

***TOWN COUNCIL***

***MEETING***

***PACKET***

**May 6, 2019**



## Town Council

**Agenda**  
**Monday, May 6, 2019**  
**Town Hall, Council Chambers**  
**450 So. Parish Avenue**  
**7:00 PM**



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**MISSION STATEMENT**—*The mission of the government of the Town of Johnstown is to provide leadership based upon trust and integrity, commitment directed toward responsive service delivery, and vision for enhancing the quality of life in our community.*

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*Members of the audience are invited to speak at the Council meeting. Public Comment (item No. 5) is reserved for citizen comments on items not contained on the printed agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position. If you wish to speak at the Town Council meeting, please fill out a sign-up sheet and present it to the Town Clerk.*

- 1) **CALL TO ORDER**
  - A) Pledge of Allegiance
- 2) **ROLL CALL**
- 3) **AGENDA APPROVAL**
- 4) **RECOGNITIONS AND PROCLAMATIONS –**
- 5) **PUBLIC COMMENT (three-minute limit per speaker)**
  - A) Sarah Rice – Executive Director – Bright Futures

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*The “Consent Agenda” is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to have an item discussed or if there is public comment on those ordinances marked with an \*asterisk. The Council member may then move to have the subject item removed from the Consent Agenda for discussion separately.*

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- 6) **CONSENT AGENDA**
    - A) Town Council Meeting Minutes – April 15, 2019
    - B) Intergovernmental Agreement Between the Front Range Fire Rescue Fire Protection District and the Town of Johnstown Regarding Fire Services
    - C) Resolution Number 2019-16, A Resolution of the Town of Johnstown, Colorado, Supporting the Application for an Energy Impact Grant from the State of Colorado Department of Local Affairs
  - 7) **TOWN MANAGER REPORT**
  - 8) **TOWN ATTORNEY REPORT**
  - 9) **OLD BUSINESS**
  - 10) **NEW BUSINESS**
    - A) Temporary Use of Adjacent Sidewalk, Parish Avenue and Parish Avenue Common Area (Town Property) –Veteran Brothers Brewing Company
  - 11) **EXECUTIVE SESSION**
  - 12) **COUNCIL REPORTS AND COMMENTS**
  - 13) **MAYOR’S COMMENTS**
  - 14) **ADJOURN**
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## WORK SESSION

Broadband Policy

Update on Council Retreat



### **NOTICE OF ACCOMODATION**

If you need special assistance to participate in the meeting, please contact the Town Clerk at (970) 587-4664. Notification at least 72 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to the meeting.

**AGENDA ITEM 6A-C**

**CONSENT**

**AGENDA**

- **Council Minutes – April 15, 2019**
- **IGA – Front Range Fire Rescue Fire Protection District**
  - **Resolution 2019-16**

## TOWN COUNCIL AGENDA COMMUNICATION

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**AGENDA DATE:** May 6, 2019

**ITEM NUMBER:** 6A-D

**SUBJECT:** Consent Agenda

**ACTION PROPOSED:** Approve Consent Agenda

**PRESENTED BY:** Town Clerk

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**AGENDA ITEM DESCRIPTION:** The following items are included on the Consent Agenda, which may be approved by a single motion approving the Consent Agenda:

- A) Town Council Meeting Minutes – April 15, 2019
- B) \*Intergovernmental Agreement Between the Front Range Fire Rescue Fire Protection District and the Town of Johnstown Regarding Fire Services
- C) \*\*Resolution Number 2019-16, A Resolution of the Town of Johnstown, Colorado, Supporting the Application for an Energy Impact Grant from the State of Colorado Department of Local Affairs

\*On or about November 7, 2011, the Town and the Front Range Fire Rescue Fire Protection District (“Fire District”) entered into an intergovernmental agreement for fire protection services. Based on subsequent discussions and a work session conducted on March 11, 2019, Town Council directed that a revised intergovernmental agreement be prepared. The revised agreement provides, among standard provisions regarding the Fire District’s obligation to provide for fire, emergency and related services to portions of the Town, for the designation of an area known as the “Johnstown Service Area.” The Johnstown Service Area is defined to include “the portion of the Town’s corporate boundaries that is generally located east of Interstate 25 and south of State Highway 402 (Larimer County Road 18) to Larimer County Road 3 and then north along Larimer County Road 3 to U.S. Highway 34 and then east along U.S. Highway 34.” The Johnstown Service Area thus includes an area broader than the area that is currently within the Town and the Fire District’s shared boundaries. By and subject to the terms of the agreement, the Town designates the Fire District as the Town’s exclusive provider of fire services in the Johnstown Service Area. If a property owner in another fire district petitions for inclusion into the Fire District and is not excluded, by agreement or otherwise, from the other fire district, the Town agrees to commence a legal proceeding to effectuate the exclusion from the other district on the condition that the Fire District pay the cost of the legal proceeding. The Town also agrees to request landowners who annex into the Town, who are not in a fire district, to include their property into the Fire District. The Fire District agrees to endeavor to improve its response times in the Town and to provide semi-annual reports to the Town.

\*\*The Town met with representatives from DOLA on April 19 to discuss the WCR 50 roadway improvements application. One of the items that was brought up was the need for clarity on funding from the Town. It was recommended that we update our resolution to reflect the funding component and the addition of a new Section 2 was added to the resolution clarifying funding appropriations for the grant’s match.

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**LEGAL ADVICE:** The entire Consent Agenda may be approved by a motion of the Town Council approving the Consent Agenda, which automatically approves each and every item listed on the Consent Agenda. If a Council member wishes to have a specific discussion on an individual item included with the Consent Agenda, they may move to remove the item from the Consent Agenda for discussion.

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**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** Approve Consent Agenda

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**SUGGESTED MOTION:**

**For Approval:** I move to approve the Consent Agenda.

**For Denial:**

# **Council Minutes**

The Town Council of the Town of Johnstown met on Monday, April 15, 2019 at 7:00 p.m. in the Council Chambers at 450 S. Parish Avenue, Johnstown.

Mayor Lebsack led the Pledge of Allegiance.

Roll Call:

Those present were: Councilmembers Bert, Lemasters, Mellon, Molinar Jr. and Young

Those absent were: Councilmember Tallent

Also present: Avi Rocklin, Town Attorney, Matt LeCerf, Town Manager, Kim Meyer, Town Planner, Marco Carani, Public Works Director and Brian Phillips, Police Chief

Agenda Approval

Councilmember Lemasters made a motion seconded by Councilmember Berg to approve the Agenda as submitted. Motion carried with a unanimous vote.

Recognitions and Proclamations

Mayor Lebsack read a proclamation declaring May as Mental Health Awareness Month.

Urban Egg of Johnstown presented a check in the amount of \$3,600.00 to the Glenn A. Jones Memorial Library.

Public Comment

Mr. Ken Bianchetti, Pioneer Ridge HOA President, addressed the Council with concerns of a proposed compressor station being built south of Johnstown on Weld County Road 15. Mr. Biachetti voiced concerns about the impact the additional noise and odor issues the compressor station will cause.

Consent Agenda

Councilmember Mellon made a motion seconded by Councilmember Molinar Jr. to approve the Consent Agenda with the following items included:

- April 1, 2019 Council Meeting Minutes
- Payment of Bills
- March Financial Statements
- Second reading Ordinance Number 2019-159- An Ordinance Authorizing the Conveyance of Tract C, Clearview PUD, Second Filing, to the Weld County Reorganized School District RE5J

Motion carried with a unanimous vote.

Old Business

A. Continued Public Hearing – Johnstown Plaza Design Book Guidelines Proposed Land Use Plan Lot 1 from B1 to B2 – The owner of the property Johnstown Plaza, LLC is Requesting the Town approve an amendment to the Johnstown Plaza Design Book. The Amendment would add a Multi-Family Residential, a Principal Use and Residential Accessory Use Section, and change the Land Use Plan for the parcel currently designated B.1 Office, Flex, Retail. The applicant proposes to construct approximately 228 apartments, and accessory uses. If the property develops into multi-family the guidelines would follow the 2534 Design Guidelines.

Mayor Lebsack opened the public hearing at 8:02. The applicant Mike Schlup spoke in favor of the project. Mr. Nathan Gerrard representing Thompson Crossing Metro District opposed the project. The public hearing was closed at 8:15 p.m.

Councilmember Mellon made a motion seconded by Councilmember Molinar Jr. to approve the Amendment to the Johnstown Plaza Design Book (Guidelines) to change the Land Use Designation of Lot 1, 2534 Subdivision Filing No. 16 from B.1 Office, Flex and Retail Uses to B.2 Office, Flex Retail and Multi-family with the following conditions: 1. The Planning and Zoning Commission’s conditions of approval shall be satisfied; 2. Multi-family residential Development in Area B.2 shall be subject to the design standards for multi-family residential development set forth in the 2534 Design Guidelines; and The Johnstown Plaza Design Handbook shall be amended to reflect that the 2534 Design Guidelines applies to multi-family residential development in Area B.2. Motion carried with a unanimous vote.

New Business

Award Contract to Asphalt Specialties – Town of Johnstown 2019 Street Overlay Project – The project encompasses locations in Town for a 2-inch roto mill and overlay on Jay Avenue. Also, plans to reconstruct Hawthorne Avenue from Woodbine to the south end of the cul-de-sac. Councilmember Berg made a motion seconded by Councilmember Molinar Jr. to award the bid between the Town of Johnstown and Asphalt Specialties for the 2019 Town of Johnstown Overlay Project in the amount of \$415,000. Motion carried with a unanimous vote.

There being no further business to come before Council the meeting adjourned at 8:45 p.m.

Mayor

Town Clerk

**Intergovernmental Agreement  
(Front Range Fire Rescue  
Fire Protection District)**

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE FRONT RANGE FIRE RESCUE FIRE PROTECTION DISTRICT  
AND THE TOWN OF JOHNSTOWN REGARDING FIRE SERVICES**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the Front Range Fire Rescue Fire Protection District (the "Fire District"), a special district organized and existing pursuant to § 32-1-101, CRS, et seq. (the "Special District Act"), and the Town of Johnstown (the "Town"), a Colorado municipal corporation, collectively referred to as the "Parties."

**RECITALS**

WHEREAS, the Fire District and the Town have a common and compelling public safety interest to provide and plan for Fire Services, as defined below in Section 2(B) of this Agreement, for the existing and future property owners and residents within their respective jurisdictions; and

WHEREAS, the Fire District and the Town also have a common and compelling interest in the investigation and prosecution of arson; and

WHEREAS, pursuant to the Special District Act, the Fire District provides Fire Services to all areas within its boundaries; and

WHEREAS, pursuant to § 31-30-101, CRS and § 31-15-601, CRS, the Town is authorized to provide Fire Services within its municipal boundaries; and

WHEREAS, pursuant to § 29-1-203, CRS, the Fire District and the Town may contract with one another to provide any function, service, or facility lawfully authorized to be provided by the Fire District and the Town; and

WHEREAS, a substantial portion of the area presently located within the boundaries of the Town is also located within the boundaries of the Fire District; and

WHEREAS, both the Town and the Fire District have adopted the International Fire Code, and the Fire District enforces the International Fire Code as adopted by the Town in those areas located within the boundaries of both the Town and the Fire District, even when and if the International Fire Code adopted by the Town varies from the International Fire Code adopted by the Fire District; and

WHEREAS, the Fire District has the authority to administer and enforce the International Fire Code adopted by the Fire District and/or the County in which it is located with respect to areas located within the boundaries of the Fire District but outside the boundaries of the Town; and

WHEREAS, the Fire District is willing to commit to provide high quality professional Fire Services to all areas located within the boundaries of the Town and the Fire District, as such boundaries may be altered from time to time by annexation or otherwise; and

WHEREAS, the Parties agree that coordinated emergency services will promote efficient delivery of services during a disaster or emergency; and

WHEREAS the Parties agree that establishing mutual boundaries between the Fire District and the Town wherever feasible is in the best interest of both Parties and will promote the efficient provision of Fire Services and the public safety and welfare; and

WHEREAS, the Parties agree that it is in their best interests to create an atmosphere conducive to a healthy economy, and that cooperation between the Parties will enhance opportunities for economic development; and

WHEREAS, the Parties recognize and agree that, in addition to the Fire District, Fire Services are provided to portions of the Town by other fire districts or fire authorities, , based on the boundaries of each such entity; and

WHEREAS, on or about November 7, 2011, the Town and the Fire District entered into an Intergovernmental Agreement for Fire Protection and Related Services ("2011 IGA"); and

WHEREAS, to clearly delineate the property within the corporate boundaries of the Town that the Town desires to be served by the Fire District, the Parties desire to execute this Agreement to replace and supersede the 2011 IGA; and

WHEREAS, the Fire District and the Town agree that it is in the best interests of the Parties, and will promote the public safety and welfare of their current and future residents and property owners, to provide for cooperative efforts by both the Town and the Fire District for the provision of uniform Fire Services, and efficient and effective arson investigation and prosecution throughout the shared boundaries of the Fire District and the Town.

#### **AGREEMENT**

NOW, THEREFORE, the Town and the Fire District covenant and agree as follows:

1. **RECITALS.** The Recitals are incorporated as if fully set forth herein.
2. **DEFINITIONS.** For the purposes of this Agreement, the following definitions shall apply:
  - A. "Chief" means the Fire Chief when referring to the Fire District and to the Police Chief when referring to the Town.
  - B. "Fire Services" refers to all proper and mandated services, functions, and activities of a fire protection district as authorized in the Colorado Revised Statutes and as described in the Fire District's Statement of Purpose including, without limitation, fire suppression and related investigatory activities, fire prevention, basic and technical rescue, hazardous materials services, emergency medical services, and enforcement and administration of the Fire Code adopted by the Town. The Fire District and the Town may, as necessary and appropriate, use mutually agreed upon standards to enforce within the Town the Fire Code adopted by the Town.
  - C. "Fire Code" refers to the current version of the International Fire Code adopted by the Town, together with any modifications or amendments thereof, and successor fire codes adopted by the Town.
  - D. "Governing Body" means the Town Council when referring to the Town and the Board of Directors when referring to the Fire District.
  - E. "Johnstown Service Area" means the portion of the Town's corporate boundaries that is generally located east of Interstate 25 and south of State Highway 402 (Larimer County Road 18) to Larimer County Road 3 and then north along Larimer County Road 3 to U.S.

Highway 34 and then east along U.S. Highway 34, as set forth on Exhibit A, attached hereto and incorporated herein by reference. Upon written agreement of the Parties in the form of an amendment to this Agreement, the boundaries of the Johnstown Service Area may be amended from time to time.

F. "Manager" means the Town Manager when referring to the Town.

**2. EXCLUSIVE PROVIDER OF FIRE SERVICES TO JOHNSTOWN SERVICE AREA; FIRE DISTRICT OBLIGATIONS.** By and subject to the terms of this Agreement, the Town hereby designates the Fire District as the exclusive provider of Fire Services within the Johnstown Service Area. The Fire District understands and agrees that it is legally obligated to provide Fire Services to all property currently within the Fire District's jurisdictional boundaries and to all property that may in the future be included into those boundaries, subject to the terms and conditions of this Agreement. The Fire District agrees that the Fire Services it provides to all property within its jurisdictional boundaries, now and in the future, shall be comparable to, or better than, the Fire Services it currently provides to all other property within its jurisdiction. The Fire District and the Town agree and understand that the District may provide advanced life support emergency medical services and patient transport within the Fire District's jurisdictional boundaries if those same services are not provided by another appropriate governmental entity with concurrent jurisdiction.

**3. ANNEXATION; INCLUSION AND EXCLUSION OF LAND.**

A. Annexation; land not within any fire district. The Town agrees to request landowners that are not within any fire district and who seek annexation of their lands into the Town to petition for inclusion of such lands into the Fire District.

B. Annexation; land within another fire district. The Town agrees to request landowners within the Johnstown Service Area and within another fire district's boundaries who seek annexation of their lands into the Town to petition for inclusion of such lands into the Fire District and petition for exclusion of such lands from their existing fire district. The Fire District shall diligently process all such petitions for inclusion. In the event that: (1) the property owner files a petition for inclusion with the Fire District and a petition for exclusion with their existing fire district and the existing fire district denies the petition for exclusion; or (2) the property owner files a petition for inclusion, but does not file a petition for exclusion from their existing fire district, then, in either instance, the Town agrees, upon the Fire District's written request, to file a petition for exclusion of such property with the Weld County District Court, or other applicable court of competent jurisdiction, pursuant to Section § 32-1-502, C.R.S. ("502 Proceeding"). The Town's filing of a 502 Proceeding shall be contingent upon the Fire District's payment of all costs, including attorneys' fees, associated with the 502 Proceeding, which shall be paid in the form of a cost deposit (to be replenished, as needed) with the Town prior to the commencement of a 502 Proceeding. In addition, the Fire District shall, if requested, provide legal and technical assistance to the Town's attorney regarding such court proceeding.

