87	$4.02	$4.18	$4.35	$4.53
Large Commercial Demand Billed	$11.62	$12.08	$12.56	$13.07	$13.59
Small Interruptible	$8.50	$8.84	$9.19	$9.56	$9.94
Medium Interruptible	$11.62	$12.08	$12.56	$13.07	$13.59
Large Interruptible	$11.62	$12.08	$12.56	$13.07	$13.59
Large Firm Transportation	$11.62	$12.08	$12.56	$13.07	$13.59
Interruptible Transportation - Small	$8.50	$8.84	$9.19	$9.56	$9.94
Interruptible Transportation - Medium	$11.62	$12.08	$12.56	$13.07	$13.59
Interruptible Transportation - Large	$11.62	$12.08	$12.56	$13.07	$13.59
Negotiated Transportation *	-	-	-	-	-

*Franchise fee is based on customer's prior rate schedule before transferring to this service. If none, the Large Interruptible Transportation Service fee applies.

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(Continued on Sheet No. 5-44.5)

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Notes:
[2] St. Paul: (continued)

Customer Class	Volume Factor - Monthly Charge per Therm				
Start Date	1-Nov-2006	1-Nov-2008	1-Nov-2010	1-Nov-2012	1-Nov-2014
End Date	31-Oct-2008	31-Oct-2010	31-Oct-2012	31-Oct-2014	31-Oct-2016
Residential (May - October)	$0.0467	$0.0635	$0.0806	$0.0977	$0.1148
Small Commercial Firm	$0.0489	$0.0509	$0.0529	$0.0549	$0.0569
Large Commercial Firm	$0.0489	$0.0509	$0.0529	$0.0549	$0.0569
Small Commercial Demand Billed	$0.0489	$0.0509	$0.0529	$0.0549	$0.0569
Large Commercial Demand Billed	$0.0254	$0.0274	$0.0294	$0.0314	$0.0334
Small Interruptible	$0.0275	$0.0295	$0.0315	$0.0335	$0.0355
Medium Interruptible	$0.0084	$0.0089	$0.0094	$0.0099	$0.0104
Large Interruptible	$0.0084	$0.0089	$0.0094	$0.0099	$0.0104
Large Firm Transportation	$0.0254	$0.0274	$0.0294	$0.0314	$0.0334
Interruptible Transportation - Small	$0.0275	$0.0295	$0.0315	$0.0335	$0.0355
Interruptible Transportation - Medium	$0.0084	$0.0089	$0.0094	$0.0099	$0.0104
Interruptible Transportation - Large	$0.0084	$0.0089	$0.0094	$0.0099	$0.0104
Negotiated Transportation *	-	-	-	-	-
Start Date	1-Nov-2016	1-Nov-2018	1-Nov-2020	1-Nov-2022	1-Nov-2024
End Date	31-Oct-2018	31-Oct-2020	31-Oct-2022	31-Oct-2024	31-Aug-2026
Residential (May - October)	$0.1194	$0.1242	$0.1291	$0.1343	$0.1397
Small Commercial Firm	$0.0592	$0.0615	$0.0640	$0.0666	$0.0692
Large Commercial Firm	$0.0592	$0.0615	$0.0640	$0.0666	$0.0692
Small Commercial Demand Billed	$0.0592	$0.0615	$0.0640	$0.0666	$0.0692
Large Commercial Demand Billed	$0.0347	$0.0361	$0.0376	$0.0391	$0.0406
Small Interruptible	$0.0369	$0.0384	$0.0399	$0.0415	$0.0432
Medium Interruptible	$0.0108	$0.0112	$0.0117	$0.0122	$0.0127
Large Interruptible	$0.0108	$0.0112	$0.0117	$0.0122	$0.0127
Large Firm Transportation	$0.0347	$0.0361	$0.0376	$0.0391	$0.0406
Interruptible Transportation - Small	$0.0369	$0.0384	$0.0399	$0.0415	$0.0432
Interruptible Transportation - Medium	$0.0108	$0.0112	$0.0117	$0.0122	$0.0127
Interruptible Transportation - Large	$0.0108	$0.0112	$0.0117	$0.0122	$0.0127
Negotiated Transportation *	-	-	-	-	-

*Franchise fee is based on customer's prior rate schedule before transferring to this service. If none, the Large Interruptible Transportation Service fee applies.

