

January 12, 2021

5:30 P.M.

**CITY OF GUNNISON COUNCIL
REGULAR SESSION MEETING MINUTES**

The Gunnison City Council Regular Session was called to order at 5:30 p.m. on Tuesday, January 12, 2021, remotely and in Council Chambers located at 201 W. Virginia Avenue in Gunnison, Colorado, by Mayor Jim Gelwicks. Mayor Pro Tem Jim Miles, City Manager Russ Forrest, and City Clerk Erica Boucher were physically present in Council Chambers. Councilor Diego Plata, Councilor Boe Freeburn, and City Attorney Kathy Fogo attended remotely. Public Works Director David Gardner, Community Development Director Anton Sinkewich, and Finance Director Ben Cowan attended remotely. A few interested citizens and pre-scheduled citizens attended remotely. The press was present. There was a Council quorum. Councilor Logan was absent from the meeting.

PUBLIC HEARING

Mayor Gelwicks called the public hearing to order on Tuesday, January 12, 2021, at 5:31 p.m. in Council Chambers located at City Hall, located 201 W. Virginia Avenue in Gunnison, Colorado. Mayor Gelwicks indicated that the public hearing was being conducted in-person and via Zoom. Attending in-person were himself, Mayor Jim Gelwicks, Mayor Pro Tem Jim Miles, City Manager Russ Forrest, and City Clerk Erica Boucher. Attending by Zoom were Councilors Plata and Freeburn, City Attorney Kathy Fogo, Community Development Director Anton Sinkewich, and Finance Director Ben Cowan.

Mayor Gelwicks stated that the purpose of this hearing was to receive public input on the cable franchise renewal agreement between the City of Gunnison and Spectrum Pacific West, LLC, locally known as Charter Communications.

Mayor Gelwicks requested proof of publication. City Clerk Boucher confirmed that the hearing had been properly published in the newspaper, posted on City Hall bulletin boards and on the City's website.

Mayor Gelwicks called for staff comments. City Manager Forrest asked City Attorney Fogo to review the high points of the cable franchise renewal agreement. City Attorney Fogo explained that the cable franchise agreement that the City had for 20 years expired in December 2020. Today Council is considering the renewal of the agreement. During the previous agreement, there was a transfer of controlling interest, which is now with Spectrum, locally known as Charter Communications. The City worked with special counsel and John Lee of Charter Communications on the updated contract while completing a cost-benefit analysis. They discussed potential future issues and aspects that may fit better as part of the *Land Development Code*. The agreement outlined the terms of the 10-year renewal agreement, the fee payment to the City, clarified that it provided the City with a local information access channel, set the rules for City access within the right-of-way, and described the process for notification between Charter Communications and the City. The agreement will become effective for 10 years on passage of Ordinance No. 1, Series 2021, after the second reading on January 26, 2021. The current agreement has been continued on a month-by-month basis since December 2020.

Mayor Gelwicks acknowledged John Lee of Spectrum Pacific West, LLC/Charter Communications and asked if he had any statements for the record. Mr. Lee added that the agreement does allow for the maximum franchise agreement of 5% to be paid to the City under Federal law. Spectrum is grateful for the work staff put into renewing the agreement and the company is excited to be a part of the community. Mayor Gelwicks thanked Mr. Lee.

Mayor Gelwicks asked for public comments. The clerk confirmed that there was no one online, on the telephone or in-person wanting to speak about the franchise agreement. In response to the Mayor, the clerk stated that the office did not receive any comments in writing related to the franchise agreement for the record. Mayor Gelwicks asked for questions and comments from Council.

Councilors did not have any specific questions, but Councilor Plata noted that he had a procedural question related to the ordinance. There were no additional questions or comments.

Hearing no further comments from the public, staff, or Council, the Mayor closed the public hearing at 5:39 p.m.

Prescheduled Citizens.