C. Inclusion; land within Johnstown Service Area and within another fire district. The Fire District may request landowners currently within the corporate boundaries of the Town and the Johnstown Service Area, but within another fire district's boundaries, to petition for

inclusion of such lands into the Fire District and petition for exclusion of such lands from their existing fire district. The Fire District shall diligently process all such petitions for inclusion. In the event that: (1) the property owner files a petition for inclusion with the Fire District and a petition for exclusion with their existing fire district and the existing fire district denies the petition for exclusion; or (2) the property owner files a petition for inclusion, but does not file a petition for exclusion from their existing fire district, then, in either instance, the Town agrees, upon the Fire District's written request, to file a 502 Proceeding with the Weld County District Court, or other applicable court of competent jurisdiction. The Town's filing of a 502 Proceeding shall be contingent upon the Fire District's payment of all costs, including attorneys' fees, associated with the 502 Proceeding, which shall be paid in the form of a cost deposit (to be replenished, as needed) with the Town prior to the commencement of a 502 Proceeding. In addition, the Fire District shall, if requested, provide legal and technical assistance to the Town's attorney regarding such court proceeding. Notwithstanding the foregoing, if a fire station is constructed at or near the Interstate 25 and State Highway 402 interchange, the Fire District may request that the Town provide written approval of a procedure whereby, in lieu of the voluntary filing of a petition to include by a property owner, the District, through its sole expenditure, refer a ballot question to the registered electors within the Johnstown Service Area regarding inclusion of property into the Fire District. If the property owners vote in favor of the ballot question, then the Town agrees, upon the Fire District's written request, to file a 502 Proceeding in the manner described above.

**4. FIRE DISTRICT FACILITIES.** The Town understands that the Fire District's current operational status, including its present facilities, equipment, and personnel, is designed primarily to provide Fire Services within the Fire District's boundaries as they exist as of the date of this Agreement. The Town further understands and agrees that the Fire District's ability to provide Fire Services to property annexed into the Town in the future may require the Fire District to expand or otherwise change the nature of the Fire District's facilities, equipment, and personnel. The Fire District shall use its best efforts to meet all future Fire Services needs, and, when properties annex into the Town and seek inclusion into the Fire District, shall endeavor to ensure that the Fire District is able to provide the level of Fire Services described in this Agreement.

**5. COOPERATION AND ALLOCATION OF COSTS.**

- A. Based on the understanding that the Fire District will provide the level of Fire Services set forth in this Agreement to the property, the Town agrees to support, and not to object to, petitions for inclusion filed hereinafter by property owners with the Fire District and/or petitions for exclusion filed by property owners with their existing fire districts.
- B. The Fire District shall pay and indemnify the Town for and against the cost of any Fire Services and related facilities or improvements (e.g., fire stations) for which the Town is required to pay, if any, incident to the exclusion of property from another fire district or ambulance district, or both, pursuant to this Agreement.
- C. The Fire District shall pay all costs incurred by the Fire District incidental to inclusion of property into the Fire District's boundaries. The Fire District shall also indemnify, defend and pay the Town with respect to all other costs and expenses, including but not limited to

the Town's attorney fees, consultants' fees, costs and expenses related to the exclusion of property from another fire district or ambulance district, or both, and the corresponding inclusion into the Fire District, whether incidental to initial implementation of this Agreement or any future annexation of property by the Town.

- 6. FIRE SERVICES AND TRAINING STANDARDS.** The Fire District shall be responsible for establishing Fire Services response and training policies, standards, and guidelines within its jurisdiction, including any areas within its jurisdiction that are located within the Town's boundaries, as described in the Fire District's Statement of Purpose. The Town shall, subject to the provisions hereof and to the extent allowed by law, cooperate with the Fire District in providing consistent levels of Fire Services to all land served by the Fire District that is also within the Town. The Town shall retain all rights pursuant to § 29-22-102, CRS.
- A. The training standards adopted by the Fire District shall at all times meet or exceed the national training standards for firefighters promulgated by the National Fire Protection Association ("NFPA"), and the State training requirements for firefighters set forth in § 31-30-1122, CRS, each as may be amended from time to time.
  - B. The Fire District shall provide 24 hours per day, 365 days per year at Fire Station No. 1 at least one (1) engine, staffed with at least three (3) professional firefighters certified to the level of EMT-Basic and at least one (1) advanced life support (ALS) ambulance, staffed with at least one (1) paramedic and one (1) Emergency Medical Technician (EMT). As new fire stations are constructed, the Fire District shall diligently staff those new fire stations to provide the best practicable Fire Services to the Town, which Fire Services shall be equal to or better than the Fire Services provided by other fire stations in the Town.
  - C. The Fire District may, in the exercise of its best judgment, provide the Emergency Medical Services (EMS) within the Town's boundaries through a contract or intergovernmental agreement with a separate ambulance district or a private medical service provider, or the Fire District may provide the Emergency Medical Services directly, through its own personnel and equipment; provided, however, that the Fire District shall take all steps necessary to ensure that at all times there is sufficient medical equipment and trained, qualified medical personnel to meet the Emergency Medical Services standards established herein and otherwise to meet the needs of the citizens and visitors within the Parties' shared boundaries. All personnel providing Emergency Medical Services for the Fire District, whether as employees of the Fire District or through contract with the Fire District, shall at all times meet or exceed all State certification and/or licensure requirements.
  - D. The Fire District's emergency response time within the Johnstown Service Area shall meet or be less than a nine (9) minute response time for the Initial Response Unit on at least 90% of the emergency responses. The Fire District agrees to use reasonable best efforts to, within three (3) years of the date of this Agreement, reduce its response time to eight (8) minutes and, within six (6) years of the date of this Agreement, reduce its response time to six(6) minutes. Improvements on response times are contingent upon available infrastructure, future development, and continued collaboration between the Town and Fire District. For the purposes of this Agreement, the term "Initial Response Unit" shall mean the Fire District apparatus or emergency response vehicle that is designated by the Fire District to respond to the incident. Response time shall be calculated from the Fire

District's receipt of the initial dispatch tone from the Weld County Regional Communications Center to when the first Fire District apparatus or vehicle arrives at the scene of the incident. Response time shall include the components of turnout time and travel time.

- E. On or before April 15 and October 15 of each year, the Fire District shall produce and deliver to the Town a written report detailing the Fire District's emergency response times within the Johnstown Service Area during the preceding six (6) month period, including but not limited to: 1. Compliance with the 90% standard as set forth in paragraph 6(D); 2. Every incident where the Fire District's response time was longer than the established standards, and the reason(s) why it failed to meet the established standards for each incident; and 3. A comparative table showing response/call volumes over the past 3 years on regular intervals as determined best by the Fire District. The April 15 report also shall include a summary of the training conducted by the Fire District during the preceding 12 months, and explain how the training meets or exceeds national and State training requirements for firefighters. Response times for specific incidents shall be provided upon written request from the Town.
- 7. NOTIFICATION OF LONG-RANGE PLANNING.** In order to better perform their obligations under this Agreement and to continue to improve the delivery of Fire Services to the Town, the Town and the Fire District shall endeavor to develop long-range strategic planning for the Fire District's provision of Fire Services within the Town, including the identification of additional fire station locations. The Town agrees to support the Fire District's efforts to secure property that has been mutually identified for a fire station location. The Parties shall endeavor to include each other in any long-range planning sessions on topics of shared concern to the Parties.
- 8. FIRE SERVICE FEES.** The Fire District agrees the Town is not required to compensate the Fire District for Fire Services the Fire District is required by this Agreement to provide to property within the Town but not within the Fire District's jurisdiction nor is the Town required to compensate the Fire District for Fire Services provided to any location. Similarly, the Town is not required to compensate the Fire District for Fire Services rendered pursuant to any mutual aid agreement the Fire District may have with any other governmental entity. The Town understands and agrees that the Fire District may charge fees for Fire Services provided to property and citizens within the Town but outside the Fire District's jurisdiction pursuant to § 32-1-1001(1)(k), CRS.
- 9. CODE DEVELOPMENT.** To assure uniformity in code interpretation and enforcement, the Town and the Fire District may work together to review, develop and amend the Building, Mechanical, Electrical, Residential, Existing Building, and Fire Codes to be adopted by, and enforced within, the Town. Nothing herein shall be construed to affect or limit the authority of the Town to determine the final form and substance of the Fire Code or other uniform or life safety codes to be adopted and enforced within the Town.
- 10. PLAN REVIEWS, PERMITS, AND INSPECTIONS.** In order to assure that all existing and new buildings, facilities and property within the Town are planned, developed, constructed and maintained in accordance with the Fire Code and such other applicable regulations as may be developed by the Town and the Fire District, the Town, with the assistance of the Fire District,

may develop, implement and maintain a plan review and inspection process that assures all proposals for modification to or renovation of existing non-residential properties, facilities or buildings, and any new construction or development of non-residential properties, shall be reviewed by, and subject to the approval of, the Fire District before issuance of a building permit and Certificate of Occupancy, as appropriate. The Town, with the assistance of the Fire District, may develop, implement and maintain a plan review and inspection process that assures that all proposals for modification to or renovation of existing residential properties, facilities or buildings, and any new construction or development of residential properties that involve fire prevention-related issues (i.e., access roads, water supplies, fire protection systems, etc.), or other Fire Code issues, shall be reviewed by and subject to the approval of the Fire District before issuance of a Town-issued permit or Certificate of Occupancy, as applicable. It is acknowledged that the issuance and withholding of permits shall be in accordance with the Fire Code and other applicable uniform or life safety codes, ordinances, rules and regulations of and adopted by the Town.

- 11. CODE ENFORCEMENT.** Upon request of the Fire District or as the Town otherwise deems appropriate, the Town agrees to assist the Fire District in enforcing the Town's Fire Code within the Town's jurisdiction. As appropriate, the Fire District may assist the Town in enforcing the Town's Building, Mechanical, Electrical, Residential, and Existing Building Codes, as adopted and from time to time amended by the Town, within the Town's jurisdiction. As provided in the Special District Act, the Fire District shall refer a code violation or a suspected arson to the Town Attorney for prosecution in the Town's Municipal Court, or to the District Attorney for prosecution in the County or District Court. The Town may also request that the Fire District prosecute an enforcement action in District Court, utilizing the Fire District's legal counsel.
- 12. COOPERATIVE ARSON INVESTIGATIONS.** The Parties agree to cooperate in the investigation of all fires of suspicious origin and/or cause. The Fire District shall investigate all fires to determine the origin and cause. Immediately upon determining that a fire is suspicious in nature, the Fire District shall preserve the scene and shall present the facts of the investigation to the Town's Police Department, which shall have primary responsibility for investigation and prosecution of the case. The Fire District may support the Town's Police Department in the continued investigation of the circumstances of the incident, if such request is received.
- 13. DISASTER EMERGENCY ASSISTANCE.** The Fire District shall collaborate and work cooperatively in providing for disaster preparedness. The Parties may by separate written agreement provide for cooperation in disaster prevention, preparedness, response, and/or recovery.
- 14. IMPACT FEES.** The Fire District shall have the right to collect an impact fee on new construction in those areas located within the shared boundaries of both the Town and the Fire District in the manner and form adopted by ordinance of the Town Council and as set forth in a separate intergovernmental agreement between the Town and the Fire District, as both may be amended from time to time.
- 15. RESERVATION OF RIGHTS.** Nothing in this Agreement shall prevent the Fire District from including within its jurisdiction property not within the Town's jurisdiction. Similarly, nothing in this Agreement shall prevent the Town from annexing land that lies outside the Fire District's jurisdiction.

- 16. DISPUTE RESOLUTION.** In the event of any dispute or claim arising under or related to this Agreement, the parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within thirty (30) days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim through negotiations, then the parties agree to attempt in good faith to settle such dispute or claim by mediation conducted by a mutually agreed upon mediator or, if the parties are not able to agree upon a mediator, then under the auspices of the Judicial Arbitrator Group (JAG) of Denver, Colorado or, if JAG is no longer in existence, then under the auspices of a recognized, established mediation service within the State of Colorado. Such mediation shall be conducted within sixty (60) days following either party's written request therefore. If such dispute or claim is not settled through mediation, then either party may initiate a civil action in the local District Court of Weld County.
- 17. ADDITIONAL DOCUMENTS OR ACTION.** The Parties agree to execute any additional documents and to take any additional actions necessary to carry out this Agreement.
- 18. INTEGRATION AND AMENDMENT.** This Agreement represents the entire agreement between the Parties and there are no other oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by both Parties.
- 19. INTERPRETATION.** It is the intent of the Parties that no provision, sentence, word, or effect of this Agreement should be interpreted to be in conflict with state law.
- 20. TERM OF AGREEMENT.** This Agreement shall continue until terminated by either the mutual agreement of both Parties, or by one (1) year advance written notice given by either Party informing the other Party of its intention to terminate this Agreement with or without cause.
- 21. IMMUNITY PRESERVED.** Nothing in this Agreement shall be construed as a waiver by either party of any privilege, defense, or immunity provided by the Colorado Governmental Immunity Act, as it may be amended from time to time or any other applicable law.
- 22. SEVERABILITY.** If any portion of this Agreement shall be determined by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such determination shall not affect the validity of the remainder of the Agreement. If the validity, legality or constitutionality or performance of any portion of this Agreement shall be impeded or otherwise affected by any change in pertinent law or order of the court, it is the desire and intent of the Parties to perform and comply with this Agreement as nearly as possible according to its spirit and expressed intent until the Parties agree to changes consistent with and in accordance with the change in law or Court Order, as applicable.
- 23. PLANNING FOR PERFORMANCE.** The Fire District and the Town each acknowledge and understand that the other will henceforth engage in financial and other necessary planning and will otherwise act in expectation of and reliance upon complete good faith, cooperation and reasonable performance of the terms of this Agreement by the other.
- 24. AMENDMENT.** This Agreement may only be modified or amended by written agreement duly signed by both Parties.

**25. BINDING EFFECTS.** This Agreement shall be binding upon and shall inure to the benefit of the Parties, their successors and assigns.

**26. NOTICES.** Any noticed required hereunder shall be in writing and shall be sufficient if deposited in the United States mail, as certified mail, postage prepaid, to:

**Fire District:** Fire Chief  
Front Range Fire Rescue Fire Protection District  
101 South Irene Avenue, P.O. Box 130  
Milliken, CO 80543

**Town:** Town Manager  
Town of Johnstown  
450 South Parish Avenue  
P.O. Box 609  
Johnstown, CO 80534

Such notice shall be deemed to have been given when deposited in the United States mail.

**27. ASSIGNMENT.** Neither party shall assign any of the rights nor delegate any of the duties created by this Agreement without the written consent of the other party.

**28. GOVERNING LAW AND VENUE.** The laws of the State of Colorado shall govern this Agreement. Venue for any action rising under this Agreement or for the enforcement of this Agreement shall be in the appropriate court for Weld County, Colorado.

**29. FUND AVAILABILITY.** Financial obligations of the Parties after the current fiscal year are contingent upon funds for that purpose being annually appropriated, budgeted, and otherwise made available in accordance with applicable laws of the State.

**30. PAYMENTS TO CONSTITUTE CURRENT EXPENDITURES.** The Parties acknowledge and agree that all payment obligations under this Agreement are current expenditures of the Parties, payable in the fiscal year for which funds are appropriated for the payment thereof. All financial obligations under this Agreement shall be from year to year only and shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of the Parties within the meaning of Article X, Section 20 of the Colorado Constitution.

**31. NO THIRD PARTY BENEFICIARIES.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, all rights of action relating to such enforcement, shall be strictly reserved to Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of Parties that any person other than Parties receiving Fire Services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**32. HEADINGS.** The headings used herein are for convenience purposes only and shall not limit the meaning of the language contained herein.

**33. VALIDITY OF AGREEMENT.** This Agreement shall supersede and replace the 2011 IGA.

**IN WITNESS WHEREOF,** the undersigned have set their hands effective the day and year first above written.

**TOWN OF JOHNSTOWN**

By \_\_\_\_\_  
Gary Lebsack, Town Mayor

**ATTEST:**

\_\_\_\_\_  
Diana Seele, Town Clerk

**FRONT RANGE FIRE RESCUE FIRE PROTECTION DISTRICT**

By *David Rutt*  
Board President

By *John Brown*  
Fire Chief

**ATTEST:**

*James Young*  
Board Secretary

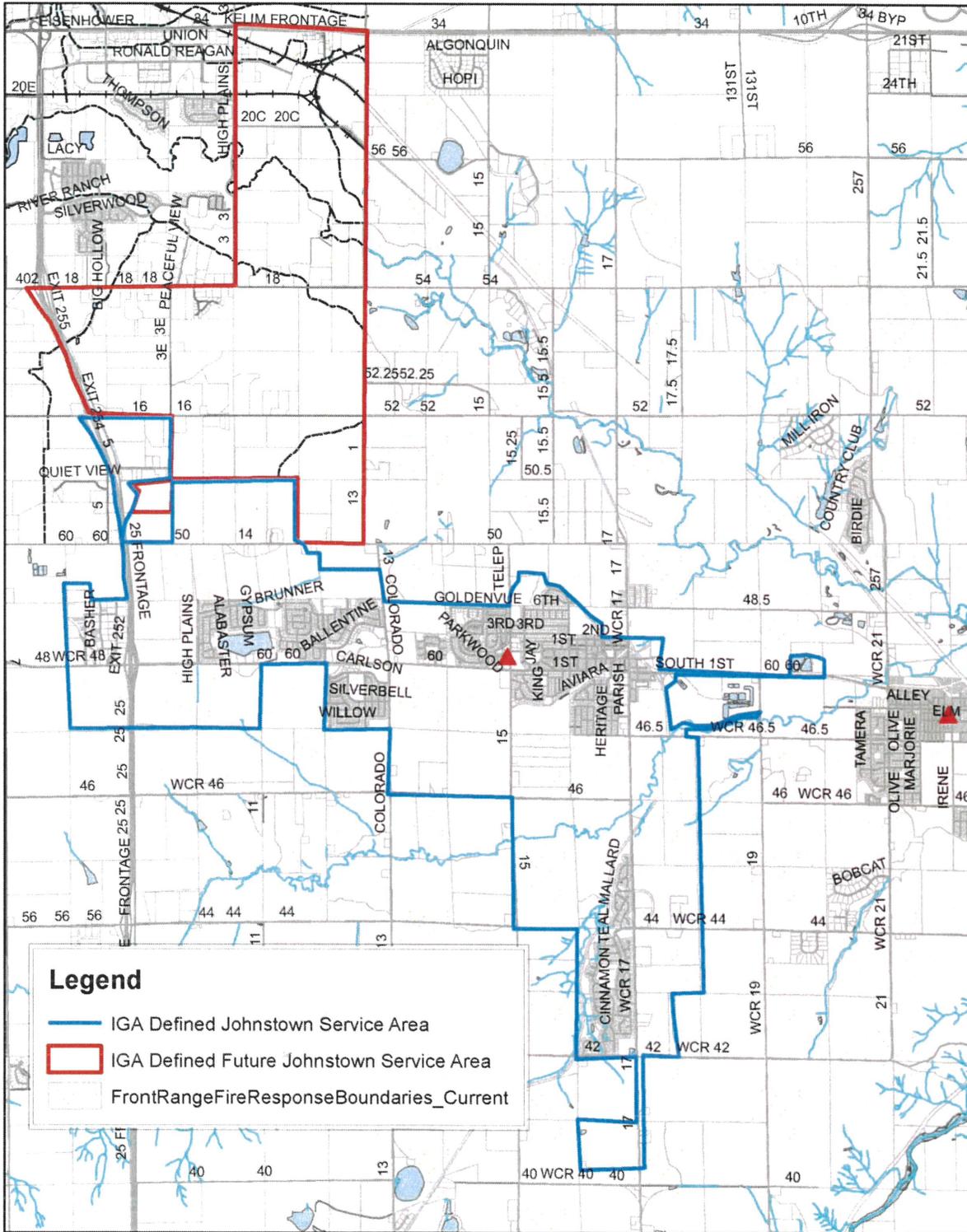
**APPROVED AS TO FORM**

By \_\_\_\_\_  
Town Attorney

By *John Clark*  
Fire District Attorney

**EXHIBIT A**  
**JOHNSTOWN SERVICE AREA**

# EXHIBIT A JOHNSTOWN SERVICE AREA



# **RESOLUTION**

**No. 2019-16**

**TOWN OF JOHNSTOWN, COLORADO**

**RESOLUTION NO. 2019-16**

**A RESOLUTION OF THE TOWN OF JOHNSTOWN, COLORADO,  
SUPPORTING THE APPLICATION FOR AN ENERGY IMPACT GRANT FROM THE  
STATE OF COLORADO DEPARTMENT OF LOCAL AFFAIRS**