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COMPARATIVE DATA REQUESTED BY CITY COUNCIL (Prepared by Finance Director and City Engineer) 4/6/2015

Table 1	2014 Median Value Home	Unadjusted (Actual) City Tax for Median Value Home	Equiv. 2014 City Prop. Tax Based on $157,000 Maplewood Median Valued Home	Items of Note
South St. Paul	$136,400	$678	$815	Police, Fire JPA w/West St Paul, EMS taxing district, Community Center, Airport
Maplewood	**$157,000**	**$679**	**$679**	**Police, Fire, EMS, Community Center**
Forest Lake (est.)	$191,500	$766	$598	Police, Fire, no EMS, YMCA, Airport
North St. Paul	$137,200	$503	$595	Police, Fire, no EMS
Roseville	$195,000	$746	$571	Police, Fire, EMS, Ice Rink, Golf Course
Oakdale	---	---	$552	Police, Fire, EMS
Shoreview	$224,500	$778	$502	Police contract w/RamCO, Fire & EMS joint contract w/Arden Hills & North Oaks, Community Center

Table 2	Xcel **Gas** Franchise Fee Surcharge					
	Residential	Comm. Non Demand	Comm. Demand	Small Interruptible	Med./Large Interruptible	Adopted
South St. Paul	3%	3%	3%	3%	3%	2000
Maplewood	**$2.50**	**$6.00**	**$75.00**	**$50.00**	**$100.00**	**TBD**
Forest Lake	$3.00	$7.50	$15.00	$75.00	$15.00	2013
North St. Paul	2.75%	2.75%	$0.005 per therm	$0.005 per therm	$0.005 per therm	1998
Roseville	---	---	---	---	---	---
Oakdale	$1.50	$5.00	$8.00	$17.00	$17.00	2013
Shoreview	$1.30	$8.00	$112.00	$100.00	$100.00	2013

Table 3	Xcel **Electric** Franchise Fee Surcharge					
	Residential	Comm. Non Demand	Comm. Demand	Large Comm.	Public Street Lighting	Adopted
South St. Paul	3%	3%	3%	3%	3%	2000
Maplewood	**$1.25**	**$2.50**	**$15.00**	**$112.50**	**$100.00**	**2013**
Forest Lake	$4.00	$2.50	$18.50	$75.00	$7.50	2013
North St. Paul	City Owned	City Owned	City Owned	City Owned	City Owned	1998
Roseville	---	---	---	---	---	---
Oakdale	$1.50	$3.00	$10.00	$8.00	$6.00	2013
Shoreview	$2.50	$3.00	$30.00	$310.00	---	2013

H1, Attachment 7

Diversify Revenues WITH Franchise Fees

BY NICK ANHUT AND JESSICA COOK

Have you ever wondered why cities across the nation have more revenue options than we do in Minnesota? New York City has an income tax; Colorado cities collect most of their budgets from local sales taxes.

Minnesota cities rely on a complicated property tax system as their main source of revenue. The property tax is predictable compared to income and sales tax, but many consumers of city services do not pay property taxes. Franchise fees are an often overlooked alternative for Minnesota cities to diversify their revenue streams.

Many cities have been collecting a cable franchise fee for years. Under Minnesota Statutes, section 216B.36, a city may also impose a fee on a gas or electric utility in exchange for the use of public rights-of-way.

The utility companies collect the fee from their customers and remit it to the city every billing cycle. Cities can determine the amount, structure, and use of franchise fees. There is no cap on the franchise fee rate on gas and electric utilities.

Pros & Cons of Franchise Fees

PROS	CONS
Local control	Raises utility costs
Easy to administer after first year	Initial coordination with utilities and/or public can be complex
Diversifies revenues; flexible funding source	Perception by public as another tax
Growth in revenues proportional to growth in business activity and development	May require periodic review or adjustment
Not subject to loss of revenue resulting from loss of state aid	Opposition from nonprofit users

Use of the fees

Franchise fees can be used for any public purpose. Recently, many cities have directed franchise fees to specific capital improvements such as pavement management programs. One reason is that proving benefit for special assessments has become more difficult in a time of declining residential property values.

The City of Morris has collected franchise fees for about 10 years and dedicates them entirely to road maintenance. "Over 30 percent of our city is comprised of tax-exempt property," says City Manager Blaine Hill. "Before franchise fees, we had two-thirds of the property owners paying for 100 percent of the streets."

The City of Edina recently adopted franchise fees in lieu of raising taxes to fund sidewalks, trails, bike paths, and other pedestrian-related improvements. The fees will provide a stable funding source to undertake projects on a pay-as-you-go basis. While there is no specific statutory authority to issue bonds based on franchise fee revenues, cities can use the revenues to write down annual debt levies.

If your city is interested in implementing franchise fees, there are three primary steps you should take.

STEP 1: Establish the need

To avoid getting mired in a fee vs. tax discussion, take the time to clearly articulate and develop consensus around the need for a new revenue source. In Champlin, the City Council had established the goal of a 0 percent tax rate increase. As capital needs grew and property values stalled, new revenue sources were needed.

