



**MINUTES**  
**LOVELAND CITY COUNCIL SPECIAL MEETING**  
**Tuesday, October 23, 2018 City Council Chambers 6:00 PM**

**COUNCIL PRESENT:**

Marsh, Overcash, Fogle, Johnson, Ball, Clark, Olson, Jersvig, Wright

**COUNCIL ABSENT:**

None.

**STUDY SESSION**

**1. INTRODUCTION**

**1.1. CALL TO ORDER**

**2. AGENDA**

**2.1. WATER & POWER  
BROADBAND UPDATE**

Briana Reed-Harmel, Broadband Project Manager and Senior Electrical Engineer, presented this item to Council and provided information in conjunction with the power point presentation. Areas covered included:

- Broadband Action Items Update
- Public Private Investigation
- Education and Outreach Campaign
- Network Design Review
- Business and Financial Plan
- Bonding Package

The purpose of the meeting was to have open discussion with City Council to provide information and answer questions regarding the broadband initiative in Loveland. All information in staff's presentation was made available to City Council and the public in advance of the meeting. During the open discussion, staff would requested to receive direction from Council on how to proceed with the recommendation from the Loveland Communications Advisory Board (LCAB).

At the October 10, 2018 meeting, LCAB unanimously provided the following recommendation:

In the interest of providing the community of Loveland with fast, reliable, affordable, and City-wide accessible broadband service backed by excellent customer service, the Loveland Communications Advisory Board recommended that, without delay, the Loveland City Council direct the City Manager to establish the structure and governance of a broadband utility and secure network construction funding by bond issuance through the following actions:

- Establish through necessary ordinances a City-owned broadband enterprise utility under a retail model with regional collaboration
- Delegate authority to the City Manager to set rates, charges, and fees for particular broadband network and related services within the parameters and reporting requirements to be set by City Council
- Authorize the City Manager to explore regional partnerships with other governmental entities, broadband providers, and owners of fiber optic cable in order to capitalize on regional municipal broadband opportunities
- Direct staff to bring to City Council ordinances and supporting documents for bond issuance based on the Base Case Scenario identified by City staff

In February 2018, Council adopted the recommendation from the task force and appropriated \$2.5M to accomplish the tasks. Since that time the Loveland Electric and Communication Enterprise was established, the design/build contract was awarded to Nokia with the partnership of Bear Communications, launched the Community Education Campaign and selected JP Morgan as bond underwriter.

At the request of Council, Colman Keane, Fort Collins Broadband Executive Director, provided input regarding his knowledge related to broadband projects.

It was noted that the capital construction costs during the initial build out is estimated to be \$69,082,770. A little over 15,000 residents and businesses will receive service during the initial build out which will take approximately four years.

Ms. Reed-Harmel reported on the proposed retail model with regional collaboration in which the City builds, owns, maintains and operates the infrastructure and system. Regional collaboration includes Longmont, Fort Collins, Estes Park, Poudre River Power Authority and Larimer County; bi-monthly meetings have been held to discuss goals for the neighboring communities and how they can work together on broadband projects.

Delegation of Authority Best Practices was brought forward noting that many communities operate with the delegation given to the city manager. Council discussed where the delegation should lie - with Council or with the Manager's office.

Staff reported on the take rate and pricing assumptions for both residential and business subscription pricing. Mr. Keen stated that there would be a need to compete on value and customer service; to be responsive to the customer needs. Any company is willing to meet or go lower on pricing but they won't be able to sustain the lower costs.

Jim Lees, Utility Accounting Manager, reviewed the financial assumptions and key facts noting the \$93M loan over 20 years of which there would be capitalized interest only for the first three years (\$65.1M tax exempt and \$27.9M as taxable). The debt service on the \$93M reaches a max in 2023 at around \$7M per year; if this track is continued it would be paid off in 2042.

