

Date: February 16, 2015
TO: Mayor and City Council
FROM: Andy Blondeau
SUBJECT: Repairs to Earle Street Required Due to Utility Work

Council may recall that part of the overhead to underground utility conversion that took place on phase 1B of the downtown streetscape project required the City to pay AT&T \$130,825.06 as prescribed by the attached contract. AT&T required this money be paid in full up front before they would proceed with their portion of the work. AT&T does not do any of the earthwork associated with a project like this. Instead, they have a master contract with ANSCO who performs this work for them.

ANSCO was boring on Earle Street and needed to cut a hole in the road that would allow their boring head to surface. This hole was 18x18 and located between Wells Fargo and the Masonic Lodge. ANSCO left the job without filling in the hole. Please see the picture below taken January 30, 2014. The hole remained open for several months despite the City's request to have it patched. On several occasions, our utility crews filled the hole with gravel to make the road safe for travel. I received a phone call from a visitor to Clemson in March of 2014 reporting he had hit the hole and popped his tire. I instructed him to have the tire repaid and to give me copies of his paid invoices. The City reimbursed him for the damages and then invoiced Bradley Stone at AT&T for the cost. This was done in the name of customer service and to make sure the visitor received prompt reimbursement for his damages. (Invoice and documentation attached) AT&T has reimbursed us for this cost in the full amount of \$98.65.

In May of 2014, the hole had still not been fixed so the utility and public works department patched it with asphalt. This picture is the one dated May 8, 2014. This picture shows the road is still in need of repair. The road had begun to sink at this point so this patch was not intended to be the permanent fix. The city continued to ask AT&T to fix the road and finally in July had to have the work done prior to move in weekend. The Campus View Development had been completed and Earle Street was about to be inundated with students on move in weekend.

I spoke with Robert Bowen of AT&T August 7, 2014 to let him know the sink hole had to be fixed. He was skeptical as to rather or not the cut AT&T made in the road was causing the sink hole. Robert thought the sewer line may have had a hole in it and could have been causing the damage. I explained to him we TV'd the line and found it to be in good shape. I also told him the problem was caused by leaving the hole open for several months. The cut was made during a very dry period and then we received significant amounts of rain. The rain ran into the cut and followed the ditch line under the road and caused it to sink. I told Robert the job needed to be done by Friday August 15th without exception. We outlined with paint the extent to which he would have to remove the road and explained to him

what would be required to fix it so it wouldn't continue to sink. He said he needed to speak with his supervisor and that he would get back to me.

Their response was that they were still skeptical and wanted to investigate further. I told them that time has come and gone and we needed to get the road fixed. I also told him I would hire a geotechnical engineering firm to investigate the damage, determine a cause and recommend a repair. They agreed to pay for the service if the report said they were at fault and for me to let them know how much it cost to have the road fixed. I received a quote from Kris Mechanical of Easley and passed it along to AT&T prior to authorizing the work. Kris Mechanical arrived the next day along with BLE and made the repair. The Kris Mechanical Invoice was higher than the quote because the geotechnical firm required they use more material than was quoted. I sent AT&T copies of the invoices so they could pay Kris Mechanical and Bunnell Lammons Engineering.

BLE called me in December to find out why they had not been paid. I called Kris Mechanical to see if they have been paid and they confirmed they had not. I told AT&T I was going to pay these fees and then invoice AT&T for the cost. That way I could assure the vendors who did work on my behalf would be paid quickly. More than a month passed so I followed up with Jim Evers of AT&T to find out when we could expect payment. He was not aware we had not been paid and told me he would look into it. AT&T told me Jeff Stoll from ANSCO would be calling to discuss the issue. I received an email from Jeff Stoll of ANSCO saying they would split the cost with the City. I then reminded Jim Evers of AT&T I did not have a contract with ANSCO and that I hoped they would respect the contract the City had with them. Jim told me he thought this had already been taken care of and that he would be back in touch. Jim had Terry McFall call me on February 10, 2015. Mr. McFall said despite the fact I kept refereeing to what I was considering a contract with AT&T (contract attached) they were not responsible for ANSCO's work. I told him I disagreed and that I would have to give the matter some thought.

Right now it appears AT&T is not going to reimburse the City for the costs related to fixing Earle Street. The costs are \$4,031.08 to Kris Mechanical and \$198 to Bunnell Lammons Engineering. AT&T has said they are not responsible for their subcontractors work and that we will have to work with ANSCO to be reimbursed. ANSCO says they still don't think they are fully responsible and will only pay for half the costs. I wholeheartedly disagree with this position.

Staff needs direction from Council on how to proceed. Below are the three options and their possible outcomes:

Option 1. Take AT&T to magistrate's court and seek reimbursement in full. Doing so may not result in the city being made whole but it would send a message to utilities working in the city that they are responsible for the work they do in our right of way. City Attorney Kay Barrett estimates it will cost \$1,000 do pursue this option.

Option 2. Ignore the AT&T contact and take ANSCO's deal. Their offer to pay for half the costs is likely the most the City will be able to recover. This amounts to \$2,213.54.

Option 3. Do nothing. This would send the reverse message to utilities working in the City by letting them know they will not be held accountable for their actions.

January 29, 2014



May 8, 2014



March 10, 2014