Staff identified various funding options, including additional property tax levy, a stormwater utility, and franchise fees. The council chose to add franchise fees because they give the city a more balanced approach to budgeting.

STEP 2:

Structure the fee to suit city needs

There are two broad options for structuring the franchise fee: as a fixed charge per account or as a percentage of the customer's bill. Forest Lake charges its electric utility customers $4 per month for a residential account. The council selected a flat fee because it assigns the cost of road maintenance to properties at a fixed amount, and it provides a steady revenue stream for the city.

Alternatively, franchise fees can be structured to correlate with the customer's energy use. Coon Rapids charges all users 4 percent of their utility bill. Other cities choose a fixed charge per therm or kilowatt hour. With these structures, revenue will expand and shrink with the business cycle and seasons but, over time, will keep pace with inflation.

STEP 3: Adopt an ordinance

The only authorizing action required to establish a franchise fee is the adoption of an ordinance. The ordinance establishes the terms of the fee: the structure, collection schedule, and the effective dates. Once adopted, utility providers may need to undergo a 90-day filing period through the Minnesota Public Utilities Commission before the fee can be imposed.

While there is no statutory public hearing or notice requirement, some cities opt to provide opportunities for public comment and education. Forest Lake informed its residents of the proposed fees by creating a handout and providing news updates. Hastings leaders added a sunset provision so that new action must be taken after five years to extend the fee.

Nick Anhut and Jessica Cook are financial specialists with Ehlers (**www.ehlers-inc.com**). Ehlers is a member of the League's Business Leadership Council (**www.lmc.org/sponsors**).

Gas Franchise Fee
Open House Meeting Summary
12/16/2014

A total of 9 people attended the meeting with 7 attendees taking a position on this issue (3 in favor and 4 opposed). The following summary of questions and answers were taken:

- If we are currently designing 10 miles of road and we start doing 12 miles of road with engineering be charging time and a half for engineering on the extra 2 miles?
  - No.
- I live on a county road what benefit do I get from this?
  - This is a good question. You live on a County Road however you still use the local street system. Also, typically if you live on a County Road you are not assessed similar to those living on local City streets.
- How does the gas franchise fee apply to apartments?
  - It would apply similarly to how the electric bill is paid. The rate for such apartments will be reviewed to understand an average per unit cost.
- Can Maplewood add a special sales tax for road work?
  - The City could increase property taxes for roadwork however it would not necessarily make it dedicated. The franchise fee option makes it very transparent on the money in and money out and it would be fully dedicated to street repairs.
- The City should just invest in lottery tickets.
  - Thank you for the comment.
- How much of the fee would Xcel keep and how much would Maplewood actual get?
  - The City would get the entire amount. It is a pass through.
- Will the presentation be available on the City website?
  - Yes. After the notes and summary information are completed.
- Maybe the state wide gas tax might help or the Move MN group.
  - Perhaps. But the City still needs to move forward with this option if local street repair is a priority.
- If the fee for a resident is $2.50 after they add taxes residents will be looking at a fee more like $3.00.
  - No. This is a pass through and is not subject to additional taxes.
- Could the City bill residents and business directly?
  - There would be a substantial cost for that as the City currently outsources its billing functions.
- In favor of a sunset date.
  - Thank you for the comment.

Gas Franchise Fee
Open House Meeting Summary
12/16/2014

- Since businesses use the roads more can they pay a greater share to help reduce the $2.50 per month for residential?
    - This could be explored however businesses do pay reasonable share with the current revenue scenario.
- What about seniors or those on fixed income. Can there be a waiver or rebate program?
    - This could be explored however the administration of a number of applications may become cumbersome. This is something that could be further defined in a franchise fee ordinance upon moving forward.
- If this were to move forward the City should publish reports on what projects the fee help complete each year and how much was spent.
    - Yes. This is a very good comment and the City could complete an annual report regarding projects implemented as a direct result of the franchise fee revenue.
- How does the fee affect assessments on projects?
    - It will not affect the current assessment policy. The franchise fee is additional revenue, not a substitute.
- Is there a way to charge people who park in church parking lots?
    - There is no easy or cost effective way to do this.
- Can the City charge or make MnDOT help pay for fixing the roads that have the different pavement mix design?
    - Likely not. This is an issue from the late 1980s/early 1990s.
- Does the trash hauling help reduce the number of trucks and trips and has this helped slow the deterioration of the roadways?
    - Yes. A garbage truck does the damage of what 1,000 cars can do. The design of street is based on equivalent single axle loads (ESALS) and the fewer heavy vehicles utilizing the streets is good for the longevity of the street.
- Are county roads designed to a different standard?
    - Typically they may be designed for heavier/commercial traffic loading depending on the segment.
- Do we get any money from the tax on truck for heavy use?
    - The Minnesota Highway Users Tax Distribution Fund collects revenue from gas taxes, motor vehicle tax, motor vehicle sales tax, and earned interest. The City gets a small portion of this which it can put to use on 20% of its city streets.
- If there is a sunset clause it should have a stop date.
    - There is flexibility in how the ordinance is written.