Jim Minear, Hilltop Securities, reported on the bonding capacity of the electric utility noting it will be looked at in two ways; in conjunction with the broadband revenue capacity and on a standalone basis. Ms. Reed-Harmel reviewed the \$93M bond requirement amounts: capital (\$72.1M), operations (\$39.2M), revenues (-\$23.8M), 15% reserves (\$1.9M) and ending working cash balance (\$3.6M).

Mr. Minear reviewed the bonding structure including the borrowing assumption stating \$65.1M would be tax exempt at 3.85% and \$27.9M as taxable at 5.05%. The bond series was reviewed including tax exempt and taxable bonds and mini bonds.

Various bond structure alternatives were brought forward including delaying the bond to accommodate a 2019 special election or a November 2019 regular election which would increase costs the longer the bonding is delayed. The projected total bond and capitalized interest amount for the base case is \$155.6M, amount if Council waited for a spring special election is \$174.5M and a November election would be \$205.8M. There is also an estimated \$4M operational risk mitigation amount that has not been included in the base case.

Ms. Reed-Harmel reviewed the risk mitigation strategies to insulate electric rate payers; the solution was to add an operational risk mitigation reserve fund; it would be \$4M held in reserves to protect against slow growth and provide time to adjust operationally or through increase in rates in order to cover the debt service.

Council discussed the estimated take rate and why some citizens take advantage of municipal broadband and others do not. Mr. Keen stated that some people do not sign up because they are chasing the greatest deal or have a philosophical mindset that government should not be in the broadband business. People will generally already have service and are locked into a contract; it takes effort to change when their contract is up.

Richard Bilancia, Loveland Communications Advisory Board Chair (LCAB), presented the final summary, which included the LCAB recommendation.

Moses Garcia, City Attorney, stated that his office is of the position that the Council has the ability under the charter to expand the electric utility enterprise as well as to have Council vote to move forward with the bonding or they could take it to the question to the voters.

Council discussed adding the \$4M operational risk mitigation reserve fund to the base case.

Councilor Overcash recommended the creation of new utility for broadband and feels that this should be determined through a special election.

Mayor Marsh stated that she supports broadband and supports it going to a vote of the people

Councilor Fogle stated that this has been a three year process to get to this point. He noted the 2015 election results which brought an 82% approval of moving forward.

Councilor Ball stated that there is an additional \$30M if Council waits for an election which is 1/3 of the total project cost. He stated that he does not support taking this to an election.

Councilor Wright stated that her constituents are telling her to get it done and she supports the LCAB recommendation.

Councilor Johnson stated that she does not support going to an election and that the Council has been elected to make these decisions. She supports the LCAB recommendation.

Councilor Clark stated that he is still trying to understand the big picture. He hears indecision in the community and supports going to an election.

Councilor Olson stated that 82% of the citizens voted for conducting a study for broadband and provided concern regarding the estimated take rate.

*Information Only*

### **3. ADJOURN TO SPECIAL MEETING**

#### **3.1. ROLL CALL**

### **4. SPECIAL MEETING AGENDA**

#### **4.1. WATER & POWER BROADBAND**

City Attorney Garcia reviewed the three resolutions provided to Council; the purpose of each resolution is to establish the structure and governance of a retail model City-owned broadband network utility with regional collaboration, and to secure for Council consideration financing instruments to construct the network with varying provisions.

Resolution B is the resolution that really follows the recommendation of LCAB.

Resolution C is the same as B but has language regarding the \$4M in section 5.

Resolution A is another alternative which calls for a Special Election.

Mayor Marsh opened the meeting for public comment.

Roger Ison stated he ran the campaign in 2015 and spent about 400 hours on the effort and does not believe that there is enough time to get the word out if this goes to a special election in February 2019. No one talks about the money being saved by the users if the City provides municipal broadband. He supports the LCAB recommendation.

Gary Linquist stated he has read the Request for Proposal for the broadband project and compared the documents that the resolution should be based upon of which information did not line up. He recommended to deny moving forward until the information is included.