WHEREAS, the Town of Johnstown authorizes the application for the Energy Impact Grant; and

WHEREAS, the purpose of the grant is to improve Weld County Road 50 and Larimer County Road 14 by making critical improvements that benefit the community to pave the roadway from an unimproved condition; and

WHEREAS, this is a collaborative project between Larimer County, Weld County and the Town of Johnstown; and

WHEREAS, the total cost of the project is estimated to be \$2,046,166 and the grant request is for \$1,000,000 which is the maximum request permitted.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Johnstown, Colorado that:

Section 1. The Town Council hereby authorizes and supports the application for the Energy Impact Grant in the amount of \$1,000,000.

Section 2. The Town Council hereby commits to appropriate funds for the Weld County Road 50 Improvements to fund this project upon award for the grant in the amount requested.

Section 3. Effective Date. This resolution shall become effective immediately upon adoption.

Section 4. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 5. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 6<sup>TH</sup> DAY OF MAY, 2019.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Diana Seele, Town Clerk

By: \_\_\_\_\_  
Gary Lebsack, Mayor

**AGENDA ITEM 7**

**TOWN MANAGER  
REPORT**



# TOWN OF JOHNSTOWN

## MEMORANDUM

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TO: Honorable Mayor and Town Council Members

FROM: Matt LeCerf, Town Manager

DATE: May 6, 2019

CC: Town Staff  
Local Media

SUBJECT: Departmental Report

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Upcoming Town Council Work Sessions – If there are topics that the Council would like staff to schedule for discussion, please let me know. The following topics are recommended for Council discussion (all meetings will be held in the Town Council Chambers unless otherwise indicated):

- 05/06/2019 – Regular Town Council Meeting
  - 05/13/2019 – Board Work Session
  - 05/20/2019 – Regular Town Council Meeting
  - 05/27/2019 – Memorial Day – No Meeting
- 

### **Police Department**

#### ***Training:***

- *Field Sobriety Training* – Officer Dudley attended Standard Field Sobriety Training on April 12<sup>th</sup> to learn about alcohol/drugs intoxication indicators and how to properly put a person through the standard field sobriety tests
- *Breathalyzer Training* – On April 15<sup>th</sup>, Officer Kelley, Officer Olds, and Officer Wood attended Evidential Breath Alcohol Testing (EBAT) Training at the Colorado Department of Health in Denver. They learned how to operate the I-9000 Intoxilyzer scientific instrument. This training included the history or BAC measurement technology, testing procedures, errors, and fixes. All officers passed the Colorado Department of Health certification exam.
- *Interview and Interrogation* – From April 15-18, Officer Otero attended Reid Interview and Interrogation. This training teaches how to prepare for the interview and interrogation. The legal distinction between and interview and interrogation and behavior symptom analysis
- *Commander Sanchez FBI National Academy*- Commander Sanchez completed the Tin Man Trot, which is a 2-mile run. Commander Sanchez came in 12<sup>th</sup> out of 267 People. He also completed the Cyclone, which is a 20-minute circuit training exercise that test the entire body.

**The Community That Cares**

- *Taser Training* – The entire department received training for recertification of electronic countermeasure (ECM) on April 24<sup>th</sup>, commonly referred to as Taser Training.

### ***Community Policing, Outreach & Miscellaneous Items:***

- *Siren Testing* – We conducted a test of all our tornado sirens on April 17<sup>th</sup>. This was a joint test conducted in both Johnstown and Milliken. All Johnstown tornado sirens are in working order.
- *Crosswalk Safety Enforcement* – JPD conducted a pedestrian safety enforcement operation. We focused on crosswalk enforcement for both drivers and pedestrians. During the operation we had 15 vehicle stops for crosswalk violations. 11 drivers were issued citations and 2 pedestrians were contacted and educated on crosswalk safety. Every violation occurred at a designated stop walk with the crosswalk sign lights flashing.
- *Alcohol Training* – Standards for Sellers and Servers of Alcohol Beverages training flyers were handed out to all of our licensed liquor establishments. Training will be held on May 9<sup>th</sup>.

### **Administration, Finance, & Planning**

- *WCR 50 Improvements* – Staff met with DOLA representatives to review the grant application for WCR 50 from Colorado Blvd. to the Frontage Road. One item of note was the need for an IGA with the other participating entities which we are currently working on now. The final documents will be presented for consideration to Council sometime in June.
- *Building Codes* – Staff attended the listening session related to the update of the Town's building codes conducted by ProCode. We currently are using the 2006 codes and plan to make recommendation that will bring us to the 2018 ICC building standards.
- *Home Supply Water Purchase* – As you may recall, we briefly discussed the acquisition of a 0.75 AF unit of Home Supply Water at the last Council meeting. An audit of the water usage at this property resulted in the need for the property owner to provide the water to us as part of their dedication. We have sent them information and are waiting for acceptance of our findings, hence we may not be able to acquire the water as additional/surplus.
- *Bank Reconciliations/Consolidations* – We are in the process of importing all of the Town's bank accounts into Caselle so that monthly reconciliations occur within the financial software creating a solid audit trail and getting us closer to a closed system.
- *Accounts Receivable Module* – The account receivable module in Caselle has been installed, configured and is being utilized. The module will allow the Town to easily track revenues, track and apply developer deposits, automate the monthly statement process, improve reporting capabilities, and create a solid audit trail.
- *Thompson River Ranch PK-8* – Staff met with school district staff and the engineer and architect to discuss site planning and development of the new school planned for River Ranch Parkway planned to begin construction February 2020.
- *Anadarko Oil & Gas Facilities* – Staff met with representatives of Anadarko to discuss developing an Operating Agreement that would provide guidance and consistency to the company and town staff related to all Anadarko / Kerr-McGee oil and gas drilling operations in the Town.

- *Special Events & Food Vendors* – Staff has been working internally to develop updated review processes and permitting for Special Events and Mobile Food vendors in reaction to multiple requests received in the past few weeks. An “Interim Policy” for food vendors is being developed as a pilot project for the summer, with the intent to learn some lessons and discover best practices for a proposed municipal code update in late 2019/early 2020.

## **Public Works Department**

### ***Streets, Stormwater, & Parks***

- *Parks* – Parks are a big focus over the next few weeks. Some of the progress and planned progress includes:
  - Crews already have mowed Parish Park twice. Hays, Sunrise, Aragon, Pioneer Ridge ND, and Clearview areas have also been mowed.
  - All parks have been aerated and things are blooming and greening up.
  - Mulch will be placed in the parks over the next few weeks and playgrounds are being checked for repairs and safety concerns.
  - All rest rooms have been cleaned and are open for the season.
  - Irrigation systems are getting some repairs now that the systems are up and running.
  - Crews had to repair two backflow preventers, one at the Police Station and one at Town Hall and the main line valve in Cookie Park.
- *Streets* – Road grading is ongoing. Crews bladed approximately 10.5 miles of roads and applied 175 lbs. of pothole material around Town. Crews installed pavement markings on Expedition at the new stop signs that were installed as requested by Council. Flags were also installed to help with visibility and awareness of the new signs.
- *Senior Center* – Staff repaired the door hinges in the men’s restroom and sprayed for weeds in the parking lot and around the building.
- *Lake* – The walking path at the lake was graded. Crews also have been cleaning up around the lake to get it ready for the busy season. Weather permitting we are meeting with the Home Supply Ditch Commissioner on Tuesday the April 30<sup>th</sup> to go over the Lake survey as well as other needs to help improve operations for the Town as well as the Ditch Company.
- *Downtown* – Banners were installed on the poles in downtown and 9 street lights had maintenance and new bulbs installed performed. The new pedestrian crossing light should be delivered the week of May 6 and we hope to have them installed at the intersection of Charlotte and Parish and in front of the Veteran’s Brewery. Additional pedestrian crossing signs will also be installed along Parish at the other the street crossings in downtown.
- *Fleet* – Two police cruisers had regular maintenance performed.
- *Cleanup day* – Approximately 340 residents came by and delivered items for disposal to the Public Works staff on cleanup day. We collected about 70 electronic devices. These devices will be picked up by Blue Star Recycling on Friday the 3<sup>rd</sup>.
- *Water Tower* – We had our kick-off meeting with JUB Engineering for the water tower project. They plan in the next 8 weeks to complete and update the water model for verification of the preferred site for an additional water tower on the south side of Town. This will help to ensure that pressure and distribution of the water is the focus which may also help to address reported taste and odor issues.

### ***Water & Wastewater***

- *Cemetery* – Crews have started mowing at the Cemetery. Water is on and regular maintenance has started.
- *Water Plant* – Stanek should be completed with work in the Filter Building within 2 weeks. Painting and pipe supports are being completed. The DAF building concrete pads were poured for the Saturator and Pump stands and they finished the weir repair.
- *Raw water* – Crews had to replace/repair 14 feet of raw water line from the Home Supply Ditch on Highway 60. Sink holes were forming along the covered ditch line and when dug up, we found three areas within 14 feet that were damaged predominantly from a boring machine that was installing fiber years ago. We are coordinating with CenturyLink who is the owner of the line to attempt to recover reimbursement of these costs due to their possible neglect. Crews replaced the pipe and water should be flowing into the lake any day according to the ditch company.
- *Wastewater* – Have started looking into adding the aeration mixers for the wastewater treatment plant as budgeted for 2019. We have brought in the engineering firm J&T Consultants to get this project designed and bid out. We are hoping to have bids submitted no later than early June. Will keep the Council informed and present recommendations as we move forward.

**AGENDA ITEM 10A**

**TEMPORARY USE OF TOWN  
PROPERTY**

**(Veteran Brothers Brewing Company, LLC)**

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**TOWN COUNCIL AGENDA COMMUNICATION**

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**AGENDA DATE:** May 6, 2019

**ITEM NUMBER:** 10A

**SUBJECT:** Veteran Brothers Brewing Company Permit Application for Temporary Modification of Liquor License Premises

**ACTION PROPOSED:** Approve application subject to conditions

**PRESENTED BY:** Town Clerk and Town Attorney

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**AGENDA ITEM DESCRIPTION:** On April 23, 2019, Veteran Brothers Brewing Company (“Veteran Brothers”) submitted a permit application (“Application”) to the Town of Johnstown for temporary modification of the liquor license premises to include use of the adjacent sidewalk, Parish Avenue and the Parish Avenue common area (“Town Property”) on May 26, 2019. The Annual Realities Ride and Rally Poker Run is a fund raising event for children in Northern Colorado. The Poker Run is planning on stopping in Johnstown at Veteran Brothers Brewing for approximately one hour on May 26, 2019. The group anticipates over 500 motorcyclists.

State liquor license regulations permit a temporary modification of the liquor license premises to include the adjacent sidewalk and the State liquor licensing authority, who will also need to approve the modification, agrees that the outside use may be extended to include the common area across Parish Avenue.

Town staff recommends that Council allow Veterans Brothers temporary use of the Town Property and approve the temporary modification of the liquor license premises on the following conditions, all of which are set forth on the attached Temporary Revocable Permit to Occupy Town Property:

- (1) Veteran Brothers execute an agreement agreeing to, among other provisions, remain in compliance with the law and indemnify the Town;
- (2) Veteran Brothers only be entitled to use of Town Property for a total of 3 hours on May 26, 2019;
- (3) Alcohol not be consumed on Parish Avenue;
- (4) The outside area wherein liquor will be served and/or consumed be fenced or otherwise enclosed; and
- (5) Veteran Brothers maintain proper insurance.

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**LEGAL ADVICE:** Colorado law allows the temporary modification of liquor license premises and the Temporary Revocable Permit to Occupy Town Property was prepared by the Town Attorney.

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**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** Approve Application subject to the conditions set forth above.

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**SUGGESTED MOTION:**

**For Approval:** I move to approve Veteran Brothers Brewing Company permit application for temporary modification of the liquor license premises to include use of the adjacent sidewalk, Parish Avenue and the Parish Avenue common area on May 26, 2019 subject to the following conditions: Veteran Brothers execute an agreement prepared by the Town Attorney; the use of the public property be limited to three hours; alcohol not be consumed on Parish Avenue; the outside area wherein liquor will be served and/or consumed be fenced or otherwise enclosed; and Veteran Brothers maintain the proper insurance.

**For Denial:** I move to deny approval of Veteran Brothers Brewing Company permit application for temporary modification of the liquor license premises.

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**Reviewed:**

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**Town Manager**

# **Temporary Revocable Permit to Occupy Town Property**

**TEMPORARY REVOCABLE PERMIT  
TO OCCUPY TOWN PROPERTY**

April 29, 2019

Veteran Brothers Brewing Company  
Attn: Mike Echelberger  
21 N. Parish Avenue  
Johnstown, CO 80534

Re: Temporary Use of Adjacent Sidewalk, Parish Avenue and Parish Avenue  
Common Area ("Town Property") on May 26, 2019

Mr. Schultz:

On April 23, 2019, Veteran Brothers Brewing Company, a Colorado limited liability company ("Veteran Brothers"), submitted a permit application to the Town of Johnstown ("Town"), the local liquor licensing authority, for temporary modification of the liquor license premises to include the Town Property ("Application"), which area is graphically described in the Application. On the conditions and upon execution of the agreement set forth below, the Town authorizes Veteran Brothers to use the Town Property on May 26, 2019, as described in the Application, and authorizes, upon approval of the State of Colorado, a temporary modification of the liquor license premises for the same date.

The conditions of approval are as follows:

- (1) Veteran Brothers shall be entitled to use of the Town Property for a total of three (3) hours on May 26, 2019;
- (2) Alcohol shall not be consumed on Parish Avenue;
- (3) The outside area wherein liquor will be served and/or consumed shall be fenced or otherwise enclosed; and
- (4) Veteran Brothers shall maintain comprehensive general liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate, to include the Town Property and the use arising from this Permit, and shall name the Town as an additional insured.

If you have any questions, please contact me or Diana Seele, the Town Clerk.

Sincerely,

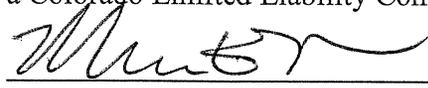
Matthew LeCerf, Town Manager

### AGREEMENT

Veteran Brothers Brewing Company, a Colorado limited liability company ("Veteran Brothers"), agrees to abide by all the terms and conditions set forth above. Veteran Brothers agrees to use the Town Property in compliance with all applicable laws, rules and regulations. Upon expiration of this Permit, Veteran Brothers shall have restored the Town Property to its original condition. Veteran Brothers shall indemnify the Town from any and all claims, demands, actions, costs and expenses arising from, or related to, its use of the Town Property. Veteran Brothers acknowledges that activities by the general public on the Town Property may pose a safety hazard or other risk of injury or damage to persons, equipment or materials on the Town Property pursuant to this Permit, and Veteran Brothers accepts that such hazards or risks may be present and waives any and all claims against the Town in connection therewith. Veteran Brothers agrees to maintain the insurance set forth above. This permit is non-transferable. The permit shall be governed by the laws of the State of Colorado and venue shall be in Weld County.

By signing below, I affirm that I have authority to execute this agreement and to bind Veteran Brothers to the terms hereof.