Gas Franchise Fee
Open House Meeting Summary
12/16/2014

- Just another tax with a new name
    - It is a fee, not a general tax. The fee is spread over all utility users such as residential, commercial, non-profits, etc. The fee gets at more accurately collecting revenue from all the users of the local street system whereas if it was a general tax increase then many parcels are exempt from property taxes thus placing the burden on others.
- How do taxes in other cities (that also have a franchise fee) compare to those of Maplewood
    - There are many variables and this comparison was not available. It was explained that the reason this franchise fee concept was brought forward was because of a grass roots effort of citizens that wanted more streets fixed. This is an option.

- Already have a cable franchise fee – how is that used
    - There is a franchise fee on cable that is used for right of way management and programming for example by the Ramsey/Washington Counties Cable Commission.
- How long until you get to my street if you start in south Maplewood – they live in north Maplewood and don't see the benefit
    - It could take a number of years depending on condition compared to other streets. Currently the south leg streets are experiencing the pavement stripping issues that need more immediate attention.
- Already too expensive to live in Maplewood
    - Thank you for the comment.
- The gas franchise would be treated as Pay As You Go – would not bond against future revenue – only do the work you can pay for now
    - The plan is to pay for the work with available revenue and not bond.

MAPLEWOOD
Together We Can

October 9, 2014

****** PAVEMENT AND POLICE OPEN HOUSE SUMMARY ******

DEAR MAPLEWOOD RESIDENT:

We had a great turn out with more than 45 residents in attendance at the open house meeting held at the Londin Lane Fire Station on the evening of October 2nd. This letter is meant to provide you with both a discussion summary of the open house meeting and next steps. The first part of the letter recaps the pavement discussion, while the second half captures the discussion on the policing issues.

PAVEMENT

The City recognizes that the pavement condition in the neighborhood is in very poor condition. Currently improvements are not planned until 2017 due to balancing priorities and also paying off debt from a number of full street reconstruction project conducted from 1999-2012. Many of the neighborhoods during that time frame still had no curb and gutter, no drainage pipes, and no real pavement section. This leaves a number of neighborhoods however that were built in the late 1980's and early 1990's, such as yours, that still need attention. Current debt levels do not allow the City to continue to borrow (sell bonds) at the same accelerated rate thus the street program was reduced and projects were shifted and delayed in recent years as you are aware.

A number of cities are dealing with premature pavement failure from the late 1980's to early 1990's most likely due to a pavement design mix change by MnDOT during the timeframe. The failures are especially present where streets were chip-sealed. The top layer of pavement is stripping off and shallow pock marks quickly become larger pot holes. The City of Woodbury says they have a $20 million problem and Brooklyn Park says they have a $32 million problem… all because of the premature pavement failure which is also evident in your neighborhood.

What needs to be done? Why can't we just patch or overlay these streets? The answer is these streets need the top layer of pavement removed and new pavement placed. This requires a lot of money. Removing the top 2-inch layer of pavement and placing new asphalt can cost $200,000 per mile, not including curb repair or utility fixes. The largest obstacle to fixing the streets is finding a sustainable revenue source to pay for them.

Are there options to pay for them so our streets can be fixed sooner? The answer is yes. The City is exploring a potential revenue source that could be strictly dedicated to fixing the streets through a Gas

DEPARTMENT OF PUBLIC WORKS · 651-249-2400 · FAX: 651-249-2409
CITY OF MAPLEWOOD · 1902 COUNTY ROAD B EAST · MAPLEWOOD, MN 55109

Franchise Fee (GFF). A GFF would be a fee charged to all users of Xcel gas service in the entire City. A residential user would pay about $2.50 per month. A number of cities such as Elk River and Edina have passed such ordinance which dedicates revenue directly towards a specific purpose.

What are the pros and cons of a franchise fee?

Pros:

- Local control (could set a sunset date for example)
- Easy to administer
- More streets are repaired
- Dedicated for a specific intended use
- Transparency through fund accounting
- Sustainable revenue to continue investment in fixing poor streets well into the future

Cons:

- Raises utility cost by the franchise fee amount
- Opposition from non-profits
- Opposition from residents that have streets in good condition
- Opposition from businesses/residents because it is looked at as another fee that government wants to collect

If a GFF ordinance is passed it could raise roughly $450,000 per year. This would allow 2-3 miles of street to be fixed through a new mill and overlay program. Your street would be fixed sooner since the mill and overlay work would be in addition to the currently approved 5-year work program.

