

AGENDA ITEM SUMMARY

July 17, 2018

City Council

STAFF

Mike Beckstead, Chief Financial Officer
Judy Schmidt, Legal

SUBJECT

Second Reading of Ordinance No. 088, 2018, Amending Section 2-31 of the Code of the City of Fort Collins Concerning Executive Sessions Pertaining to Telecommunication Facilities and Services.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on July 3, 2018, amends City Code Section 2-31 to permit executive sessions to consider issues of competition in providing telecommunication facilities and services. This update to City Code is consistent with the November 7, 2017 voter-approved Charter amendment providing for telecommunication facilities and services (broadband) as part of the City's Electric Utility. The Charter amendment also authorized the Council and any board or commission established under the Charter amendment to go into executive session for such purposes.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, July 3, 2018 (w/o attachments) (PDF)
2. Ordinance No. 088, 2018 (PDF)

AGENDA ITEM SUMMARY July 3, 2018
City Council

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SUBJECT

First Reading of Ordinance No. 088, 2018, Amending Section 2-31 of the Code of the City of Fort Collins Concerning Executive Sessions Pertaining to Telecommunication Facilities and Services.

EXECUTIVE SUMMARY

The purpose of this item is to update City Code consistent with the November 7, 2017 voter-approved Charter amendment providing for telecommunication facilities and services (broadband) as part of the City's Electric Utility. The Charter amendment also authorized the Council and any board or commission established under the Charter amendment to go into executive session to consider issues of competition in providing telecommunication facilities and services. The proposed Ordinance amends City Code Section 2-31 to permit executive sessions for such purposes.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Within the feasibility assessment associated with establishing a municipal broadband service within Fort Collins, various critical success factors were discussed in detail with council and the community. Chart A outlines the 4 major critical success factors related to a successful launch of broadband in a Commercial/Competitive environment vs. the City's current four single source Utilities.

Commercial / Competitive	Single Source Utility
Commercial Objectives	Social / Political Objectives
Market-Based Decision Timeliness	Slower Decision Timeliness
Strategic Confidentiality Material	Public Discussion all Material
Business/Competitive Expertise	Business Expertise

Chart A

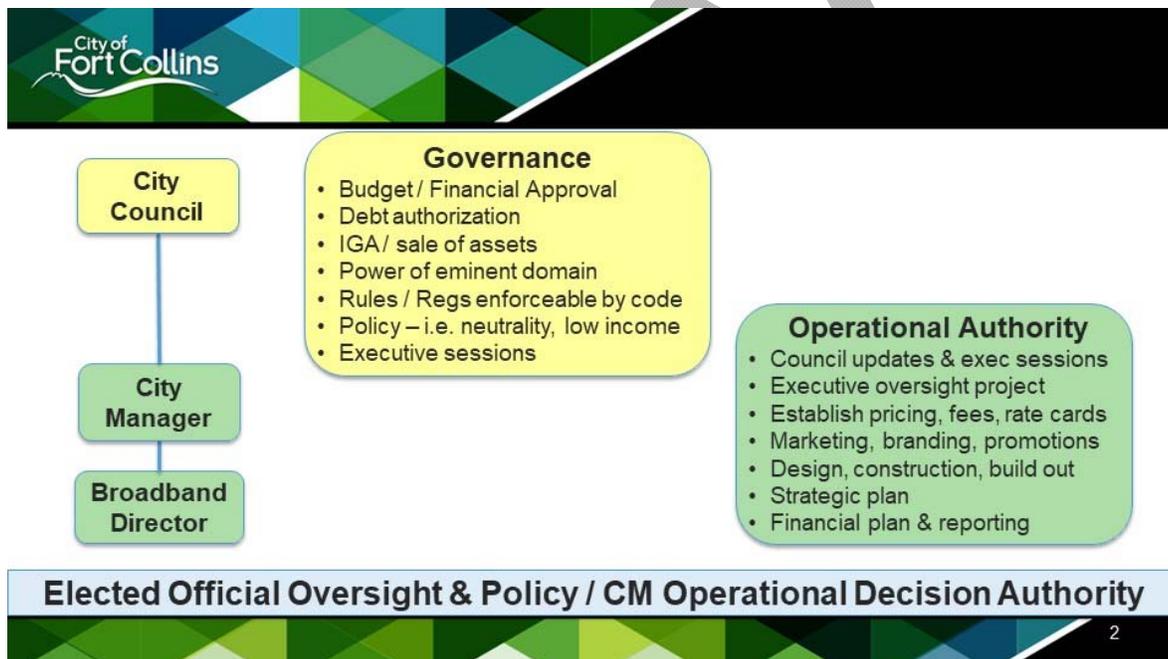
To avoid a competitive disadvantage for the City's broadband effort, the ballot language approved by voters on November 7, 2017, specifically modified the City Charter to allow executive sessions to consider matters pertaining to competition in the City's provision of telecommunications facilities and services. Matters pertaining to competition include, but are not limited to, matters subject to negotiation, strategic planning, pricing, sales and marketing, development phasing and any other matter allowed under Colorado law under the ballot language.