VETERAN BROTHERS BREWING COMPANY,  
a Colorado Limited Liability Company



Print Name: MICHAEL ESCHERBERGER

Title: MANAGER

4/30/2019  
Date

# **LIQUOR APPLICATION**

## Permit Application and Report of Changes

**Current License Number** 03-07244  
**All Answers Must Be Printed in Black Ink or Typewritten**  
**Local License Fee \$** \_\_\_\_\_

1. Applicant is a <input type="checkbox"/> Corporation ..... <input type="checkbox"/> Individual <input type="checkbox"/> Partnership ..... <input checked="" type="checkbox"/> Limited Liability Company	Present License Number <div style="font-size: 1.2em; font-family: cursive;">03-07244</div>
---	---

2. Name of Licensee <div style="font-size: 1.2em; font-family: cursive;">VETERAN BROTHERS BREWING CO</div>	3. Trade Name
---	---------------

4. Location Address <div style="font-size: 1.2em; font-family: cursive;">21 N PARISH AVE</div>
---

City <div style="font-size: 1.2em; font-family: cursive;">JOHNSTOWN</div>	County <div style="font-size: 1.2em; font-family: cursive;">WELD</div>	ZIP <div style="font-size: 1.2em; font-family: cursive;">80534</div>
--	---	---

**SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.**

Section A – Manager reg/change	Section C
<ul style="list-style-type: none"> <li>• License Account No. _____</li> <li><input type="checkbox"/> Manager's Registration (Hotel &amp; Restr.).....\$75.00</li> <li><input type="checkbox"/> Manager's Registration (Tavern).....\$75.00</li> <li><input type="checkbox"/> Manager's Registration (Lodging &amp; Entertainment).....\$75.00</li> <li><input type="checkbox"/> Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Retail Warehouse Storage Permit (ea).....\$100.00</li> <li><input type="checkbox"/> Wholesale Branch House Permit (ea)..... 100.00</li> <li><input type="checkbox"/> Change Corp. or Trade Name Permit (ea) ..... 50.00</li> <li><input type="checkbox"/> Change Location Permit (ea) ..... 150.00</li> <li><input checked="" type="checkbox"/> Change, Alter or Modify Premises \$150.00 x _____ Total Fee _____</li> <li><input type="checkbox"/> Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____</li> <li><input type="checkbox"/> Addition of Related Facility to an Existing Resort or Campus Liquor Complex \$160.00 x _____ Total Fee _____</li> <li><input type="checkbox"/> Campus Liquor Complex Designation <span style="float: right;">No Fee</span></li> <li><input checked="" type="checkbox"/> Sidewalk Service Area <span style="float: right;">\$75.00</span></li> </ul>
Section B – Duplicate License	
<ul style="list-style-type: none"> <li>• Liquor License No. _____</li> <li><input type="checkbox"/> Duplicate License ..... \$50.00</li> </ul>	

**Do Not Write in This Space – For Department of Revenue Use Only**

Date License Issued	License Account Number	Period

The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.

TOTAL AMOUNT DUE	\$	.00
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<b>Change of Manager</b>	<p><b>8. Change of Manager or to Register the Manager</b> of a Tavern, Hotel and Restaurant, Lodging &amp; Entertainment liquor license or licenses pursuant to section 44-3-301(8).</p> <p>(a) Change of Manager (attach Individual History DR 8404-I H/R, Tavern and Lodging &amp; Entertainment only)                  Former manager's name _____                  New manager's name _____</p> <p>(b) Date of Employment _____</p> <p>Has manager ever managed a liquor licensed establishment? Yes <input type="checkbox"/> No <input type="checkbox"/>                  Does manager have a financial interest in any other liquor licensed establishment? Yes <input type="checkbox"/> No <input type="checkbox"/>                  If yes, give name and location of establishment _____</p>
<b>Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area</b>	<p><b>9. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area</b></p> <p>NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities.</p> <p>(a) Describe change proposed <u>TEMPORARILY ADD SERVICE AREA TO SIDEWALK, STREET CROSSING AND COMMON AREA ACROSS PARISH</u></p> <p>(b) If the modification is temporary, when will the proposed change:                  Start <u>5/26/19</u> (mo/day/year) End <u>5/26/19</u> (mo/day/year)                  NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00</p> <p>(c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?                  (If yes, explain in detail and describe any exemptions that apply) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>(d) Is the proposed change in compliance with local building and zoning laws? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>(e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? <u>N/A</u> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>(f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises.</p> <p>(g) Attach any existing lease that is revised due to the modification.</p> <p>(h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.</p>
<b>Campus Liquor Complex Designation</b>	<p><b>10. Campus Liquor Complex Designation</b></p> <p>An institution of higher education or a person who contracts with the institution to provide food services</p> <p>(a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<b>Additional Related Facility</b>	<p><b>11. Additional Related Facility</b></p> <p>To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises.</p> <p>(a) Address of Related Facility _____</p> <p>(b) Outlined diagram provided Yes <input type="checkbox"/> No <input type="checkbox"/></p>

<b>Oath of Applicant</b>		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge		
Signature 	Title OWNER	Date 4/23/19
<b>Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)</b>		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. <b>Therefore, This Application is Approved.</b>		
Local Licensing Authority (City or County)		Date filed with Local Authority
Signature	Title	Date
<b>Report of STATE Licensing Authority</b>		
The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.		
Signature	Title	Date

# **Modified Premises**



Proposed

# **Police Report**

**TOWN OF JOHNSTOWN POLICE DEPARTMENT**

**Information 3.2% Beer or Liquor Application**

- Name and address of Applicant} Veteran Brother Brewing Company  
21 N Parish Avenue  
Johnstown, CO 80534
1. Trade Name and Address} Veteran Brothers Brewing Company  
21 N Parish Avenue  
Johnstown, CO 80534
2. Date of Application: 04/23/2019
3. Type of Application: Brew Pub
4. Documents Accompanying Application
- A. Local and State License Fees} Submitted with application
  - B. Evidence of Correct Zoning} Commercial
  - C. Building Plans and or Sketch of Interior} Submitted
  - D. Distance from School as per State} N/A
  - E. Deed or Lease or Assignment of Lease or Ownership} Lease
5. Evidence of Public Notice
- A. Posting of Premises} N/A
  - B. Legal Publication } N/A
6. Investigation: Police Department Case#}
- A. Applicant has made request to Modify Premises for 1 day event .
8. Findings of fact:
- A. The required fees were submitted.
  - B. It is my recommendation the Modification of Premises be approved.

  
\_\_\_\_\_  
CHIEF OF POLICE

  
\_\_\_\_\_  
DATE

**WORK SESSION**  
**(Broadband Policy)**



# TOWN OF JOHNSTOWN

## MEMORANDUM

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TO: Honorable Mayor and Board of Trustees

FROM: Matt LeCerf, Town Manager  
Avi Rocklin, Town Attorney

DATE: May 6, 2019

SUBJECT: Broadband Network Work Session

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At a previous Council Meeting, members of Council have discussed meetings they have attended with other community elected officials to discuss broadband. SB 152 prohibits most uses of municipal or county money for infrastructure to improve local broadband service, without first going to a vote of the people. Based on the most recent available data:

- 102 of the 271 incorporated municipalities have some form of exemption from SB-152
- 40 of the 64 counties in Colorado have some form of exemption from SB-152

Communities in Colorado are embarking on various levels of exemption from SB-152, including but not limited to the following:

- Taking no action on a broadband initiatives currently
  - This policy would leave the responsibility of broadband solely in the hands of the private sector and generally leave the Town with little ability to impact expansion and improve speeds to the residents and business customers in the community. The services provided would continue to exist through a franchise agreement which we currently have in place with TDS Telecom. CenturyLink also provides internet services in our community.
  - The Town would not need to take any action at this time and business would continue to operate as-is.
  - Some of the communities include:
    - Johnstown
    - Milliken
    - Berthoud
    - Frederick
    - Dacono
    - Windsor
- Establish a Dig Once Policy
  - This policy would require conduit be installed to accommodate a fiber network to be integrated in the community. The policy may be able to be structured so that the Town and/or development pays for this conduit to be installed and then dedicated to the Town.
  - Based on if the Town owned it, we would then need to explore a private public partnership that includes a private entity installing and operating the utility and

**The Community That Cares**

connecting the section(s) of area that are not connected to the fiber network and lack existing conduit.

- This policy would need an ordinance approved by the Council related to installation of conduit, but not until a ballot referendum is presented to the voters for consideration to exempt out of SB-152.
- Known community: Severance
  
- Public Private Partnership (PPP) for Fiber
  - A PPP has many options and can be structured as desired and negotiated to establish a fiber network based on how the partnership is agreed upon. For example:
    - The Town and/or private partner installs the fiber backbone system and can either operate the backbone or lease it out. The private operator or multiple private operators would expand the system off the backbone delivering service to the residential and business customers.
    - This policy would need an ordinance approved by the Council, an agreement between the Town and Private Partners, but again, not until a ballot referendum is presented to the voters for consideration to exempt out of SB-152.
    - Known communities: Centennial and Wray
  
- Public Enterprise For Fiber Service
  - This option takes an approach of the private sector has not met the needs of the community and the public sector must be the leader on this initiative.
    - In this model, the Town would need to at a minimum:
      - Perform a feasibility study to determine the value and financial viability of this effort.
      - Establish agreements with an entity to connect to a trunk line.
      - Contract entities for design and installation of the network.
      - Establish agreements for individual services (phone and cable) either through the Town or with 3<sup>rd</sup> parties to run over the Town's network.
      - This policy would need an ordinance approved by the Council which would also establish the Fiber Service as an Enterprise Fund (think water and wastewater fund operations), consideration for financing including but not limited to a bond which would be a separate referendum, but again, not until a ballot referendum is presented to the voters for consideration to exempt out of SB-152.
    - Known communities: Longmont, Ft. Collins, Loveland and Cortez

Attached with this memo is a CML publication on SB-152 that provides valuable information and an overview of the language others have used in the past for exemption from SB-152. The document poses good questions when considering this initiative some of which I have restructured as things to consider below:

1. Is the speed of the service currently provided meeting the needs of both the residential and business community?
2. Is the uptime at a high level so that it doesn't impact existing businesses?
3. Are current speed levels a factor that impacts our ability to be competitive from an economic development perspective?
4. What do you as Council members hear from the community related to the service provided?

As you will note, the majority of the options described above recommend/require a ballot referendum based on the direction chosen. With this in mind, if it is the desire of Council to place something on the ballot, staff would recommend using the broadest language possible for the simple fact that it is best to capture all permissions possible by the community one time, rather than asking multiple times for variation from the original ballot language. This will also allow future Council's to have the most flexibility in the policy as it evolves. If the chosen direction is a ballot referendum the following dates should be considered if the preferred ask of the voters is in November 2019.

- July 26, 2019 – Last day to give notice for a local government wanting to participate in a Coordinated Election.
- August 27, 2019 – Deadline for county clerk and town to sign intergovernmental agreement for the Coordinated Election.
- September 6, 2019 – Last day to certify ballot content to the county.
- Weld County charges \$1.25/per voter – currently there are 8,431 active and inactive voters in Weld County.
- Larimer County does not have a set fee –the number of participating entities all share the cost.

Staff is ready to take direction from Council on this or if additional information is necessary we can provide this as well.



**SB05-152 Opt-Out Kit:  
A Local Government Blueprint  
for Improving Broadband  
Service in Your Community**

May 2017

## Introduction

In order to compete in today's economy, communities across the state have become increasingly dependent on Internet access – and especially high-capacity (“broadband”) access - for business development and operations. The availability of broadband has also become a necessity for quality of life and desirability of a community, providing residents access to things like online education and distance learning opportunities, telemedicine and entertainment content (movies, music, etc.). Broadband has become so critical, in fact, that many now regard it as a basic infrastructure need - on par with roads, water systems and energy grids.

Unfortunately, numerous communities across Colorado still lack adequate Internet connectivity. The reasons vary, but more often than not these areas are too sparsely populated, too remote or in regions where the topography (mountainous terrain, etc.) makes expanding service difficult and expensive for telecommunication providers. These communities are “upside down” from a traditional business model standpoint, and providers are unable or unwilling to connect these areas, leaving them at an economic disadvantage from their more urbanized neighbors.

While local governments often play a direct role in economic development efforts, cities and counties historically have not been directly involved in the delivery of retail telecommunication services. However, the increasing demand for broadband service – often driven by economic development concerns - has forced many local government officials to reexamine their role in the provision of broadband services.

In the last few years, a growing number of local governments have started looking at investing public dollars in broadband infrastructure improvements (usually fiber optic cable lines or cell towers) in order to attract Internet providers and enhance economic development efforts in their region. The Department of Local Affairs has also heard these community concerns, and has expanded its existing broadband planning grant program to include funds for local government investments in “middle mile” broadband infrastructure.

## SB 152 and Statutory Prohibitions on Local Government Broadband Infrastructure

One of the biggest impediments to local governments enhancing broadband infrastructure is a law passed in 2005, which has since been commonly referred to as “Senate Bill (SB) 152” (SB05-152, attached to this memorandum and codified at sections 29-27-101-304, C.R.S.). SB 152 prohibits most uses of municipal or county money for infrastructure to improve local broadband service, without first going to a vote of the people. The hurdles put in place by this statute are not insurmountable; indeed, in the past few years 68 municipalities and 28 counties have placed measures on the ballot to override the prohibitions in SB 152. These measures have passed handily in virtually every jurisdiction - with the support of citizens who are frustrated and want timely action on broadband service in their communities.

Continued dissatisfaction over a lack of adequate broadband is resulting in more and more jurisdictions considering going to the ballot with SB 152 questions. During the last few years, CML and CCI have been meeting with local government officials, economic development professionals, state agency representatives and telecommunication experts from jurisdictions whose voters have approved SB 152 questions at the ballot. This opt-out kit is designed to help interested local government officials and staff to frame the issue as they consider their own ballot questions and work toward improving broadband service in their communities.

## SB 152 Frequently Asked Questions (FAQ's)

### **What does a SB 152 election accomplish?**

SB 152 requires that an election be held before a local government may “engage or offer to engage in providing” various telecommunication services. The term “providing” is given an expansive definition in the statute, which restricts both the direct and “indirect” provision of service (“indirect”, in turn, is given its own, broadly restrictive definition). Fortunately, through a successful SB 152 election, a local community can clear away this legal impediment to a wide variety of local broadband initiatives.

It is important to point out that the vast majority of local governments who have passed SB 152 questions (or are considering going to the ballot in the near future) are **not** interested in hooking up homes and businesses and providing actual broadband services themselves. By and large, these jurisdictions are working to enhance local broadband infrastructure in order to *attract* private sector service providers who would otherwise be unwilling or unable to serve their communities. The local broadband initiatives in the jurisdictions passing SB 152 questions to date usually involve some form of public-private partnerships between local governments, economic development agencies and the industry.

### **Is referring a SB 152 question to the ballot expensive?**

No more so than any other referred measure. Most jurisdictions have referred their questions when the municipality or county was *already* having an election. Accordingly, the addition of the SB 152 issue did not significantly increase costs. In a coordinated election, a particular jurisdiction’s costs would be affected by the terms of the IGA regarding election cost allocation between the county and participating local governments.

### **Are there any restrictions on referring SB-152 ballot measures in odd-numbered year coordinated elections?**

Apparently not. A wide number of locally-referred questions have been submitted to voters in coordinated elections conducted in odd-numbered years in Colorado. Local governments have regularly referred TABOR questions and home rule charter amendment ballot questions to the voters in odd-numbered years, and this practice is explicitly authorized in C.R.S. § 1-41-103. Additionally, the Attorney General issued an opinion in 1999 (No. 99-8 AG Alpha No. HE CS AGAWD) which concluded that local governments may refer ballot questions on term limits in odd-numbered years as well. Odd-year ballot questions dealing with issues outside of TABOR, charter amendments and term limits are less common, but have been referred fairly regularly by local elected

officials over the years without challenge. The language in SB 152 (specifically C.R.S. § 29-27-201(1)) requires that “Before a local government may engage in providing...telecommunications service, or advanced service, an election shall be called on whether or not the local government shall provide the proposed...service.” This authorizing language is broad in nature, and does not appear to limit the ballot question to the general election ballot. Again, local government officials are advised to consult with legal counsel in the development of these ballot questions.

### **What sort of election specifics does SB 152 require?**

Not many. SB 152 specifies four requirements for ballot questions in a SB 152 election. (See: C.R.S. § 29-27-201(2))

The ballot:

- (1) Shall pose the question as a “single subject”,
- (2) Shall include a description of the “nature of the proposed service,”
- (3) Shall include a description of “the role that the local government will have in the provision of the service,” and
- (4) Shall include a description of the “intended subscribers of such service.”

### **How have other jurisdictions addressed these requirements?**

A review of the ballot questions put forth by local governments so far (included below) shows a clear preference for broad “anything and everything” type authority. Industry representatives have complained from time to time that such local ballot language has lacked the specificity required by the statute. This notion has never been tested in court. One might also argue that a “broad authority” question that describes the nature of the service proposed, along with potential future build-outs or applications, is not fatally flawed by its inclusion of the latter. Furthermore, courts have been traditionally hesitant to reverse the will of the voters, if evident. Obviously, the development of local SB 152 ballot language should be done in close consultation with legal counsel.

### **What about the “single subject” requirement?**

The term “single subject” is not defined in SB 152. Nonetheless, the ballot questions submitted by local governments thus far seem comfortably within the single subject standard applied to statewide *ballot initiatives*, in cases such as In the Matter of the Ballot Title and Submission Clause for 2013-2014 #129, 333 P.3d 101 (Colo. 2014). Local government officials are urged to consult with legal counsel.