How are street improvements financed? The majority of funding is from **debt service** (general obligation bonds are sold and repaid by the City over a period of time with general tax levy revenue) and **special assessments** (properties with driveway access to the improved street pay an amount). The special assessment can be financed with the City over 15 years at a competitive interest rate. This amount shows up yearly on property taxes as a special levy until it is paid off. For mill and overlay projects the special assessment historically has been in the $3,000 range for residential properties.

Where can I find out more about the city budget and capital improvement plan? More information on the City's 5-year capital improvement plan and the city-wide budget can be found on the City's website which provides specifics on revenues and expenditures in addition to project financing. Please visit the following link to see the proposed 2015 budget in addition to yearly budgets going back to 2009:

http://www.ci.maplewood.mn.us/index.aspx?NID=101

Please visit the following link for the currently approved 5-year capital improvement plan in addition to the four past approvals:

http://www.ci.maplewood.mn.us/index.aspx?NID=103

A resident raised the question, "What is that new pavement on Lakewood just south of Highwood that was recently done and why can't we just do that to the rest of the streets now?" This is a great question and to provide some background, the City tried an experiment to see if grinding off the very top 1-inch layer of pavement would smooth out the road as an interim low cost solution. Unfortunately this did not help much and the City had concerns about allowing drainage to collect in this depressed area causing potential damage to the underlying road base material. Therefore we decided to place new pavement back on top as we had enough money to do that for this small test area. The reason we cannot grind down and place new pavement in the remainder of the neighborhood is because we do not have the funding to complete a mill and overlay of the streets.

A resident raised the question, "What if you just take $20 a month from property tax money and put that towards streets instead of passing a GFF? Wouldn't we have enough money to pay for all the street projects?" Unfortunately the answer is no. A number of parcels in the city do not pay property taxes such as churches and non-profits. Some of these parcels are heavy users of the local street system yet do not contribute towards maintenance costs. Drastic cuts in basic Police, Fire, and Public Works services would need to occur if $450,000 from current services is shifted away and used just for street maintenance.

A resident stated, "We need to run the City like a business and should cut costs and pay for employees... We need to act more like a business." The response is Maplewood city government has done a great job in adjusting its staffing needs through attrition based on forecasted work patterns. For example, the engineering department has cut 5 positions through attrition to assist with city-wide spending priorities. The leaders of your local government are professionals and are extremely knowledgeable in what they do for a living. A business corporation has a mission to make profits, which makes perfect business sense, but local government cannot work in the exact same manner. Local government has a common mission of delivering necessary services such as Police, Fire, Infrastructure, and Parks. These services are not profit-making ventures but rather serve the common good of Maplewood residents in terms of quality of life. The revenue the City brings in is directly spent back into the community through such services.

As mentioned at the open house you are encouraged to get involved in City budgeting and priority setting by e-mailing budget.ideas@ci.maplewood.mn.us

Also, your mayor and city council members can be reached through their officially listed e-mail or phone number contacts:

Mayor Nora Slawik	nora.slawik@ci.maplewood.mn.us	651-738-7099
Kathleen Juenemann	kathleen.juenemann@ci.maplewood.mn.us	651-771-3670
Bob Cardinal	bob.cardinal@ci.maplewood.mn.us	952-564-3806
Marvin Koppen	marvin.koppen@ci.maplewood.mn.us	651-770-5391
Marylee Abrams	marylee.abrams@ci.maplewood.mn.us	651-249-2000

What are the next steps in figuring out how to fix our streets sooner? City staff plans to hold a workshop with the City Council in November about the viability of a GFF. If there is general support staff would then reach out to the general public for input over the following 2-3 months. Ultimately a GFF could be considered next year likely in spring for final approval. If approved city staff would account for the additional revenue and update the 5-year work plan to do more street projects and accelerate the improvements to your neighborhood. Public hearings would be required to update city ordinances so there will be opportunities for more input.

A resident asked, "What if the GFF is not approved or we don't want it." The response is, the street improvement schedule would remain as programmed in the current capital improvement plan thus additional projects could not be completed and projects could not be accelerated. Unfortunately, without additional dedicated and sustainable revenue, the 5-year street improvement program would remain as is and your neighborhood would not be fixed until 2017. However our maintenance crews would continue to fill large potholes in the interim.

POLICE

The following is a recap of the policing update and strategy discussion portion of the meeting. Concerns about the recent rash of burglaries and thefts from autos in the South Maplewood area are shared by the Police Department and the City's elected officials.