Linda Rosa stated to give the citizens the opportunity to vote.

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Patrick Henry stated that municipal broadband would drill down cost of what they currently pay. An intangible benefit is that property values increase and businesses have a better opportunity to conduct business. If the City pushes this to a vote we increase risk due to increased cost.

Theresa Mueller owns a CPA business in Loveland and provided information regarding internet issues which negatively impacts her business. She stated that Comcast offered to fix the issue for a high price along with a monthly fee.

Clint Akens, Fort Collins resident, stated he ran the broadband campaign in Fort Collins with 15 volunteers. They raised \$15k for the campaign, and opposition spent \$901k.

Bruce Croissant stated there is a fiduciary responsibility to all citizens of Loveland and recommended to enact the LCAB recommendation.

Ann Lind stated that the citizens did vote on this in 2015 and that the Council has the authority to move forward on this.

Debbie Davis stated that she deals with customers on daily basis and internet connection is a high complaint she hears.

Brian Wickham, LCAB member, stated that anti-competitive legal practices got us here and stated that the 2015 election results provided the direction.

Alana Breakin referred back to the 2015 election and stated that there was an 82% vote to move forward. She stated that the facts are here; the team has done a great job. Let's move it forward and bring up our value in Loveland.

Roger Wheatland stated he came tonight as skeptic as he has a philosophical issue with public private partnership. Based on the information provided at the meeting he has changed his opinion on the need for an election and recommends to move forward with the LCAB recommendation.

Jason Break stated that members of the Council want to push this to a vote, which will be an additional expense to the taxpayers. Competitors will spend money on a campaign as opposed to increase in service.

Mayor Marsh closed public comment.

Mayor Marsh is in support of Resolution A.

Councilor Overcash states the no one has said that they oppose broadband. He believes it is a good move for Loveland but wants to be assured that it is the decision of the citizens; we owe them the right and the respect. He also believes if the citizens vote it will establish a higher take rate if they are given the opportunity to weigh in on it.

Councilor Ball stated that the community has been held hostage by Comcast; that their track record is deplorable and that they have escalated costs for using their service.

Councilor Wright noted concern to run a campaign in the short timeframe.

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Councilor Johnson stated that she hears nothing but support for this effort. She noted that she was elected to represent her constituents so she is voting as such; they want it sooner than later.

Councilor Fogle stated that the citizens have already voted and municipal broadband will save the citizens of Loveland about \$6M a year. Additionally, this will save the schools much needed funds. This is critical to the longer term growth of our community and he supports the LCAB recommendation.

Councilor Olson cannot make an assumption that the percentage that didn't vote in 2015 want broadband; he cannot make an assumption for the citizens. He supports Resolution A.

Councilor Clark stated that the vote in 2015 was to allow municipal broadband in Loveland and to push the City to study the issue. He also noted that he has not had any issues with Comcast. He supports Resolution A.

Councilor Jersvig will be voting for Resolution A.

Moved by Councilor Clark, seconded by Councilor Overcash

*A Motion To Adopt Resolution #R-102-2018- A Directing The City Manager To Prepare The Necessary Ordinances To Call A Special Municipal Election To Seek Voter Approval To Establish A Retail Model City-Owned Broadband Network Utility*

CARRIED 5-4

Yes: Clark, Olson, Overcash, Jersvig, Marsh

No: Ball, Wright, Johnson, Fogle

**5. ADJOURN**

After a motion duly made, Mayor Marsh adjourned the October 23, 2018 Special Meeting and Study Session at 11 p.m.

Respectfully Submitted,



A handwritten signature in cursive script, appearing to read "Patti Garcia", written over a horizontal line.

Patti Garcia, City Clerk

A handwritten signature in cursive script, appearing to read "Jacki Marsh", written over a horizontal line.

Jacki Marsh, Mayor