**Are there any additional election requirements that distinguish a SB 152 question from other matters routinely referred to the ballot by a county or municipality?**

No (but again, please confer with your legal counsel). As always, attention should be paid to the requirements of the Fair Campaign Practices Act (Section 1-45-117, C.R.S.), which forbids use of public funds for advocacy in elections. This restriction is a prudent consideration in planning any campaign for a successful SB 152 election.

**Does voter approval of a county SB 152 ballot question have the effect of authorizing the provision of such services by municipalities within that county?**

No. SB 152 requires voter approval by each jurisdiction participating in the provision of covered services.

**Does opting out of SB 152 bind local taxpayers to provide local funds?**

No. Opting out of SB 152 simply removes the local prohibition on expending public funds to provide service and allows local jurisdictions to explore and develop plans for their communities. If any jurisdiction gets to the point where they are looking to invest public funds they must follow their own guidelines for doing so.

**Does a jurisdiction need to approve a SB 152 ballot question in order to qualify for broadband infrastructure grant funds from the Department of Local Affairs (DOLA)?**

It depends. DOLA's broadband grant program provides funding for regional planning and "middle mile" infrastructure projects (i.e., projects that do not provide "last mile" connections to customers). The guidance in DOLA's broadband grant policies suggests that each jurisdiction must determine whether it is in compliance with the statutory restrictions set forth in SB 152. DOLA requires any grantee to be in compliance with any applicable laws and regulations. DOLA itself will not make that determination, nor does the awarding of a grant confer any certainty or acknowledgment of compliance on DOLA's part to the grantee. DOLA's broadband grant policy guidelines can be found at: <http://dola.colorado.gov/demog-cms/content/dola-broadband-program>.

## Sample Local Government Ballot Language for SB 152 Elections

### County Questions

#### **Rio Blanco County (Passed Fall 2014)**

“Without increasing taxes, shall the citizens of Rio Blanco County, Colorado, authorize the Board of County Commissioners of Rio Blanco County, Colorado, to provide to potential subscribers including telecommunications service providers, residential and commercial users within Rio Blanco County, all services restricted since 2005 by Title 29, article 27 of the Colorado Revised Statutes, including “telecommunication services,” “cable television services,” and “advanced services” which is defined as high speed internet access capability in excess of two hundred fifty six kilobits per second both upstream and downstream (known as “broadband”) including any new and improved bandwidth services based on future technologies, utilizing the existing community owned fiber optic network and/or developing additional infrastructure, either directly or indirectly with public or private sector partners?”

#### **San Miguel County (Passed Fall 2014)**

“Without increasing taxes, shall San Miguel County, Colorado, have the legal ability to provide any or all services currently restricted by Title 29, article 27, Part 1, of the Colorado Revised Statutes, specifically described as “advanced services,” “telecommunication services,” and “cable television services,” as defined by the statute, including, but not limited to, any new and improved high bandwidth services based on future technologies, utilizing community owned infrastructure including but not limited to any existing fiber optic network, either directly, or indirectly with public or private sector service providers, to potential subscribers that may include telecommunications service providers, and residential or commercial users within San Miguel County?”

#### **Yuma County (Passed Fall 2014)**

“Without increasing taxes, shall the citizens of Yuma County Colorado re-establish their counties’ right to provide all services and facilities restricted since 2005 by Title 29, Article 27 of the Colorado Revised Statutes, described as “Advanced Services,” “Telecommunication Services,” and “Cable Television Services,” including providing any new and improved broadband services and facilities based on future technologies, utilizing existing or new community owned infrastructure including but not limited to the existing fiber optic network, either directly or indirectly with public or private sector partners, to potential subscribers that may include telecommunications service providers, residential or commercial users within the boundaries of Yuma County?”

#### **Clear Creek County (Passed Fall 2015)**

Without increasing taxes by this measure, shall citizens of the County of Clear Creek, Colorado, authorize their board of county commissioners to provide any or all services currently restricted by Title 29, Article 27, Part 1, of the Colorado Revised Statutes, specifically described as high speed internet access ("advanced service"), "telecommunications service," and "cable television service," as defined by the statute, including, but not limited to, any new and improved high bandwidth services based on future technologies, either

directly or indirectly with public or private sector partners or providers, to potential subscribers including, without limitation, other service providers and residential, commercial and governmental users within Clear Creek County? Yes - For authorization to provide high speed internet access ("advanced") service, telecommunications service, and cable television service. No - Against authorization to provide high speed internet access ("advanced") service, telecommunications service, and cable television service.

**La Plata County (Passed Fall 2015)**

Without increasing taxes, shall La Plata County, Colorado be authorized to reestablish the right to provide high-speed services, and/or cable television services (all as defined in § 29- 27-102, Colorado Revised Statutes) to residents, businesses, schools, libraries, nonprofit entities and other users of such services, either directly or indirectly with public or private sector partners?

**Ouray County (Passed Fall 2015)**

Shall Ouray County, without increasing taxes by this measure, be authorized to provide all services and facilities as permitted by Title 29, Article 27 of the Colorado Revised Statutes, described as "advanced services", "telecommunications services" and "cable television services", including providing any new and improved broadband services and high-speed internet services and facilities, based on current or future technologies, and utilizing existing or future county owned or leased infrastructure, fiber optic connections and networks, either directly or indirectly, including use of county wireless connections in county facilities without charge to members of the public, with or without public or private partners, for the benefit and use of residents and visitors to Ouray County and to potential residential and commercial subscribers in Ouray County?

**Washington County (Passed Fall 2015)**

Pursuant to the authority granted by C.R.S. Section 29-27-101 to 304 titled "competition in utility and entertainment services" shall Washington County be authorized to provide high-speed internet services, (advanced services), telecommunications services, and/or cable television services to residents, businesses, schools, libraries, nonprofit entities and other users of such services either directly or indirectly with public or private sector partners as those terms are defined in the aforementioned statutes within the unincorporated boundaries of Washington County, Colorado?

**Larimer County (Passed November 2016)**

Without increasing taxes, shall the citizens of Larimer County Colorado re-establish Larimer County's right to provide any and all services and facilities restricted since 2005 by Title 29, Article 27 of the Colorado Revised Statutes, described as "Advanced Services" (high-speed internet), "Telecommunication Services," and "Cable Television Services," including but not limited to any new and improved broadband services and facilities based on future technologies, utilizing existing or new community owned infrastructure including but not limited to the existing fiber optic network, either directly, or indirectly with public or private sector partners, to potential subscribers that may include telecommunications service providers, residential or commercial users within the boundaries of Larimer County?

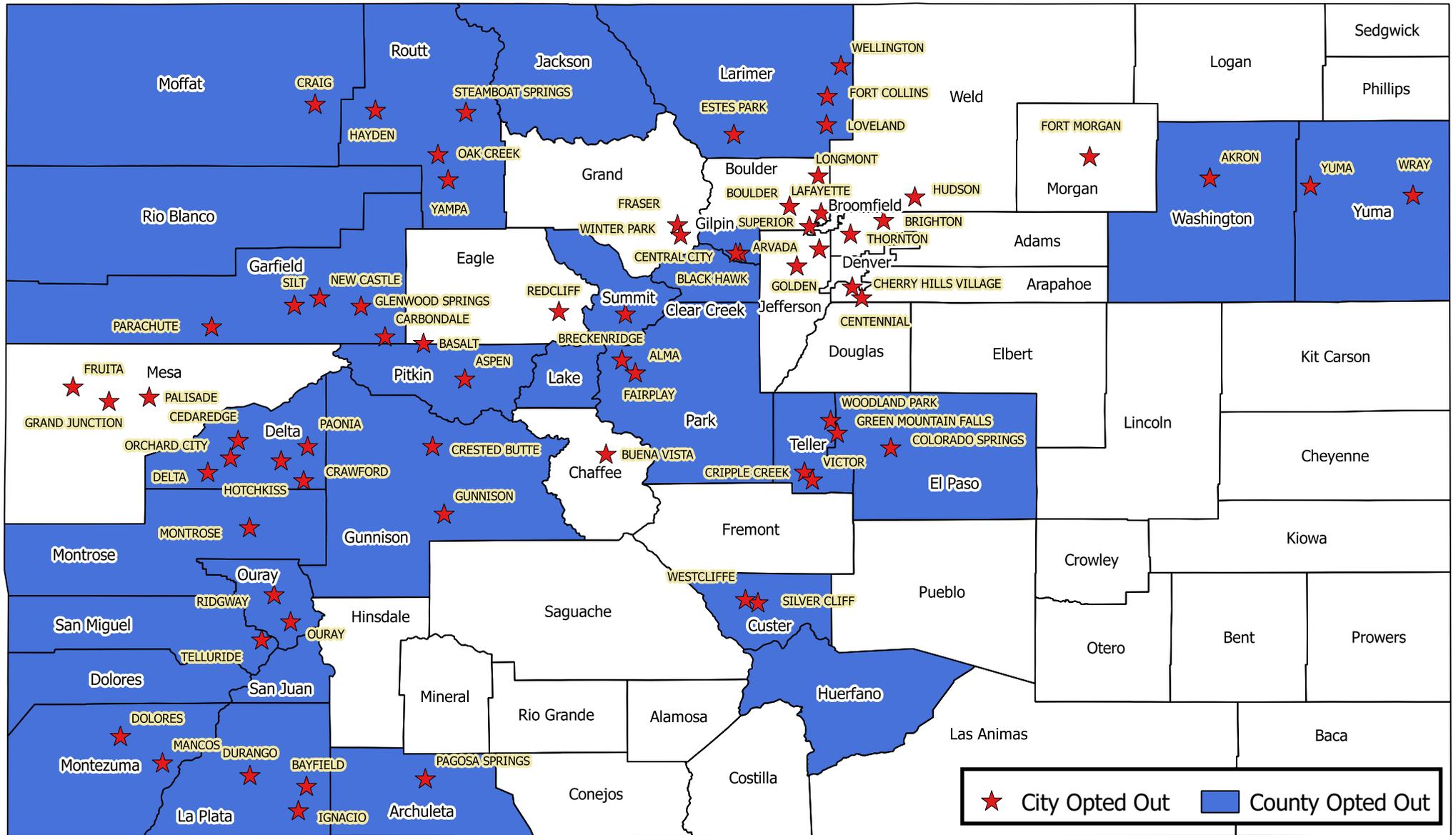
**Municipal Questions**

SPRING 2015		
GRAND JUNCTION	CITY OF GRAND JUNCTION REFERRED MEASURE 2A SHALL THE CITY OF GRAND JUNCTION, WITHOUT INCREASING TAXES BY THIS MEASURE, BE AUTHORIZED TO PROVIDE, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNER(S), HIGH-SPEED INTERNET SERVICES (ADVANCED SERVICE), TELECOMMUNICATIONS SERVICES AND/OR CABLE TELEVISION SERVICES AS DEFINED BY § 29-27-101 TO 304 OF THE COLORADO REVISED STATUTES, INCLUDING BUT NOT LIMITED TO ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICE(S) BASED ON FUTURE TECHNOLOGIES, TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, WITHOUT LIMITING ITS HOME RULE AUTHORITY?	PASS, 75%- 22%
ESTES PARK	WITHOUT INCREASING TAXES, SHALL THE TOWN OF ESTES PARK REESTABLISH THE TOWN'S RIGHT TO PROVIDE ALL SERVICES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES," "TELECOMMUNICATIONS SERVICES" AND "CABLE TELEVISION SERVICES," INCLUDING ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICES BASED ON FUTURE TECHNOLOGIES, UTILIZING COMMUNITY OWNED INFRASTRUCTURE INCLUDING, BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERCIAL USERS WITHIN THE TOWN AND THE SERVICE AREA OF THE TOWN'S LIGHT AND POWER ENTERPRISE?	PASS, YES: 1652 NO: 136
FALL 2014		
BOULDER	SHALL THE CITY OF BOULDER BE AUTHORIZED TO PROVIDE HIGH-SPEED INTERNET SERVICES (ADVANCED SERVICES), TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, AS EXPRESSLY PERMITTED BY §§ 29-27-101 TO 304, "COMPETITION IN UTILITY AND ENTERTAINMENT SERVICES," OF THE COLORADO REVISED STATUTES, WITHOUT LIMITING ITS HOME RULE AUTHORITY?	PASS, 17512- 3551
CHERRY HILLS VILLAGE	SHALL THE CITY OF CHERRY HILLS VILLAGE, WITHOUT INCREASING TAXES BY THIS MEASURE, AND TO RESTORE LOCAL AUTHORITY THAT WAS DENIED TO LOCAL GOVERNMENTS BY THE COLORADO GENERAL ASSEMBLY AND FOSTER A MORE COMPETITIVE MARKETPLACE, BE AUTHORIZED TO PROVIDE HIGH-SPEED INTERNET, INCLUDING IMPROVED HIGH BANDWIDTH SERVICES BASED ON NEW TECHNOLOGIES, TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NON-PROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, AS EXPRESSLY PERMITTED BY ARTICLE 27, TITLE 29 OF THE COLORADO REVISED STATUTES?	PASS, 2362- 613
RED CLIFF	SHALL THE TOWN OF RED CLIFF BE AUTHORIZED TO PROVIDE CABLE TELEVISION, TELECOMMUNICATIONS AND/OR HI-SPEED INTERNET SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, EITHER DIRECTLY OR INDIRECTLY THROUGH PUBLIC OR PRIVATE SECTOR PARTNERS?	PASS, 56-24

WRAY	WITHOUT INCREASING TAXES, SHALL TH CITIZENS OF WRAY, COLORADO RE-ESTABLISH THEIR CITY'S RIGHTS TO PROVIDE ALL SERVICES AND FACILITIES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES,' TELECOMMUNICATIONS SERVICES' AND 'CABLE TELEVISION SERVICES,' INCLUDNG PROVIDING ANY NEW AND IMPROVED BROADBAND SERVICES AND FACILITIES BASED ON FUTURE TECHONOLOGIES, UTILIZING EXISTING OR NEW COMMUNITIY OWNED INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERICAL USERS WITHIN THE CITY?	PASS 3167- 2461
YUMA	WITHOUT INCREASING TAXES, SHALL TH CITIZENS OF YUMA, COLORADO RE-ESTABLISH THEIR CITY'S RIGHTS TO PROVIDE ALL SERVICES AND FACILITIES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES,' TELECOMMUNICATIONS SERVICES' AND 'CABLE TELEVISION SERVICES,' INCLUDNG PROVIDING ANY NEW AND IMPROVED BROADBAND SERVICES AND FACILITIES BASED ON FUTURE TECHONOLOGIES, UTILIZING EXISTING OR NEW COMMUNITIY OWNED INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERICAL USERS WITHIN THE CITY'S UTILITY SERVICE AREA?	PASS, 71%- 29%
SPRING 2014		
MONTROSE	REFERRED MEASURE "A" WITHOUT INCREASING TAXES, SHALL THE CITIZENS OFTHE CITY OF MONTROSE, COLORADO, RE-ESTABLISH THEIR CITY'S RIGHT TO PROVIDE ALL SERVICES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OFTHE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES," "TELECOMMUNICATIONS SERVICES" AND "CABLE TELEVISION SERVICES," INCLUDING ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICES BASED ON FUTURE TECHNOLOGIES, UTILIZING COMMUNITY OWNED INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERCIAL USERS WITHIN THE CITY?	PASS 3969- 1396
FALL 2013		
CENTENNIAL	BALLOT QUESTION 2G	PASS

	SHALL THE CITY OF CENTENNIAL, WITHOUT INCREASING TAXES, AND TO RESTORE LOCAL AUTHORITY THAT WAS DENIED TO ALL LOCAL GOVERNMENTS BY THE STATE LEGISLATURE, AND TO FOSTER A MORE COMPETITIVE MARKETPLACE, BE AUTHORIZED TO INDIRECTLY PROVIDE HIGHSPEED INTERNET (ADVANCED SERVICES), TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, THROUGH COMPETITIVE AND NON-EXCLUSIVE PARTNERSHIPS WITH PRIVATE BUSINESSES, AS EXPRESSLY PERMITTED BY ARTICLE 29, TITLE 27 OF THE COLORADO REVISED STATUTES?	76%- 24%
FALL 2011		
LONGMONT	BALLOT QUESTION 2A: WITHOUT INCREASING TAXES, SHALL THE CITIZENS OF THE CITY OF LONGMONT, COLORADO, RE-ESTABLISH THEIR CITY'S RIGHT TO PROVIDE ALLSERVICES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCES SERVICES," "TELECOMMUNICATIONS SERVICES" AND "CABLE TELEVISION SERVICES," INCLUDING ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICES BASED ON FUTURE TECHNOLOGIES, UTILIZING COMMUNITY OWNED INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERCIAL USERS WITHIN THE CITY AND THE SERVICE AREA OF THE CITY'S ELECTIC UTILITY ENTERPRISE? Y/N	PASS: YES 60.82% (13238), NO 39.18% (8529)
FALL 2009		
LONGMONT	BALLOT ISSUE 2C-- AUTHORIZATION TO ALLOW THE CITY TO PROVIDE TELECOMMUNICATIONS SERVICES, ADVANCED SERVICES AND CABLE TELEVISION SERVICES TO RESIDENTIAL AND COMMERCIAL USERS WITHIN THE SERVICE AREA OF THE CITY'S ELECTRIC UTILITY ENTERPRISE	FAIL, YES 44%, NO 56%

# Local Governments Repealing Prohibition on Public Investment in Broadband



## Tips for Getting Your Question on the Ballot and Passing It

Passing a local ballot question on SB 152 takes planning and coordination. If done properly, it is an effective way to educate the public and build widespread support and buy-in for future broadband deployment efforts.