Region 10 Broadband Update. City Manager Forrest noted that Michelle Haynes, Executive Director of Region 10 was in attendance. Regional Broadband Project Director Virgil Turner gave a comprehensive update on Region 10 Broadband. Director Turner shared a story map of Gunnison Valley Broadband to accompany his presentation. The main topics of his presentation were an overview of current projects, goals, challenges, and redundancy. Redundancy of broadband for the Gunnison Valley started six years ago with the goals of bringing affordable, redundant, and abundant broadband to the region. The challenges that broadband redundancy has faced have been cost of service, middle mile connectivity, demand, aggregation, fiber within a community, and increasing competition. Director Turner mentioned that State and local partners are working together and with funding support to move projects forward. He acknowledged Region 10's work with Gunnison County Electric Association, which has been very helpful. He displayed an image of the current Region 10 Network as he discussed Region 10's accomplishments. First, he mentioned the Gunnison Carrier Neutral Location (CNL), which allows government agencies to connect into Region 10's broadband through internet providers. Additional accomplishments were the Wastewater Treatment Plant fiber build from CNL to the WWTP along HWY 50 west and the Western Colorado University fiber build. The first lease circuit originally ended at Taylor Hall, but has been moved to the CNL at the City Police Station. The GVH/City of Gunnison project connects the GVH Senior Center to the City of Gunnison and to essential utility functions. Lastly, Region 10 has developed positive working relationships with internet service providers, such as Mammoth Visionary and Clear Networks. Discussion occurred about improved overall internet service in the Valley. Director Turner showed Council the Colorado Broadband Map, which displayed internet service throughout the state. Mr. Tuner specifically discussed the Gunnison Valley's broadband and internet services and capabilities. This map helps determine eligibility for grant funding. The map will be updated in April 2021.

The next topic of discussion was redundancy. Gunnison still needs more broadband redundancy. There is a new Lumen Circuit from Montrose CNL to Gunnison CNL to help with redundancy in addition to fiber installation over Cottonwood Pass. He updated Council on the 10.5 hour outage on November 12, 2020. A backhoe working at a campground accidentally cut 48 strands of fiber near Cimarron, which eliminated connectivity between Gunnison and Montrose. Redundancy has not been completed over Cottonwood Pass because of a splice that occurred to the fiber. Repair could not be done prior to this winter; therefore, the work will be completed in the spring. A formal complaint was filed with the Public Utilities Commission. Region 10 completed a service order with Mammoth Visionary to increase redundancy for Gunnison to Denver. This work will require a new router in Gunnison and Montrose, but it will help Gunnison resolve its lack of redundancy issue. Having reliable redundancy is a public and life safety issue for Gunnison along with a key element of the City economic prosperity and encouraging new businesses.

Director Turner highlighted a few other projects that Region 10 may or may not be directly involved in, but Council has likely heard about recently. They are 1) fiber connectivity between Gunnison and Crested Butte/Mt. Crested Butte through a partnership with GVH and federal funding to connect health care facilities together; 2) a possible Montrose to Gunnison Fiber Build, which will include a dark fiber path and could be financed through a 60 million dollar stimulus bill from the State for middle mile connectivity with 40 million dollars called out specifically for the southwest region of the state; 3) gaining access to dark fiber owned Western Area Power Authority to help with redundancy in emergency situations or for commercial uses. The dark fiber is already in place. Region 10 is involved in these first three projects; 4) 5G Wireless will not arrive in rural areas at full capacity for some time; and 5) the Rural Digital Opportunity Fund (RDOF) is a new FFC reserve option for granting funds for telecommunications for improvements in rural areas. He displayed a map of RDOF awards. LTD Broadband LLC received the award to do fiber work in the Gunnison region. They do not have a lot of experience working in mountainous area.

Director Turner addressed Councilmember's questions about the safety and exposure of the conduit on Cottonwood Pass and defined dark fiber. Dark fiber is fiber that is already in place and

could be used, but is not being used. The router installment at the CNL must follow the installation of conduit over Cottonwood Pass and then router funding can be applied for. The cost of the router is very high and may require additional funding from the municipalities. Region 10 has two options to connect WAPA's dark fiber to between Montrose and Gunnison. Region 10 is working on this project and could be finished within a year if all necessary steps and permitting falls into place. Lastly, Mr. Turner confirmed that fiber does not go through Little Blue Canyon. Rather it goes from Cimarron to Arrowhead to Lake City to Gunnison. No utilities are planned to be installed in Little Blue Canyon, but laying fiber through the canyon during construction could save one million dollars on the project to connect Gunnison and Montrose. This project may require a financial investment from municipalities or a DOLA grant.