Response to residential and garage burglaries and thefts from autos:
In response to the uptick in residential burglaries the department has:

- Increased routine patrols in the southern portion of Maplewood – more than 1,000 hours since July.
- Coordinated investigative follow-up with neighboring law enforcement agencies in St. Paul and Woodbury.
- Transferred forensic evidence collected at various burglary scenes to the Bureau of Criminal Apprehension.
- In concert with investigators from neighboring agencies, we've identified several persons of interest who are currently the focus of investigators.

The burglary and theft pattern:

- Combination of daytime and nighttime burglaries and thefts from autos.
- Burglaries tended to be forced entry and mostly through a garage service door or back patio door.
- Thefts from autos have included unlocked and locked vehicles. The locked vehicles either had the window smashed or the locks pulled.
- It is believed the suspect(s) may be knocking on doors to see if people are home before entering the back or service door.

- Based on the size and type of property taken, the suspect(s) are believed to have had access to a nearby or waiting vehicle.
- While there have been a few different vehicles described, we do not have solid vehicle descriptions.
- It is believed there may be multiple people or groups engaged in these burglaries based on some recent arrest that were made

Plan for increasing police presence and problems solving:

- The new South Maplewood Fire Station (on the 3M campus), which will a host a police substation, will open late this year. Starting in January, police officers will be assigned out of the substation and will start and end their shifts out of the substation which will reduce response time.
- Beginning in January, officers will be assigned to fixed areas of patrol assignment. We believe officers regularly working in these assigned areas will increase consistency and focus on problems solving.

Ongoing efforts toward problem solving:

- Outreach with neighborhoods to provide crime prevention information.
- Increased neighborhood-based patrols.
- Ongoing investigation into open cases.
- Monitoring of regular outlets for the sale and/or distribution of stolen goods
- Strongly encouraged use of 9-1-1 to report <u>any/all</u> suspicious activity.

Burglary & theft prevention strategies:

- While there is no "sure-thing" strategy, the following will help reduce risk of residential burglary:
- Utilize motion lights on both front and back doors
- Leave a radio or lights on inside your home while away.
- If away from home for an extended period, notify the Police Department; and our Reserve officers will make trips by your home.
- Ask neighbors or another trusted person to get newspapers, mail, etc.
- Don't leave objects of value in plain view. Consider covering open windows in garages.
- Place valuables in the trunk before you reach your destination (thieves may be watching).
- Lock car doors when you are away. Close garage doors and lock them.
- Provide extra security for particularly vulnerable targets (e.g., bicycles, power tools, etc.) inside the garage/storage sheds.
- Alert police to suspicious or unknown people loitering in alleys or near cars or garages.
- Record serial numbers of purchased items to aid in their recovery in the event that they are stolen.

- Log onto the City website (www.ci.maplewood.mn.us) to find interactive crime mapping information.
- Organize a neighborhood gathering (Neighborhood Watch) and invite one of your police officers to attend to hear resident concerns and directly address questions.
- Always report suspicious activity by calling 9-1-1. It sends the message that the neighborhood is engaged and watching.

Your Police Department is committed to implementing strategies that will aid in the prevention and detection of these crimes. We seek a strong partnership with residents as it's the best way to minimize the risk of criminal victimization, reduce fear, and maintain –even grow – quality of life. If you have a police service concern, do not hesitate to contact Chief Schnell directly at 651-249-2602 or paul.schnell@ci.maplewood.mn.us.

The City of Maplewood is committed to providing responsive and thoughtful service to all our residents. We seek to do this by taking an evidence-based approach to decision making so that services reflect real, long-term value. Your elected Council Members demand responsible stewardship of the public's resources. As City staff, we seek to balance need and available resources. We recognize the real value our residents place in well-maintained streets and safe neighborhoods and we will do all that we can to deliver as quickly, responsibly, and creatively as possible.

Thank you for attending the meeting and caring about your City. Again, don't hesitate to call on us if you have questions or concerns.

Sincerely,

Michael Thompson
Director of Public Works / City Engineer
651-249-2403 (direct)
michael.thompson@ci.maplewood.mn.us

Paul Schnell
Police Chief
651-249-2602 (direct)
paul.schnell@ci.maplewood.mn.us

C: Nora Slawik, Mayor
Kathleen Juenemann, Council Member
Marv Koppen, Council Member
Bob Cardinal, Council Member
Marylee Abrams, Council Member
Melinda Coleman, Interim City Manager
Steve Love, Assistant City Engineer
Bryan Nagel, Street Superintendent
Alan Kantrud, City Attorney

Gas Franchise Fee Discussion

Funding Local Streets

Photo taken in South Maplewood

City Council Workshop
November 10, 2014
City of Maplewood, Minnesota

Gas Franchise Fee Discussion

Quick Review

- City’s are struggling to fund local street maintenance such as mill and overlays
- Cannot continue to raise property taxes and increase special assessments
- Need a sustainable source of revenue that is dedicated for specific “street repair” purpose

Gas Franchise Fee Discussion

Quick Review

- Why consider it now?
- Extreme pressure from citizens about pavement stripping issues as shown on the first slide
- Brooklyn Park, Woodbury, Burnsville, and many others are dealing with premature pavement failure

Gas Franchise Fee Discussion

What is it?