- Start early, and find a champion in your local government agency or community. It could be an elected official, economic development director, or IT professional on staff. Get them to be the advocate for the issue and rely on them to sell the need for the change to others.
- Hold work sessions with the elected officials who will ultimately refer the question to the ballot. Make sure they understand the issues, the benefits to the community and the opposition that may be voiced by incumbent and/or local commercial service providers. Attempt to identify potential opposition early on in the process.
- Make sure you are coordinating with your municipal/county attorney and municipal clerk/county clerk and recorder on the timing of ballot preparation and any associated deadlines for submittal of ballot questions for inclusion on the ballot.
- Get the message to the voters. SB 152 is a complicated and often confusing piece of legislation and it will take time to decode its intricacies for the voting public. Keep in mind that there will be only a limited amount of time for the local government agency to tell its story to their voters before the election.
- Consider forming a citizen and/or business coalition group to carry out grass roots messaging and education about the ballot measure and the need to remove the restrictions in SB 152. This group becomes very important once the ballot issue is placed on the ballot since **government resources cannot be used to promote ballot questions**. Fair Campaign Practices Act (Section 1-45-117, C.R.S.)
- Marketing/Promotional Materials & Outreach
  - Develop core messaging that is succinct and effective (example: “Take Back Our Local Choice”)
  - Create a website to direct voters to for more information and educational materials
  - Allow citizens to sign up for e-mails that provide updates on the broadband efforts
  - Place op-ed articles in local publications (see samples below)
  - Compile a list of events and meetings where elected officials can meet voters and educate them on the ballot measure.
- Don’t “overpromise” on what an SB 152 opt-out question will do for your community. Opting out of the local government prohibition on providing indirect or direct service is only the **first step** to improving broadband service in your community.

## What is fiber-optic broadband?

Fiber-optic broadband cable can run underground or in the air on existing poles. Pulses of light allow very reliable connections and can quickly carry large amounts of data over long distances. Fiber-optic cable is a dedicated internet connection and is not shared with cable services. Fiber-optic network speeds are typically 100 megabits to 10 gigabits per second, compared to 20 to 100 megabits per second for a typical cable internet connection, or 3 megabits per second or less for traditional copper phone service.

## Does Dolores County own existing fiber?

Yes, Dolores County owns 5.5 miles of fiber.

## Are other Colorado cities exempt from SB 152?

Voters in many Colorado towns, cities, and counties have exempted themselves from SB 152, passing measures that affirm their local choice to decide how broadband services develop in these communities.

Exemptions have been approved in:

- Archuleta County
- Bayfield
- Durango
- Ignacio
- La Plata County
- Mancos
- Silverton
- San Juan County
- Telluride



### This ballot item is:

If voters approve this ballot item, Dolores County would be exempted from a state law that otherwise purports to limit local governments from improving broadband capabilities. With this exemption, the county would be permitted to establish business partnerships with private companies to increase access to high-speed broadband internet, opt to provide this service itself, or develop a combined strategy to benefit residents and business users.

### This ballot item is not:

This ballot item would not prevent any private business, including existing broadband providers, from initiating or continuing to provide these services. Dolores County has no plans to create a public broadband utility. Passage of this measure would allow the county to explore a variety of options to make assets available to serve the broadband needs of residents, students and businesses.

November 2016

## BALLOT QUESTION Exemption from SB 152

Voters residing in the Dolores County will be asked Measure 1A:

*Without increasing taxes, shall Dolores County, Colorado be legally authorized to provide any or all services and facilities currently restricted by Title 29, article 27 of the Colorado Revised Statutes, described as “advanced services”, “telecommunications services”, and “cable television services”, as defined by the statute, including, but not limited to any new and improved broadband services and high-speed internet services and facilities, based on current or future technologies, and utilizing existing or future county owned or leased infrastructure, including county wireless connections in county facilities and fiber optic connections and networks, either directly or indirectly, with or without public or private partners, to potential subscribers, which may include telecommunications service providers, and residential and commercial users within Dolores County?”*



SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS  
www.swccog.org  
970-779-4592

This information about SB 152 has been paid for by Southwest Colorado Council of Governments. It is not intended to urge a vote for or against this item.

Would you like the opportunity for...  
Better and More Affordable Internet Access? A Level Playing Field for Local Businesses? A More Connected and Vital Community?

## Exemption outcomes could include:

**Better Access** to high speed broadband services for residents and businesses alike.

**Intensified Innovation** by local businesses and entrepreneurs.

**Affordable Internet Access**, as Dolores partners with internet service providers and key institutions to more efficiently expand internet service.

**A Cleaner Environment**, as high speed internet reduced commuting needs and promotes high tech green jobs.

**A More Connected Community**, with new avenues for public engagement in local decision-making and new opportunities for connected social spaces and creative networking.

**Improved Quality of Life**, as local residents have better access to information in work and at home, allowing more free time to enjoy all that the surrounding area has to offer.

## Tell me more about Colorado Senate Bill 152...

*Colorado Senate Bill 05-152 (SB 152) is a measure passed by the Colorado Legislature in 2005. Its intent was to limit governments from competing with the private sector. Among other provisions, it requires local governments to secure voter approval before entering into the broadband partnerships or business. Without such approval, the law limits the ability of Colorado local governments to provide a wide spectrum of services, including:*

- free Internet service in city libraries, parks and community centers;
- leveraging government infrastructure and partnering with private businesses to provide affordable and high-speed Internet service throughout the entire community;
- direct provision of broadband services by municipal governments where needed.

## How would an exemption from SB 152 benefit Dolores County?

A voter-approved exemption from SB 152 would restore local independence and ability to evaluate all possibilities for next-generation broadband services in Dolores County.

An exemption supports local choice and options, allowing citizens to make the best decisions based on the needs of our own community, without raising taxes.

## How Can I Vote?

Ballot drop-off is located at:  
Dolores County Building  
409 N. Main St.  
Dove Creek, CO 81324

Voters may mail ballots to:  
Dolores County Clerk  
409 N. Main St.  
Dolores, CO 81324

Ballots must be received by Election Day—  
Tuesday, November 8, 7:00 pm.

## Sample Local Elected Official Op-Ed Pieces on SB 152 Ballot Questions

### **Gaiter: Broadband No Longer a Luxury**

From luxury to necessity. It's hard to not think of using the internet to do the everyday things we do: shopping, reading the news, paying bills, watching TV or emailing a friend. With the explosion in the use of the internet, and the things it's allowed us to do, the need for higher speed has also become more necessary than ever.

High-speed internet services (broadband) are not the "luxury" they were as recently as a decade ago; today they're as common as electricity. If you live in a highly-urbanized area, you might have some broadband services, although many lament these services are not sufficient. If you're in a rural area, these services might not exist at all.

Over the last several years, I've worked with internet providers and residents to explore what can be done to improve services to make internet service more dependable, faster and consistent for Larimer County residents.

However, in 2005 the Colorado Senate passed a law — Colorado Senate Bill 152 — which limits what local governments may do to improve services. Under this law, Larimer County can't let local providers use county-owned infrastructure that might be in place to enhance internet speed and service. Fortunately, the law does allow citizens of local communities to vote to exempt themselves from the constraints of this legislation.

We've watched the Colorado communities of Wellington, Estes Park, Loveland and Fort Collins ask voters to have their communities exempted from SB 152. After those communities exempted themselves from this law, their gaps in internet services are now being addressed. However, there is still a large service gap outside of and between those communities. We've had excellent conversations with the aforementioned communities on how Larimer County can help with their efforts and fill in those gaps. We hope Larimer County citizens will give us permission to move forward on those efforts.

This November, Larimer County will have an item on the ballot to ask citizens for permission to become exempt from SB 152 and join our local municipalities and internet providers in improving these services. If passed, we want to begin a study to understand the best way to provide these services. We would also seek to partner with the private sector, while looking for grants to help provide these service improvements.

These are the first steps to provide high-speed internet service county-wide, although it might be several years to fruition.

The ballot language for this item asks voters to allow Larimer County to provide high-speed internet, television and telecommunication services. The wording is a function of the way the initial law was passed. However, it's Larimer County's goal to work with our partners to provide those services and for Larimer County to perhaps provide some infrastructure to provide those services.

Many of you are most likely reading this column online, so you already know how important internet services are. We are asking for the support of all Larimer County residents — both in and out of city limits — in restoring the ability to provide high-speed broadband to all county residents.

*Lew Gaiter is the Larimer County commissioner representing District 1.*

### **Estes Park Board of Trustees Unanimously Request a Special Election Regarding Provision of Broadband Services**

On Tuesday, 11-Nov, the Estes Park Board of Trustees unanimously requested a special election regarding provision of broadband internet services. The request for a special election originated with a resolution adopted by the Estes Park Economic Development Corporation (EDC) last August. The resolution urged the Town of Estes Park to hold an election asking voters whether, without raising taxes, the Town's right should be re-established, to directly or indirectly provide telecommunications services like broadband internet. The resolution resulted from an extensive investigation by the Competitive Broadband Committee of the Estes Park EDC into how to achieve a key goal in the Town's 2014 Strategic Plan: "to encourage optimal use of the Platte River Power Authority and Town's fiber infrastructure."

Why is this important? To have a strong economy, Estes Park must have access to competitive broadband service. This is true because of how important the internet has become in our economic and social lives. The availability of competitive broadband already determines where businesses locate, where travelers visit, and where people choose to live. The economic and social importance of access to competitive broadband will only increase over time. "Competitive broadband" means the level of internet service that is currently available in large US cities in terms of speed, cost, and reliability. Competitive broadband in the Estes area would help keep our schools, businesses, and homes competitive in our region and nationally.

Colorado Senate Bill 152 took away our local government's right to decide the best way for the Town to help provide competitive broadband service. Senate Bill 152 blocks local government's involvement in directly or indirectly providing broadband service. Senate Bill -152 applies to Estes Park because, with the Platte River Power Authority, the Town already indirectly provides

broadband service through its involvement in the fiber optic infrastructure used for local broadband service.

Given Senate Bill 152, an election is the only way to restore local authority and free local governments from the bills' restrictions. So, to achieve the Town's goal of "optimal use of the Platte River Power Authority and Town's fiber infrastructure," we must have an election to take back our Town's right to decide the best way to help provide competitive broadband.

There have been many different and successful approaches to local government involvement in providing competitive broadband services, and many are indirect like Estes Park's involvement currently. One purpose of the recent U.S. Department of Commerce, Economic Development Administration \$300,000 grant award to the Town of Estes Park and Estes Park EDC is to develop options for a state of the art, Valley-wide, broadband service that will allow our businesses, citizens, and guests to participate in and compete in the global marketplace.

Recently, there has been widespread Colorado involvement with the issues of broadband, the economic development impact of broadband, and Senate Bill-152. Estes Park is not alone in dealing with these issues. Earlier, Longmont, Centennial, and Montrose voters resoundingly approved taking back the right of local government to decide on broadband issues. In last Tuesday's election, 5 municipalities, Boulder, Cherry Hills Village, Red Cliff, Yuma and Wray, and 3 counties: Rio Blanco, San Miguel, and Yuma voted overwhelmingly, with 70 to 80 percent voter approval, to take back the right taken away by Senate Bill 152.

In summary, Estes Park must have access to competitive broadband to remain economically competitive. Senate Bill 152 took away the Town's right to directly or indirectly provide broadband service. The proposed election is the only way to take back the right that Senate Bill 152 took away so that the Town can pursue optimal use of its fiber optic infrastructure, and so that we have access to state of the art, Valley-wide, competitive broadband service.

## Six Broadband Questions Every Local Government Official Should Be Asking

- 1) **What is the current average download/upload capacity in our community?** The State of Colorado maintains a map showing advertised download/upload speeds around the state. The map is a useful tool, allowing the user to isolate his/her search by jurisdiction if needed. However, much of the data in the map is based on vendor reporting and may or may not be completely accurate. You can access the map at <http://maps.co.gov/coloradobroadband/>. This website also features an online Internet speed test with which you can test and verify the upload/download speed of the Internet connections in your county.

Understanding the speed of a connection is only a part of the equation, though. It is also critically important to understand what *technologies* are providing that bandwidth and speed. In other words, you need to understand the underlying physical transport – is it wireless, fiber optic, copper or coaxial? If it is wireless, is it terrestrial or satellite? While the latter may have great coverage, there are simple physical characteristics that render certain technologies unsuitable for real time voice, data or telepresence. Each type of system has its strengths and weaknesses; each needs to be assessed in light of local needs, capabilities, and constraints.

- 2) **What are the key institutions in the community and what are their service needs?** It is important to identify key institutions (schools, colleges, hospitals, libraries, local governments, etc.) and determine both their existing broadband capabilities and service needs going forward. As you assess how to proceed, can you create successful public-private partnerships with local providers who have proven to be reliable community partners? Or are you in a situation where the local providers need to be encouraged to more aggressively deploy the latest technologies?
- 3) **Who are the key telecommunication providers in the region? And what is the best way to talk to these providers?** Most areas of the state have a mixture of local providers as well as larger statewide carriers (CenturyLink, Comcast, TDS, AT&T, Verizon, etc.). Understanding what services these different carriers provide (phone, video, Internet, etc.), their service areas and the costs of coverage is critical not only to gaining an understanding of the broadband potential in your community but to ensuring that your area is adequately and sustainably served.

- 4) **What are the needs of business and industry in your community?** Each business owner has a unique set of needs and these will drive varying Internet capacity needs (both upstream and downstream). These might include video conferencing, virtual private networks (VPNs), voice over Internet protocol (VoIP), ability to share schematics (some in 3D), and traditional online needs like credit card and payroll processing. Economic development groups have identified broadband infrastructure and services as an essential component in the Colorado Blueprint.  
<http://www.colorado.gov/cs/Satellite?c=Page&childpagename=OEDIT%2FOEDITLayout&cid=1251595201237&pagename=OEDITWrapper>
- 5) **Is your network “future-proof?”** Given the rapidly evolving technical advancements in the high-tech industry, it is difficult to predict what the “next big thing” is going to be. Planning for enhanced future capacity and adaptability is absolutely essential to the long-term success of your local economic development efforts. Most industry experts agree that fiber optic cable will have a life of 30-50 years. None of the experts are predicting that fiber will become obsolete during its useful life. What will be change over its useful life is the electronics that are used to “light” the fiber optic cable. We expect improving technology will increase the amount of data that can be transported across a single fiber with the new technology. These changes can be phased in as the electronics reach their end of life.
- 6) **How can I aggregate demand among key anchor institutions and employers?** A key approach for any community is to determine how much demand the anchor institutions and employers currently have. Knowing this information provides the community with leverage when working with providers and potential carriers to get what the community needs. It also allows a community to “speak with one voice” when confronting the complexities of broadband deployment and establish a better understanding of the economics of the telecommunications environment.

*Reprinted from CCI's “What Every Commissioner Needs to Know About Broadband” (2011)*

## Additional Resources

Colorado Department of Regulatory Agencies – Broadband Fund  
<https://www.colorado.gov/dora-broadband-fund>

Rio Blanco County: Plan Your Own Project – A Broadband Blueprint  
<http://www.rbc.us/401/Plan-Your-Project-Blueprint>

Colorado Department of Local Affairs – Broadband Program  
<https://www.colorado.gov/pacific/dola/broadband-program>

Colorado Broadband Portal  
<http://broadband.co.gov/>

Colorado Broadband Data and Development Program  
<http://www.oit.state.co.us/broadband>

Northwest Colorado Council of Governments Memorandum on Opting Out of SB 152  
<http://nwccog.org/wp-content/uploads/2017/03/SB-152-Opt-Out-MEMO-April-2017-NWCCOG-1.pdf>

National Association of Counties Podcast: Innovations in Rural Broadband Delivery  
<http://www.naco.org/resources/innovations-rural-broadband-delivery>

Access and Inclusion in the Digital Age: A Resource Guide for Local Governments  
[http://nationalresourcenetwork.org/en/Document/306284/Access and Inclusion in the Digital Age A Resource Guide for Local Governments](http://nationalresourcenetwork.org/en/Document/306284/Access%20and%20Inclusion%20in%20the%20Digital%20Age%20-%20A%20Resource%20Guide%20for%20Local%20Governments)

## Glossary

**Backhaul:** The portion of a broadband network in which the local access or end user point is linked to the main Internet network.

**Bandwidth:** bandwidth refers to how fast data flows through the path that it travels to your computer; it's usually measured in kilobits, megabits or gigabits per second.

**Broadband:** broadband comes from the words "broad bandwidth" and is used to describe a defined high-speed connection to the Internet. A broadband connection lets you instantly connect to the Internet or your corporate network at speeds many times faster than a dial-up connection.

**Cable modem:** refers to the type of broadband connection that brings information to homes and businesses over ordinary television cable lines.

**Dark fiber:** optical fiber that is not lit or not activated for use.

**DSL:** stands for digital subscriber line; it refers to the type of broadband connection that brings information to homes and businesses over ordinary copper telephone lines.

**Downstream speed:** refers to the speed at which data flows from the information server to your computer.

**ISP:** Internet Service Provider. A company that offers customers access to the Internet.

**Last mile:** refers to the connectivity to the home, business, or to a "node" where additional Internet connectivity can occur.

**Kbps:** Stands for Kilobits per second, or thousands of bits per second. For example, most analog modems transmit at 56 Kbps or 28.8 Kbps.

**Mbps:** Stands for Megabits per second, or millions of bits per second. This is a measurement of how much data can be transmitted through a connection. For example, 6.0 Mbps is 200 times faster than a 28.8 Kbps analog modem.

**Middle mile:** any carrier-to-carrier wholesale communications infrastructure with a single point of demarcation that does not connect directly to end users or to end-user facilities and that may include interoffice transport, backhaul, Internet connectivity, or special access. Middle mile infrastructure can range from a few miles to a few hundred miles. They are often constructed of fiber optic lines, but microwave and satellite links can be used as well.