Council thanked Mr. Turner and Michelle Hayes for their attendance and presentation.

Gunnison Valley Health Foundation Grant Request Discussion. Mayor Gelwicks acknowledged that Council is supportive of mental health needs in the community; therefore, staff asked Jennifer Birnie to further discuss Gunnison Valley Health Foundation's (GVHF) public service grant application for \$10,000 and how it will help them achieve long-term goals. Birnie is the Executive Director of the Gunnison Valley Health Foundation and Community Liaison. She referred to the hand-out that was included in Council's packet. Gunnison Valley Hospital has limited mental health services. COVID-19 exacerbated mental health and substance abuse issues in the community. Currently, those struggling with such issues often end up in the hospital seeking services. The emergency room is seeing increased visits for anxiety, suicide attempts, alcohol and opioid abuse and depression. To help address these issues, GVH has established a new Behavioral Health Department with a full-time director and a psychiatric mental health nurse. This department will also hire another peer support specialist, which has become an essential resource for the hospital. Executive Director Birnie spoke about limitations to services, including a four to six week waitlist to be seen by a therapist at the Center for Mental Health in Montrose. Knowing that Gunnison Valley Health cannot address all mental health issues in the Valley, the organization is collaborating with other organizations and providers in the region and helping augment their resources to serve as many people as possible. The Public Service funding request would be used to expand the community capacity to identify and support individuals with mental health and substance abuse issues amongst the youth and senior populations, develop a Peer Support Network, expand the Peer Support Specialist program in Gunnison, and develop a stigma reduction campaign with the Community Health Coalition.

Council expressed their concern for those dealing with mental health and substance abuse issues. They thanked Executive Director Birnie for the work she has done and is beginning to do around this issue and her effort to support the current systems and organizations in place. Executive Director Birnie addressed the sustainability of these programs within the program. She stated that they are raising money specifically for behavioral health, that the GVH board is fully supportive of these programs and they are working with the Hospital's finance department to utilize billable services, such as Medicaid and Medicare. The goal is to be self-sustaining. Mayor Gelwicks thanked Executive Director Birnie for her work and time tonight.

Citizen Input. Director of the Gunnison County Chamber of Commerce, Celeste Helminski, thanked Council for its support of Gunnison Dining Dollars. She stated that it has helped restaurants and citizens throughout the community. The Chamber and businesses are very appreciative. Mayor Gelwicks thanked Ms. Helminski for her assistance with the project. All of the Dining Dollars were sold. The director created a hand-out summarizing all of the recent Greenback programs for distribution to Council.

Consent Agenda. Councilor Miles moved and Councilor Freeburn seconded the motion to approve the Consent Agenda, which included approval of the December 8, 2020 Regular Session meeting minutes, the December 15, 2020 Regular Session meeting minutes, the December 23, 2020 Special Session meeting minutes, and the official posting places for 2021 meetings and agenda.

Roll call, yes: Freeburn, Miles, Gelwicks, and Plata. So carried.

Roll call, no: None.

Letter of support for Gunnison RTA application for a US Department of Transportation grant. Councilor Miles moved to authorize the City Council to sign a letter of support for the Gunnison RTA's grant application to the US Department of Transportation. It was clarified that only the Mayor's signature on the letter was necessary. Councilor Miles amended his motion and Councilor Plata seconded the motion to authorize the Mayor to sign a letter of support for the Gunnison RTA's grant application to the US Department of Transportation.

Roll call, yes: Miles, Gelwicks, Plata, and Freeburn. So carried.

Roll call, no: None.