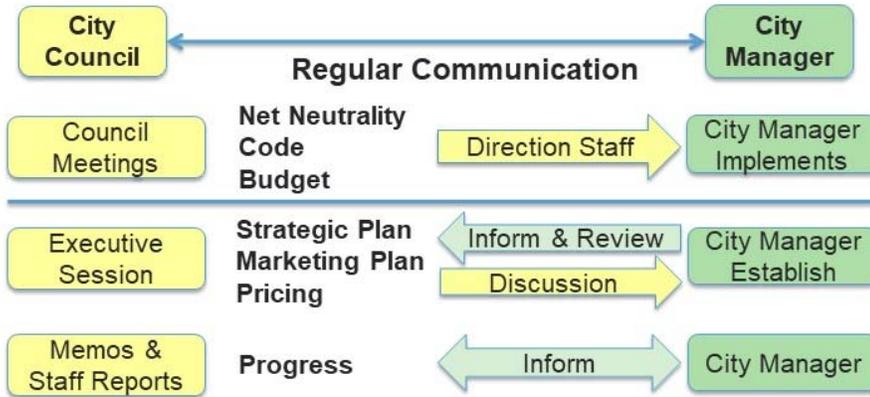
The approved Charter language pertaining to executive sessions is listed below. The complete ballot language is included in **Attachment 2**.

(d) In addition to the authority to go into executive session as provided in Section 11 of Article II of this Charter, the Council, and any board or commission established under subsection (e) below, may go into executive session to consider matters pertaining to issues of competition in providing the telecommunication facilities and services authorized in this Section, which shall include, without limitation, matters subject to negotiation, strategic planning, pricing, sales and marketing, development phasing and any other matter allowed under Colorado law.

Updates to City Code Section 2-31 are required to implement the new Charter language.

The information below outlines the governance and operational authority of both Council and the City Manager. Council will make decisions and set policy at City Council meetings on topics such as those highlighted under Governance. Executive sessions will be used to discuss matters where sharing the types of information specified in the Charter would cause a competitive disadvantage to the broadband effort.





ATTACHMENTS

1. Agenda Item Summaries re: Proposed Charter Amendment to Add a New Section to Charter Article XII Pertaining to Telecommunication Facilities and Services, August 8 and August 15, 2017 (PDF)
2. Ordinance No. 101, 2017 (PDF)

ORDINANCE NO. 088, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 2-31 OF THE CODE OF THE CITY OF FORT
COLLINS CONCERNING EXECUTIVE SESSIONS PERTAINING TO
TELECOMMUNICATION FACILITIES AND SERVICES

WHEREAS, on July 20, 1993, the City Council adopted Ordinance No. 060, 1993 establishing the City's Electric Utility as an enterprise of the City under Section 20 of Article X of the Colorado Constitution (the "Electric Utility Enterprise"); and

WHEREAS, at a special election on November 3, 2015, City voters authorized the City to provide high-speed internet services, including, without limitation, high-bandwidth broadband services, telecommunications services, and/or cable television services within the City's growth management area; and

WHEREAS, at a special election on November 7, 2017, City voters approved an amendment to the City Charter, which has added a new Section 7 to Charter Article XII ("Section 7"); and

WHEREAS, paragraph (a) of Section 7 grants to the City Council the power, by ordinance and without a vote of the electors, to authorize the Electric Utility Enterprise to acquire, construct, provide, fund and contract for "telecommunications facilities and services," including, without limitation, "broadband Internet facilities and services," as both these terms are defined in paragraph (f) of Section 7 ("Telecommunication Facilities and Services"); and

WHEREAS, on January 16, 2018, the City Council adopted Ordinance No. 011, 2018 amending the City Code by adding a new Section 26-398 to Code Chapter 26 to implement this authority granted in Section 7 by authorizing the Electric Utility Enterprise to acquire, construct, provide, fund and contract for Telecommunication Facilities and Services and by authorizing the Electric Utility Enterprise to exercise the power to issue revenue bonds to fund the provision of Telecommunication Facilities and Services as provided in paragraph (b) of Section 7; and

WHEREAS, Ordinance No. 011, 2018 also amended Code Sections 2-504 and 26-21 to delegate to the City Manager the direct responsibility to administer and supervise the Electric Utility Enterprise's provision of Telecommunication Facilities and Services and to make other changes to the administration of Utility Services in light of this new assignment of direct responsibility to the City Manager; and

WHEREAS, on January 16, 2018, the City Council also adopted Ordinance No. 010, 2018, to appropriate \$1.8 million from the City's General Fund as a loan to the City's Light and Power Fund to be used by the Electricity Utility for its start-up costs related to providing Telecommunication Facilities and Services; and

WHEREAS, Ordinance No. 011, 2018 also amended Code Section 8-77 to provide that the City's revenues, debt issuance proceeds and expenditures related to Telecommunication Facilities

and Services shall be deposited, expended and administered through the City's Light and Power Fund; and

WHEREAS, the City Council now desires to amend City Code Section 2-31 regarding executive sessions to implement the authority of the Council, and any board or commission established under Section 7(e), to go into executive session to consider matters pertaining to issues of competition in providing Telecommunications Facilities and Services; and

WHEREAS, the City Council hereby finds that this Ordinance is necessary for the public's health, safety and welfare and is in the best interests of the City and its residents, businesses, and public and private organizations and of the Electric Utility's ratepayers.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That City Code Section 2-31(a) of the Code of the City of Fort Collins is hereby amended by the addition of a new subsection (5) which reads in its entirety as follows:

(5) Consideration, by the Council or any board or commission established under Article XII, Section 7(e) of the City Charter, of matters pertaining to issues of competition in providing the telecommunication facilities and services authorized in Article XII, Section 7 of the City Charter and City Code Section 26-398 including, without limitation, matters subject to negotiation, strategic planning, pricing, sales and marketing, development phasing and any other matter allowed under Colorado law.

...

Introduced, considered favorably on first reading, and ordered published this 3rd day of July, A.D. 2018, and to be presented for final passage on the 17th day of July, A.D. 2018.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 17th day of July, A.D. 2018.

Mayor

ATTEST:

City Clerk