**Satellite:** refers to the type of broadband connection where information is sent from and arrives at a computer through satellite dishes

**Upstream speed:** refers to the speed at which data flows from your computer to the information server

**Wireless:** refers to the type of broadband connection where information is sent from and arrives at a computer through transmission towers

*(Source: Broadband 101: The Unofficial Dictionary, produced by Nevada County, California)*

*The Knowledge Now series features practical research on timely topics from the Colorado Municipal League.*

## BROADBAND: THE VOTERS HAVE SPOKEN, WHAT'S NEXT?

The nation is experiencing a major evolution in communications that is pulling in municipal government as a key player. High-speed Internet connectivity is transforming from a rarity into a necessity. The demand for high-speed connections from businesses and residents is driven by the large amounts of data transfer needed to support Internet video, business transactions, health care facilities, schools, and online gaming. And we want it everywhere we go. We want it on our PCs, laptops, and phones.

Are we seeing broadband Internet emerge as the new public utility? Are we experiencing the same public demand seen a century ago for universal telephone service, resulting in government action? The answers to these questions are beginning to unfold in Colorado and across the country. Broadband infrastructure is expensive to build and often the

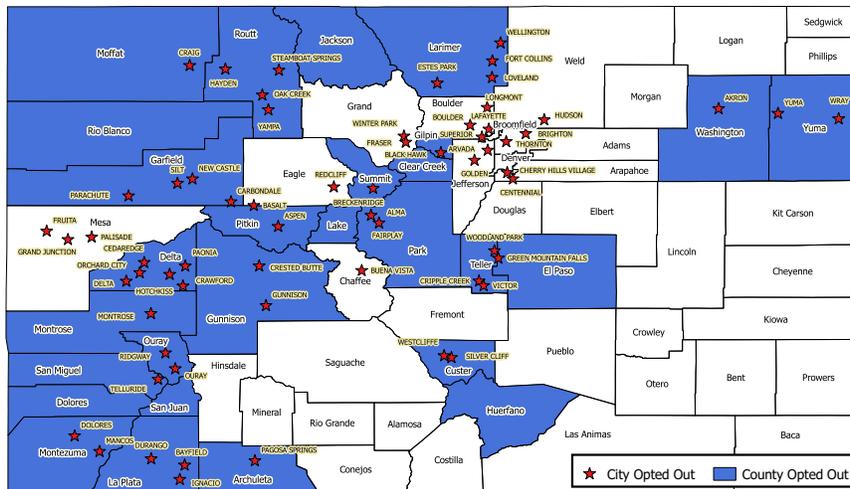
returns are not there to create a business model that will “pencil out” for a private provider. Yet, in 2005, the Colorado legislature passed a law excluding local government from entering the broadband market. SB 05-152 does provide an escape hatch for municipal residents: They can vote to exempt their municipal or county government from that restriction. To date, voters in 65 cities and towns have done just that — a list expected to continue to grow in the future.

A just released 2017 study from the National League of Cities finds that municipalities establish broadband networks for a wide range of reasons, including “increased residential property values, increased commercial business activity, and to spur viable employment options in isolated communities. Broadband opens doors to education, healthcare, recreation and business growth.” Closer to home, Fort Collins Deputy City Manager Jeff

Mihelich notes that universal broadband service provides a community with an economic advantage in attracting and retaining talent and providing for merchant services and cloud based businesses. As it formulates a broadband service plan, the City of Fort Collins is pursuing four objectives: network buildout reaching all residents, timely implementation, competitive market pricing, and outstanding customer service.

Voters’ voices have been loud and clear in elections allowing municipal government in Colorado to provide broadband service. All 65 cities and towns that have asked have been given permission. The vote is in. Municipal government gets the green light. What happens next? This Knowledge Now provides examples from four Colorado municipalities with four different approaches to next steps after the vote.

**Local Governments Repealing Prohibition on Public Investment in Broadband**



## IMPLEMENTING A FIBER MASTER PLAN

*By Eric Eddy, Centennial assistant to the city manager*

In November 2013, 76 percent of Centennial residents voted in favor of ballot question #2G, repealing certain parts of the SB 05-152 restrictions placed on all local governments in Colorado. The passing of this ballot question allows the City to indirectly provide services through competitive and nonexclusive partnerships with private businesses. Since that time, the City of Centennial has worked to implement its Fiber Master Plan, culminating in the installation of a City-wide, carrier-grade, competitively-neutral, dark fiber backbone.

Centennial's efforts began by cataloguing the existing City-owned fiber through an asset inventory. Simultaneously, the City examined potential partnership opportunities to benefit stakeholders through a series of meetings with community anchor institutions, such as fire districts, law enforcement, schools, and libraries. In

addition, meetings took place with incumbent providers, private businesses, and residents. The information gathered was presented to city council as an analysis of options. Ultimately, this led to council direction to develop a Fiber Master Plan, which would guide the implementation and next steps of the installing the fiber backbone.

A consultant firm was hired to conduct a strategic planning and feasibility study, focusing on the data gathered in the opportunity analysis resulting in the development of the Centennial Fiber Master Plan. Additional public outreach was conducted with anchor institutions and private businesses to discuss next steps of the plan execution. Council considered a range of alternatives, from doing nothing to implementing City-owned fiber-to-the-home. Ultimately, the council-adopted Fiber Master Plan identified the City's goal

as developing a City-wide dark fiber backbone to enable competition throughout Centennial.

In late 2016, the City began construction of its dark fiber backbone, with the first phase connecting the City's Public Works Yard with the City offices. Additional construction will be ongoing throughout 2017 and into 2018. This dark fiber will be available to the private sector and others on a competitively-neutral basis, eventually enabling competition and ensuring the City maintains control over its destiny into the future.

There is no one-size-fits-all framework for Colorado municipalities when it comes to fiber and related efforts. Each municipality should consider its strengths and weaknesses and develop a defined strategy and policy to address community goals.

## OUR GOAL IS BECOMING A GIGABIT COMMUNITY

*By Glen Black, Delta community development director*

For several years, the City of Delta has been looking for ways to bring affordable high-speed broadband to the area.

Affordable broadband was identified as the key economic development factor for Region 10 communities during a USDA Stronger Economies Together training process and report. That report just confirmed what we already knew from the many requests for better Internet service from local businesses and residents.

Inadequate broadband has retarded business growth. Economic development efforts have been hampered by a lack of high-speed broadband according to several potential businesses that would not consider locating in Delta after determining lack of broadband.

If there was any doubt about public demand, it was laid to rest by the results of Delta's SB 05-152 exemption election that passed with a 71 percent "yes" vote. Citizens told the City to get

involved in bringing better service to the community.

One of the first steps the City took was working with Eagle-Net Alliance to try and bring fiber to Delta. Eagle-Net is an intergovernmental entity operating under a federal grant to provide broadband connections for schools, libraries, and government facilities. Unfortunately it was unable to complete its Delta project.

Delta then took the bull by the horns in forming a cooperative effort through the state's Region 10 partners, including Delta County, City of Montrose, and the Delta Montrose Electric Association (DMEA) in phase one of a regional approach with sights set on Delta becoming a gigabit community. The Region 10 partnership is building the middle-mile backbone that will spread broadband availability throughout Delta via both underground and aerial infrastructure. Work has been progressing rapidly, the infrastructure for phase one is expected to be completed by mid-year.

Funding such an ambitious project requires millions of dollars and has only been possible through major grants from the Colorado Department of Local Affairs and the Economic Development Administration, along with significant contributions from DMEA, Region 10, the El Pomar Foundation, and participating local governments.

Once the backbone is up and running, the final step is the last-mile connections to hook up businesses and residences. DMEA has created a for-profit company (Elevate Fiber), which is an ISP provider for fiber connections from the middle mile to the end user. This cooperative construction of broadband infrastructure has stimulated renewed interest from private Internet service providers looking to provide last mile connections. What a great result this will be for consumers — high speed broadband in a competitive environment.

## TURNING ON THE NEXTLIGHT™

By Scott Rochat, Longmont Power & Communications public relations and marketing specialist

Longmont's community-owned fiber-optic network, NextLight, is due to complete network construction this year, achieving a vision that has been more than 20 years in the making for Longmont Power & Communications.

It began in 1996 with a proposed upgrade to the electric substation communications connections. In a white paper to city council, Longmont Power & Communications (LPC) noted that fiber-optics could offer the speed and reliability needed — and that with additional fibers, the resulting loop could be the core of a citywide broadband network.

The 17-mile loop was built in 1997. But creating a network to provide services took longer. LPC first looked for a private partner, reaching an agreement with Adesta Communications in 2000. But in 2001, Adesta filed for bankruptcy, starting the process over.

In 2005, Senate Bill 152 barred local governments from involvement in telecommunications with limited exceptions. A community could vote to exempt itself, and Longmont ultimately did so in 2011, emphasizing that the measure would re-establish a local right that had been taken away and that no tax dollars would be used to build the network. That year, opponents spent nearly \$420,000, but the measure passed with about 60 percent in favor.

By 2013, a business plan was ready and another vote approved up to \$45.3 million in bonds for the build. The initial timeline called for a six-phase build out, with construction starting August 2014. By October, the NextLight name was unveiled, reflecting Longmont's history of providing electric power for itself since 1912. Now, light through fiber would be the "next light." This time, no private partner took part.

When the first service areas opened in November 2014, signup requests quickly overwhelmed the call center and the installation schedules. By spring, a new schedule accelerated construction to answer the demand.

One significant driver has been the Charter Member rate, which offers a \$49.95-per-month symmetrical gigabit connection to residential users who sign up quickly. With that incentive, average take rates are consistently above 50 percent in areas that have been through the Charter Member process.

Some of the key lessons learned have included:

- Be open to changing design and procedures during construction. There will always be new factors and technologies to consider.
- Start early in securing access agreements with multi-dwelling units and similar managed properties.

- All municipal personnel are potential marketers. Make them excited about this!
- Carefully assess the impacts on those outside the utility, including permitting agencies and locating firms.
- Building a brand new utility encompasses myriad details. For Longmont, that included new billing software, significant time on website updates and social media, space for a call center and other added employees, new policies and SOPs for details such as online piracy, and specialized tax and federal filing requirements.

Even after the initial build out, the network will grow with Longmont, providing a powerful tool for homes and businesses alike. Even with so much accomplished, NextLight's story has only just begun.



## MEETING TODAY'S BROADBAND EXPECTATIONS

By Vince O'Connor, Steamboat Springs information services manager

Steamboat Springs' efforts to improve Internet broadband service began before city council sent a SB 152 exemption ballot question to voters in 2015. Frustration with Internet speeds had been mounting among residents and the business community as existing networks had been tapped out. This was of special concern as commerce in today's economy and future business development are dependent on reliable, high-speed Internet connections. Steamboat's many visitors have also have come to expect the availability of high-speed Internet service.

Citing the need for faster broadband, the City joined forces with the Steamboat Springs School District, the Yampa Valley Medical Center, and Yampa Valley Electric Association to form the Northwest Colorado Broadband Consortium. The voters approved the SB 152 exemption giving

the City the green light to improve broadband service. The consortium set to work to better serve local government needs and bring superior bandwidth to the entire community by providing the backbone for the local system. A Wyoming company brought in the initial fiber pipeline from Denver, and efforts continue to create redundancy to the initial pipeline. The consortium is the middle-mile provider and is laying fiber optic underground and stringing wire overhead throughout the city, with 60 percent completion on the main trunk line and lateral lines.

The multimillion dollar project has been financed through a combination of private funds, local government dollars, and a Colorado Department of Local Affairs grant. Project completion is expected sometime next year.

The plan always has been for the City to be the middle mile and hand-off to

private businesses for the actual hook-ups for end users. The public backbone network is open to all private Internet providers to tap into and provide consumer service connections.

As the system is being built out, the results are dramatic — better service for lower cost. Businesses and residents will see a many-fold increase in Internet speeds available. The system provides municipal government with enough bandwidth to satisfy not only its internal demands, but to meet the needs of the city's many visitors by offering free WiFi at several hotspots located throughout the city from which anyone can access the Internet from their phones or laptops.

Through this community cooperative venture residents, businesses, and local governments will all come out ahead.

## STATE PLAYING A BIG ROLE SUPPORTING BROADBAND

By Rachel Harlow-Schalk, Colorado Department of Local Affairs Division of Local Government deputy director

The Colorado Department of Local Affairs (DOLA) broadband initiative began as a result of growing demand from rural Colorado to plan for and resolve community broadband service needs. DOLA recognizes that provision of high-speed broadband services can play a critical role in enhancing local government operations and community development efforts.

In 2015, DOLA kicked off its \$20 million initiative within the Energy and Mineral Impact Assistance Fund (EIAF) to improve broadband in rural Colorado by working with communities and state partners. While the dollars are no longer set aside for just broadband grants, local governments still can apply for funds through primary EIAF grant program. Funding is offered for regional

broadband plans, sub-plans for counties and municipalities, and middle-mile infrastructure projects.

- Applications for planning grants may be submitted at any time. Such applications shall be reviewed by the EIAF Advisory Committee and approved administratively.
- Applications for infrastructure (middle-mile) projects are made through the regular cycles of the Energy Mineral Impact Program, with three application deadlines per year.
- Applications for both planning and infrastructure are subject to review and comment by the Office of Information Technology, Office of Economic Development and International Trade, and the relevant Council of Governments.

The most successful grant applications are those that are developed and coordinated prior to submittal in consultation with local government's respective regional manager.

The scope of a successful application will define a regional or countywide/municipal area that examines current assets, gaps in services, applicable matching funds to the grant, and a demonstrable effort to cooperate with private-sector partners on the implementation. All middle-mile grant funded projects must be included in a regional or sub-plan prior to funding. This program does not fund last mile infrastructure.

Contact your DOLA regional manager for more information at [dola.colorado.gov/regmanagers](http://dola.colorado.gov/regmanagers).

## **Rio Blanco County Stays Relevant with Broadband**

*By Masha Zager / Broadband Communities*

Colorado became a hotbed of community broadband activity several years ago when dozens of cities and counties began voting to override restrictive state legislation and take control of their broadband destinies. In November 2016 alone, 26 localities held broadband referenda; all 26 referenda passed, most of them by wide margins.

Rio Blanco County, a rural county in northwestern Colorado with a population of less than 7,000, held an override vote in 2014 and is now connecting customers to Rio Blanco Broadband, a network that will deliver fiber or wireless broadband access to nearly all premises. However, its story began much earlier, in 1999, when the school district in Meeker, the county seat, linked its buildings with fiber. Once the school network was up and running, the town of Meeker, the local library and the county hospital all requested to use the school district's dark fiber – and the Meeker Metropolitan Area Network (Meeker MAN) was born. “It ran for a decade and a half, and we had an abnormal amount of IT cooperation,” says Blake Mobley, who was the IT director of the school district during that period.

In 2014, when the county decided to implement a modern broadband system, it recruited Mobley to be the county IT director because of his experience with the Meeker MAN. “It was the perfect storm,” Mobley says. “There was grassroots desire for broadband, the county commissioners were on board, the county had money to proceed and I had some experience with broadband.”

The county set a goal of obtaining the fastest internet access it could for as many people as it could and offering it at Google-type pricing (\$70 for gigabit service). Formulating the policy goal in this way – rather than setting goals in terms of economic development or return on investment – was the first unique aspect of the project.

Mobley explains, “One way a project can fail is if you set a publicly stated goal, such as return on investment, the number of years it takes to get your money back or a specific take rate. As soon as you make a public statement like that, you can be held up as an example of failure. So we chose a different approach: Our goal was to build a modern infrastructure so the community would have an option. ... We had to look at this as a purchase, not an investment.” The county's website explains that broadband isn't about “getting ahead as a community” as much as “maintaining relevancy as a community.”

## **Getting Started**

The county published a broadband plan in June 2014 calling for fiber to the home in the two towns of Meeker and Rangely and wireless broadband (at least in the short term) for the remaining one-third of county residents who live far from any population centers. A referendum in November 2014 gained 82 percent approval, and the county allocated money from its general fund to start the project. The following month, the Colorado Department of Local Affairs (DOLA) set aside money for networks that would connect community anchor institutions, and Rio Blanco County was one of two counties awarded first-round funding.

The county originally intended to find a single partner that could build and operate the network and deliver services to residents. This approach might have worked for a larger municipality, but as it turned out, Mobley says, “there wasn’t really a single company that could do all this in a small market.” After some rethinking, Rio Blanco County decided to split up the project and work with several private partners.

## **Constructing the Network**

First, the county decided to contract directly with several construction partners. In July 2015, it hired Circle H Construction to build fiber to the curb in the towns of Meeker and Rangely. That construction project is nearly finished. The county also entered into an IRU, or long-term lease, for two strands of fiber between Meeker and Rangely, which are about 60 miles apart. The link between the two cities enables them to share a middle-mile connection.

In spring 2016, the county contracted with Centerline Solutions to design and engineer the rural wireless network. With help from a second DOLA grant, construction of the wireless network began a few months later with the building of several new towers and the repurposing of several existing county towers. A final construction phase, which will include more than 20 small towers to reach the most remote parts of the county, is still pending approval by the commission and possible state support. “It’s a modular solution,” Mobley says. “We may change the implementation timeline and approach.”

The towers will support fixed wireless broadband with a 25 Mbps/5 Mbps top speed offering, using Cambium equipment operating on either unlicensed or lightly licensed frequencies. In addition, the towers are already being used by private carriers to improve cellular reception, and eventually they will be used for emergency communications as well.