A brief discussion occurred about sharing the agenda for Council meetings on social media. The clerk explained that has not been done, but was willing to discuss the feasibility of that action with her staff. Clarification was given to Council that State Statute in 2019 designated a municipality's website as the official posting places for agendas and meetings and a physical posting place in case of emergencies. However, meetings and agendas may be posted in other locations as well, but are not required.

Ordinance No. 14, Series, 2020, Second Reading: *An Ordinance of the City Council of the City of Gunnison, Colorado, Fixing the Amended Rates to be Charged for Water Service within the City of Gunnison, Colorado and Amending the Rate Table in Section 12.40.020 of the City Code of the City of Gunnison to Reflect the New Service Rates*

Councilor Plata received confirmation from Finance Director Ben Cowan that the usage charge for the "Next 10,000 gallons/month" is the same rate as the "Over 15,000 gallons/month" rate of \$2.283/1,000 gallons. Finance Director Cowan confirmed that those rates are correct and were determined in the cost of service study produced by Andrew Ross with MEAN. It was determined in the study that there was no change in cost with the lower 5,000 gallons per month. Councilor Miles introduced and read Ordinance No. 14, Series 2020 aloud by title only. Councilor Miles moved and Councilor Freeburn seconded the motion to adopt Ordinance No. 14, Series 2020 on second reading.

Roll call, yes: Gelwicks, Plata, Freeburn, and Miles. So carried.

Roll call, no: None.

Ordinance No. 1, Series 2021, First Reading: *An Ordinance of the City Council of the City of Gunnison, Colorado, Authorizing the Renewal of the Existing Cable Franchise Agreement held by Spectrum Pacific West, LLC, locally known as Charter Communications; and Authorizing the Mayor and City Clerk to Execute, on behalf of the City of Gunnison, Colorado, the Cable Franchise Agreement*

Councilor Plata introduced and read Ordinance No. 1, Series 2021, aloud by title only. Councilor Plata moved and Councilor Miles seconded the motion to approve and ordered to publish Ordinance No. 1, Series 2021 on first reading.

Mayor Gelwicks asked staff when Council would see revisions to the *Municipal Code* and *Land Development Code* regarding cable poles and City right-of-ways. City Attorney Fogo stated that the rewrites were occurring now. Public Works Director confirmed that the revisions to Chapter 12 of the *Code* are nearly complete and will be coming before Council in the first quarter.

Councilor Plata asked about the 5-day notification for trenching in Section 6.4, New Development Underground, of the cable franchise agreement. Director Gardner stated state law requires 72 hours for notification to identify utilities lines and where a dig will occur. City Attorney Fogo clarified that the City is the Grantor in the contract and the Grantee is the cable franchise to which the Grantor would be giving 5-days notice to, and not to individual residents. The Grantee must go through the City's right-of-way permit process prior to digging; therefore, the Grantor would be aware of the digging prior to its occurrence. This section is more for protection for Spectrum.

Roll call, yes: Plata, Freeburn, Miles, and Gelwicks. So carried.

Roll call, no: None.

Council into recess at 7:17 p.m. and returned to the Regular Session at 7:27 p.m.

2021 Grant Funding. Council reviewed and discussed the Public Service and Economic Development grants in a work session on January 6, 2021. Council heard from the Gunnison Valley Health Foundation (GVHF) during the Prescheduled Citizen agenda item to help them make their final funding decisions. Council supported including the \$10,000 request from GVHF

after hearing from Director Birnie. Multiple Council members mentioned an email they had received earlier in the day from Gunnison High Student Government Association. The students distributed an email to Council asking for Council to approve their full grant ask of \$5,000 rather than \$3,500, which Council supported during the work session. Council discussed the request in the email received. Key points of the discussion included encouragement for the students to seek additional money through fundraising activities, concern that SGA events didn't reach the whole student body, that not all of the money was spent in 2020, that in-person events won't likely begin to occur until fall 2021, and that it would be appropriate for any unused funding to be returned to the City. SGA suggested accessing the additional \$1,500 from the Marijuana Mitigation Fund. Finance Director Cowan confirmed that there is money available in that fund and mentioned that conditions such as reimbursement of unspent money or a financial match could be outlined in the agreements. After discussion, Council supported increasing SGA's funding award from \$3,500 to \$5,000.