- Cities authorized by State Statute to adopt franchise fees to raise revenue
- Dozens of cities such as Elk River, Edina, Brooklyn Center, Richfield, Minnetonka, have taken a similar approach
- Revenue for specific use such as street maintenance (mill & overlay, crack seal, fog seal)

Gas Franchise Fee Discussion

Feedback so far on the idea?

- Dozens of complaints and interactions with residents – south leg and elsewhere
- Held an open house on October 2, 2014
- 45 attended to hear about the 5-year CIP and the idea of a gas franchise
- Six page letter and update mailed to residents after meeting to recap and obtain additional feedback

Gas Franchise Fee Discussion

Feedback so far on the idea?

- Some residents in favor but with conditions
  - Specific use
  - Possible sunset date
  - It must fund additional work only
  - Dedicated for street repairs only (no transfers)

Gas Franchise Fee Discussion

Feedback so far on the idea?

- Pros
  - Local control
  - Easy to administer
  - More streets fixed
  - Dedicated for specific use
  - Sustainable revenue source
  - Transparency through fund accounting

Gas Franchise Fee Discussion

Feedback so far on the idea?

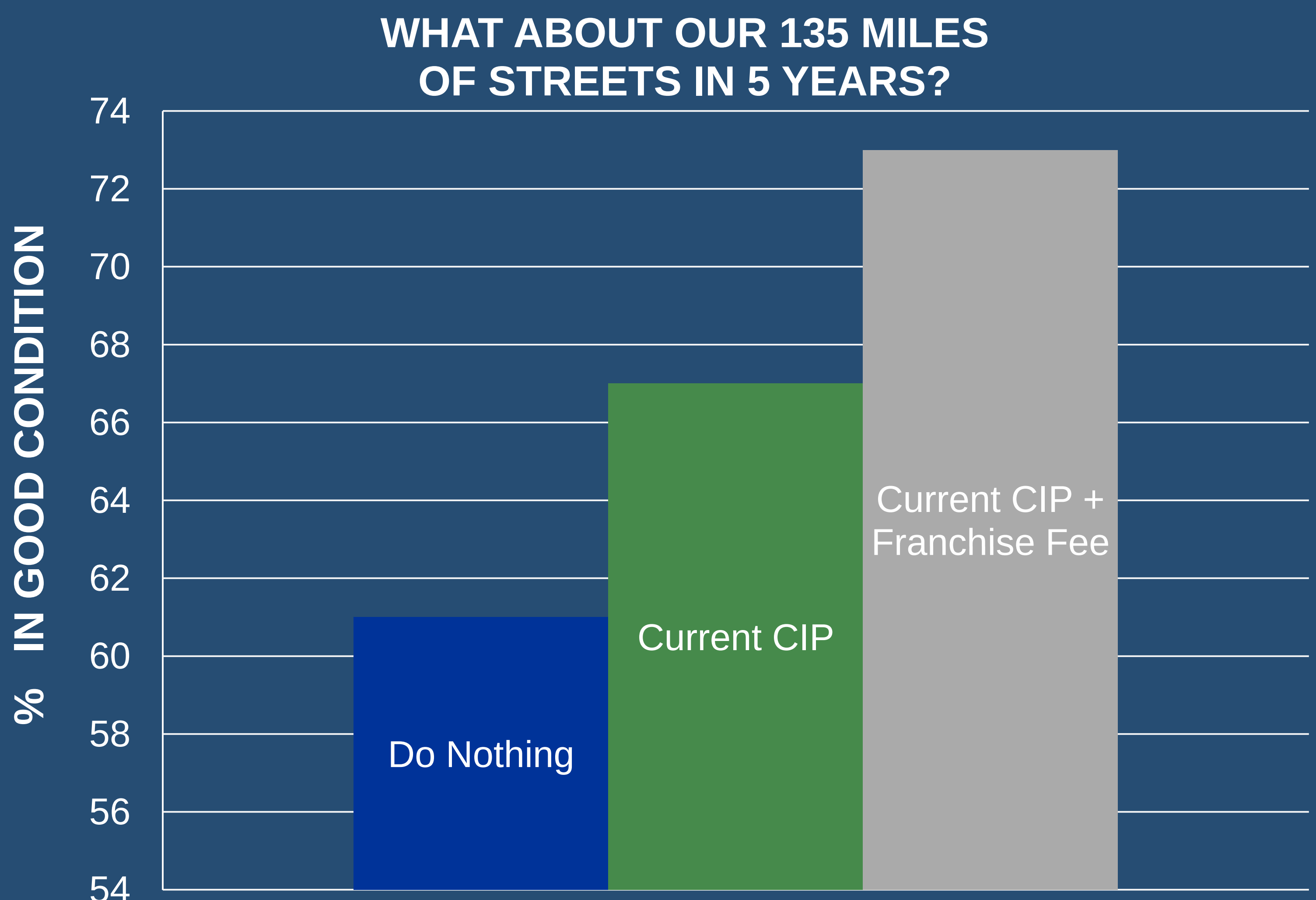
- Cons
  - Raises utility cost by franchise fee amount
  - Potential opposition from non-profits, tax exempt parcels… churches, etc…
  - Opposition from residents where streets are in good condition
  - Looked at as another government fee/tax