Another task the county took on was to create data centers in Rangely and Meeker. An empty building in Rangely became the central office and network operations center; the remodeling of the

courthouse in Meeker will make room for a data center in 2017. Calix equipment is being used in the central office and at customer premises.

### **It Takes a Community**

To build the fiber drops, operate and maintain the network, obtain wholesale internet bandwidth and recruit and manage retail service providers, the county turned to the Colorado Fiber Community (CFC). CFC is a consortium that consists of project manager OHIvey, Blue Tail Consulting and Beehive Broadband, a Utah ISP, along with several (mostly local) design and construction partners.

The county wanted to give customers a choice of retail service providers, so CFC approached the two fixed wireless broadband providers in the county, Local Access Internet and Cimarron Telecommunications, and invited them to deliver services on Rio Blanco Broadband. Both jumped at the chance. Says Paul Recanzone of CFC, “We’ll allow as many providers as the market will support, but at the moment, that’s two. ... A handful of others in Colorado were interested, but we have indicated to them what the market conditions are, and they will wait.”

The retail providers were trained to install optical network terminals (ONTs) at customer premises and are now adding customers in Meeker and Rangely. In part because they already had wireless customers in the two towns and had name recognition, they achieved a 67 percent take rate right out of the gate with little or no marketing.

Though the two retail service providers are off to a strong start, CFC is aware that open-access networks are vulnerable to sudden exits of service providers. (For example, the Utah open-access network UTOPIA lost several service providers in its early years.) Keeping that experience in mind, Beehive Broadband, the CFC partner that serves as network operator, is prepared to step in as a backup service provider if necessary to ensure that customers won’t be stranded.

CFC’s role as wholesaler of internet services transformed the economics of broadband in the county. Neither of the two retail service providers had the market power to buy backhaul or wholesale services at competitive rates. CFC (through Beehive Broadband) supplies internet backhaul to the retailers at about one-fifth the price the retailers pay as independent WISPs. Because CFC can also acquire other services at reasonable rates, the retailers should soon be able to offer such services as voice, IPTV and home security.

Mobley says that CFC may not need to continue supplying wholesale services as the system matures (though it will continue to operate the network). He comments, “It’s definitely our goal to get to

that more common model of open access where the network is the transport layer and the value-added resellers [retailers] can go out and secure their own services.”

### **Sharing the Profits**

The county’s agreement with CFC is an unusual one based on profit sharing. According to Recanzone, CFC subtracts certain operational costs from the revenue stream each month and then keeps 40 percent of the remainder, remitting the other 60 percent to the county.

To make matters more complicated, the county wants to own the drop cables and ONTs – which is important if it ever needs to replace the network operator – but CFC is responsible for incurring the \$1,100 per customer cost to purchase and install this infrastructure. So, at present, the county’s revenue share is applied toward repayment of CFC’s installation expenses, which will continue until the repayment is complete.

According to Recanzone, CFC did everything possible, and then some, to minimize startup costs, and it reached operational breakeven after only four months, in October 2016. It has already begun applying the county’s share of profits to accruals for the drop infrastructure, and it expects to apply its own share to debt service for the next five years or so. (No one ever said building rural broadband was easy.)

### **Support for Anchor Institutions**

Because the public anchor institutions in Meeker had a long history of cooperating on the Meeker MAN, Mobley wanted to replicate that spirit of cooperation on the Rio Blanco Broadband network – not just in Meeker but countywide. Rather than run a single strand of fiber to each community anchor institution, Rio Blanco Broadband ran four strands to each and aggregated the fibers in the data center. It also reserved half the data center space for these institutions to use as they chose, rent free. “There was no way they could afford anything like this,” Mobley says, “but our added cost to implement it was a very small percentage of the total cost.”

The anchor institutions have a range of options in using these resources. For example, Mobley says, they could create private networks to link multiple facilities, locate core switches in the data centers, share resources (such as firewall equipment) with other institutions or trade space with an institution in the other data center to locate backup equipment.

In addition, the anchor institutions will be able to purchase engineering, maintenance or technical expertise from Rio Blanco Broadband. Mobley expects most of the public anchor institutions in the county to take advantage of these opportunities.

## **Economic Development**

Even without specific economic development goals for the network, county officials are keenly aware of its potential to attract, retain and support businesses. Fiber was laid several miles beyond the town limits of Meeker and Rangely to connect businesses outside the towns, and Mobley says it could be extended farther if the county can obtain funding to do so (or if profit-sharing remittances from the current network become available). “I see the network as a negotiating tool,” says Katelin Cook, the county economic development director. “If getting fiber to the door will seal the deal, we’ll do everything in our power to do that.”

Cook says the county hopes to encourage economic diversification by attracting individuals and small businesses that are location neutral and attracted by Rio Blanco County’s quality of life. Data centers and data backup facilities are also good candidates for recruitment. In partnership with the Chamber of Commerce, Cook is helping companies already located in the county explore how they can use the network to enhance their businesses.

Rio Blanco County is already showing up on site selectors’ lists. Cook says that, before even starting a formal marketing program, she has fielded inquiries from about a dozen companies. “For me, that’s exciting,” she says. “We’re now being seen as a viable business option.”

###

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



SENATE BILL 05-152

BY SENATOR(S) Veiga, and Mitchell;  
also REPRESENTATIVE(S) Jahn, Crane, Harvey, Kerr, and Sullivan.

CONCERNING LOCAL GOVERNMENT COMPETITION IN THE PROVISION OF  
SPECIFIED COMMUNICATIONS SERVICES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Title 29, Colorado Revised Statutes, is amended BY  
THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 27**  
**Competition in Utility and Entertainment Services**

PART 1  
COMPETITION IN UTILITY  
AND ENTERTAINMENT SERVICES

**29-27-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY  
HEREBY FINDS AND DECLARES THAT IT IS THE POLICY OF THIS STATE TO  
ENSURE THAT CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE,  
AND HIGH SPEED INTERNET ACCESS, OTHERWISE KNOWN AS ADVANCED  
SERVICE, ARE EACH PROVIDED WITHIN A CONSISTENT, COMPREHENSIVE, AND

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

NONDISCRIMINATORY FEDERAL, STATE, AND LOCAL GOVERNMENT FRAMEWORK.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) THERE IS A NEED FOR STATEWIDE UNIFORMITY IN THE REGULATION OF ALL PUBLIC AND PRIVATE ENTITIES THAT PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE.

(b) MUNICIPAL ORDINANCES, RULES, AND OTHER REGULATIONS GOVERNING THE PROVISION OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE BY A LOCAL GOVERNMENT IMPACT PERSONS LIVING OUTSIDE THE MUNICIPALITY.

(c) REGULATING THE PROVISION OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE BY A LOCAL GOVERNMENT IS A MATTER OF STATEWIDE CONCERN.

**29-27-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVANCED SERVICE" MEANS HIGH-SPEED INTERNET ACCESS CAPABILITY IN EXCESS OF TWO HUNDRED FIFTY-SIX KILOBITS PER SECOND BOTH UPSTREAM AND DOWNSTREAM.

(2) "CABLE TELEVISION SERVICE" MEANS THE ONE-WAY TRANSMISSION TO SUBSCRIBERS OF VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICE, AS WELL AS SUBSCRIBER INTERACTION, IF ANY, THAT IS REQUIRED FOR THE SELECTION OR USE OF THE VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICE.

(3) "LOCAL GOVERNMENT" MEANS ANY CITY, COUNTY, CITY AND COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

(4) "PRIVATE PROVIDER" MEANS A PRIVATE ENTITY THAT PROVIDES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE.

(5) "SUBSCRIBER" MEANS A PERSON THAT LAWFULLY RECEIVES

CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE. A PERSON THAT UTILIZES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE PROVIDED BY A LOCAL GOVERNMENT FOR LOCAL GOVERNMENTAL OR INTERGOVERNMENTAL PURPOSES AND IS USED BY PERSONS ACCESSING GOVERNMENT SERVICES IS NOT A SUBSCRIBER FOR PURPOSES OF THIS ARTICLE.

(6) "TELECOMMUNICATIONS SERVICE" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-15-102 (29), C.R.S.

**29-27-103. Limitations on providing cable television, telecommunications, and advanced services.** (1) EXCEPT AS PROVIDED IN THIS ARTICLE, A LOCAL GOVERNMENT SHALL NOT:

(a) PROVIDE TO ONE OR MORE SUBSCRIBERS CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE; OR

(b) PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE ANY FACILITY FOR THE PURPOSE OF PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO ONE OR MORE SUBSCRIBERS.

(2) FOR PURPOSES OF THIS ARTICLE, A LOCAL GOVERNMENT PROVIDES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE IF THE LOCAL GOVERNMENT PROVIDES THE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO ONE OR MORE SUBSCRIBERS:

(a) DIRECTLY;

(b) INDIRECTLY BY MEANS THAT INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

(I) THROUGH AN AUTHORITY OR INSTRUMENTALITY ACTING ON BEHALF OF THE LOCAL GOVERNMENT OR FOR THE BENEFIT OF THE LOCAL GOVERNMENT BY ITSELF;

(II) THROUGH A PARTNERSHIP OR JOINT VENTURE;

(III) THROUGH A SALE AND LEASEBACK ARRANGEMENT;

(c) BY CONTRACT, INCLUDING A CONTRACT WHEREBY THE LOCAL GOVERNMENT LEASES, SELLS CAPACITY IN, OR GRANTS OTHER SIMILAR RIGHTS TO A PRIVATE PROVIDER TO USE LOCAL GOVERNMENTAL FACILITIES DESIGNED OR CONSTRUCTED TO PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE FOR INTERNAL LOCAL GOVERNMENT PURPOSES IN CONNECTION WITH A PRIVATE PROVIDER'S OFFERING OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE; OR

(d) THROUGH SALE OR PURCHASE OF RESALE OR WHOLESALE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE FOR THE PURPOSE OF PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO ONE OR MORE SUBSCRIBERS.

(3) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF A LOCAL GOVERNMENT TO LEASE TO A PRIVATE PROVIDER PHYSICAL SPACE IN OR ON ITS PROPERTY FOR THE PLACEMENT OF EQUIPMENT OR FACILITIES THE PRIVATE PROVIDER USES TO PROVIDE CABLE TELEVISION, TELECOMMUNICATIONS, OR ADVANCED SERVICES.

## PART 2 CONDITIONS FOR PROVIDING SERVICES

**29-27-201. Vote - referendum.** (1) BEFORE A LOCAL GOVERNMENT MAY ENGAGE OR OFFER TO ENGAGE IN PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE, AN ELECTION SHALL BE CALLED ON WHETHER OR NOT THE LOCAL GOVERNMENT SHALL PROVIDE THE PROPOSED CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE.

(2) THE BALLOT AT AN ELECTION CONDUCTED PURSUANT TO THIS SECTION SHALL POSE THE QUESTION AS A SINGLE SUBJECT AND SHALL INCLUDE A DESCRIPTION OF THE NATURE OF THE PROPOSED SERVICE, THE ROLE THAT THE LOCAL GOVERNMENT WILL HAVE IN PROVISION OF THE SERVICE, AND THE INTENDED SUBSCRIBERS OF SUCH SERVICE. THE BALLOT PROPOSITION SHALL NOT TAKE EFFECT UNTIL SUBMITTED TO THE ELECTORS AND APPROVED BY THE MAJORITY OF THOSE VOTING ON THE BALLOT.

**29-27-202. Exemption for unserved areas.** (1) A LOCAL GOVERNMENT SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS PART 2

AND MAY ENGAGE OR OFFER TO ENGAGE IN PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCE SERVICE IF:

(a) NO PRIVATE PROVIDER OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE PROVIDES THE SERVICE ANYWHERE WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT;

(b) THE GOVERNING BODY OF THE LOCAL GOVERNMENT HAS SUBMITTED A WRITTEN REQUEST TO PROVIDE THE SERVICE TO ANY INCUMBENT PROVIDER OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT; AND

(c) THE INCUMBENT PROVIDER HAS NOT AGREED WITHIN SIXTY DAYS OF THE RECEIPT OF A REQUEST SUBMITTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1) TO PROVIDE THE SERVICE OR, IF THE PROVIDER HAS AGREED, IT HAS NOT COMMENCED PROVIDING THE SERVICE WITHIN FOURTEEN MONTHS OF THE RECEIPT OF THE REQUEST.

PART 3  
COMPLIANCE WITH LOCAL, STATE,  
AND FEDERAL REGULATIONS

**29-27-301. General operating limitations.** (1) A LOCAL GOVERNMENT THAT PROVIDES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE UNDER THIS ARTICLE SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS, RULES, AND REGULATIONS GOVERNING PROVISION OF SUCH SERVICE BY A PRIVATE PROVIDER; EXCEPT THAT NOTHING HEREIN SHALL BE CONSTRUED TO AFFECT THE JURISDICTION OF THE PUBLIC UTILITIES COMMISSION WITH RESPECT TO MUNICIPAL UTILITIES.

(2) (a) A LOCAL GOVERNMENT SHALL NOT MAKE OR GRANT ANY UNDUE OR UNREASONABLE PREFERENCE OR ADVANTAGE TO ITSELF OR TO ANY PRIVATE PROVIDER OF CABLE TELEVISION SERVICES, TELECOMMUNICATIONS SERVICES, OR ADVANCED SERVICES.

(b) A LOCAL GOVERNMENT SHALL APPLY WITHOUT DISCRIMINATION AS TO ITSELF AND TO ANY PRIVATE PROVIDER THE LOCAL GOVERNMENT'S ORDINANCES, RULES, AND POLICIES, INCLUDING THOSE RELATING TO:

- (I) OBLIGATION TO SERVE;
- (II) ACCESS TO PUBLIC RIGHTS-OF-WAY;
- (III) PERMITTING;
- (IV) PERFORMANCE BONDING WHERE AN ENTITY OTHER THAN THE LOCAL GOVERNMENT IS PERFORMING THE WORK;
- (V) REPORTING; AND
- (VI) QUALITY OF SERVICE.

**29-27-302. Scope of article.** (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTHORIZE ANY LOCAL GOVERNMENT TO:

(a) PROVIDE, DIRECTLY OR INDIRECTLY, CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE; OR

(b) PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE A FACILITY FOR THE PURPOSE OF PROVIDING, DIRECTLY OR INDIRECTLY, CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE.

(2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO APPLY TO A LOCAL GOVERNMENT PURCHASING, LEASING, CONSTRUCTING, MAINTAINING, OR OPERATING FACILITIES THAT ARE DESIGNED TO PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE THAT THE LOCAL GOVERNMENT USES FOR INTERNAL OR INTERGOVERNMENTAL PURPOSES.

(3) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO APPLY TO THE SALE OR LEASE BY A LOCAL GOVERNMENT TO PRIVATE PROVIDERS OF EXCESS CAPACITY, PROVIDED:

(a) SUCH EXCESS CAPACITY IS INSUBSTANTIAL IN RELATION TO THE CAPACITY UTILIZED BY THE LOCAL GOVERNMENT FOR ITS OWN PURPOSES; AND

(b) THE OPPORTUNITY TO PURCHASE AND THE OPPORTUNITY TO USE SUCH EXCESS CAPACITY IS MADE AVAILABLE TO ANY PRIVATE PROVIDER IN

A NONDISCRIMINATORY, NONEXCLUSIVE, AND COMPETITIVELY NEUTRAL MANNER.

(4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT EITHER THE AUTHORITY OF THE STATEWIDE INTERNET PORTAL AUTHORITY CREATED IN SECTION 24-37.7-102, C.R.S., TO CARRY OUT ITS MISSION OR TO INTEGRATE THE ELECTRONIC INFORMATION DELIVERY SYSTEMS OF LOCAL GOVERNMENTS INTO THE STATEWIDE INTERNET PORTAL AS DEFINED IN ARTICLE 37.7 OF TITLE 24, C.R.S.

**29-27-303. Enforcement and appeal.** (1) BEFORE AN INDIVIDUAL SUBSCRIBER OR A PRIVATE PROVIDER THAT COMPETES WITH A LOCAL GOVERNMENT IN THE GEOGRAPHIC BOUNDARIES OF THE LOCAL GOVERNMENT MAY FILE AN ACTION IN DISTRICT COURT FOR VIOLATION OF THIS ARTICLE, THAT PERSON SHALL FILE A WRITTEN COMPLAINT WITH THE LOCAL GOVERNMENT. THE FAILURE BY THE LOCAL GOVERNMENT TO ISSUE A FINAL DECISION REGARDING THE COMPLAINT WITHIN FORTY-FIVE DAYS SHALL BE TREATED AS AN ADVERSE DECISION FOR PURPOSES OF APPEAL.

(2) AN APPEAL OF AN ADVERSE DECISION FROM THE LOCAL GOVERNMENT MAY BE TAKEN TO THE DISTRICT COURT FOR A DE NOVO PROCEEDING.

**29-27-304. Applicability.** THIS ARTICLE SHALL APPLY TO CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE AND TO THE PURCHASE, LEASE, CONSTRUCTION, MAINTENANCE, OR OPERATION OF ANY FACILITY FOR THE PURPOSE OF PROVIDING SUCH SERVICE, FOR WHICH A LOCAL GOVERNMENT HAS NOT ENTERED INTO AN AGREEMENT OR OTHERWISE TAKEN ANY SUBSTANTIAL ACTION PRIOR TO MARCH 1, 2005, TO PROVIDE SUCH SERVICE OR PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE SUCH FACILITIES.

**SECTION 2. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Joan Fitz-Gerald  
PRESIDENT OF  
THE SENATE

---

Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

---

Karen Goldman  
SECRETARY OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

---

Bill Owens  
GOVERNOR OF THE STATE OF COLORADO