Gas Franchise Fee Discussion

Fees and total revenue?

- Revenue target of $470,000 to allow fixing additional 2 miles per year
- What about the fee?
  - Residential -> $2.50/month
  - Commercial -> $6.00/month
  - Other types -> Varies

Gas Franchise Fee Discussion



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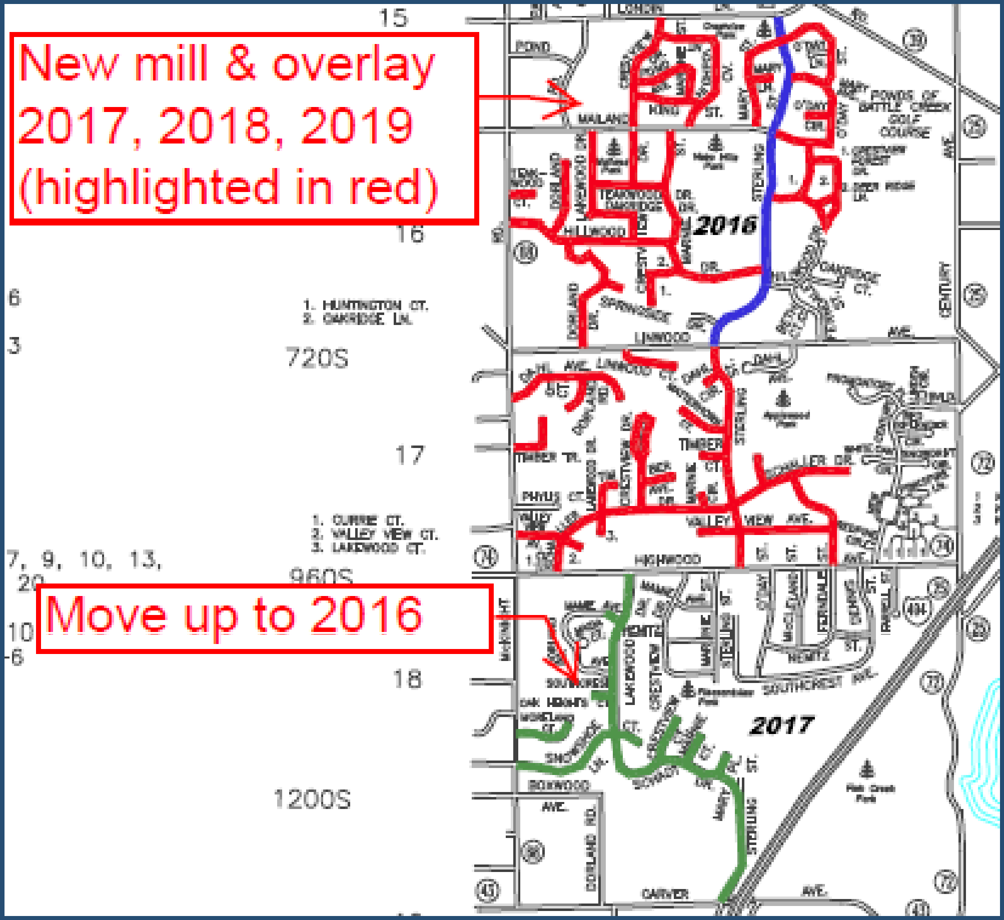
Gas Franchise – More Fixes



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Gas Franchise Fee Discussion

Where do we go from here?

- Staff proposes to move forward to address deteriorating pavement
- Public outreach for additional feedback
- If support, bring back report of public outreach, proposed ordinance language, fee schedule, and continued coordination with Xcel Energy

Gas Franchise Fee Discussion

QUESTIONS OR COMMENTS?