Discussion transitioned to special events. Conversations revolved around City financial support of community events put on by the Chamber. They were Halloween, the 4th of July, and Night of Lights. City staff has a meeting scheduled for January 13 with event leaders in the community to discuss ideas for making community and economic development events more strategic and beneficial to all through collective resources. Staff will return to Council with an update. It was also mentioned that the City should begin thinking about a post-COVID celebration.

Councilor Plata moved and Councilor Miles seconded the motion to authorize the Finance Director Ben Cowan to prepare funding agreements according to the Council funding awards for the Mayor's signature as amended to include \$10,000 for Gunnison Valley Health Foundation and a total of \$5,000 from Gunnison SGA.

Roll call, yes: Plata, Freeburn, Miles, and Gelwicks. So carried.

Roll call, no: None.

Retail Marijuana Licenses Discussion. City Manager Forrest introduced the topic of retail marijuana license locations. Through this discussion, staff wanted to be clear on Council's desired direction. Mr. Forrest shared with Council that staff compiled a variety of options for consideration. The option with the most merit was presented to the previous Council in October 2019 and would limit new retail marijuana store licenses through an amendment to the *Land Development Code*. For example, a new retail marijuana establishment must be at least 500' from an existing store and meet current buffer requirements. Community Development Director Anton Sinkewich joined the discussion and showed Council the current marijuana buffer map. The current buffer map showed the two areas where marijuana shops are permitted. They are off of West HWY 50 and North HWY 135. The commercial zones that permit marijuana establishments on the west and north sides of town resulted in stores being clustered together. The spatial option, depending on the distance between existing and new establishments, would allow for about one store per block or one store every other block. This option would limit the number of new stores and prevent them from clustering together. This option is problematic because the City already has stores clustered together in the permitted areas and would ultimately make the current stores be a non-conforming use. Those stores would be grandfathered in.

City Attorney Fogo asked Council to consider what would be the triggers or justifications for a limitation of stores, such as selling a store or change of location. She reminded Council that these are legally existing businesses that were approved by the voters. It was noted that municipalities that have spatial restrictions and caps did so with their initial approval. A few other ideas were discussed, but none met the requirement as workable possibilities that would not cause a cycle of issues. When the voters approved retail and medical marijuana within the City of Gunnison, the regulatory framework was not laid out. Council directed staff to develop it as well as research caps on the number of stores and the creation of the buffer map. Council and staff originally wanted to concentrate marijuana stores in limited locations. Points were made that the number of liquor stores or gas stations has never been restricted. Nationally, more states are legalizing retail and/or medical marijuana and municipalities are considering hospitality and delivery licenses. Marijuana is a legal business in Colorado and in Gunnison; therefore, it may be prudent to allow the free market to determine the number of retail stores in the community. It was noted that Gunnison is not the only municipality that does not have a cap. After further discussion and some continued desire to limit

retail marijuana stores, Council came to a consensus that the voters approved marijuana within the City and as with other businesses, the market and effectiveness of ownership will determine which and how many retail marijuana shops will be successful and operational in Gunnison. Additionally, legally it would be extremely difficult to reverse course at this time. Council directed staff to not make any changes to cap or limit the number of retail establishments in Gunnison.

COVID-19 Update and Recovery. City Manager Forrest shared with Council that all residents are encouraged to go the County's COVID 19 website and complete the Vaccine Interest Form so public health leaders will have a database of those who are and are not interested in a vaccine shot. Medical professionals are still receiving their vaccine shots. Next residents to receive a vaccine will be those 70 and older, and critical and frontline workers. On January 15, there will be another free testing opportunity at the Fred Field Building. Events like these can help reduce the community's positivity rates. Councilor Plata shared that Western Colorado University is offering free testing to help decrease spread. Mayor Gelwicks spoke about how successful Western was in their classrooms this fall. With the increasing positivity rates since late November, Mayor Gelwicks encouraged people to remain diligent with social distancing, handwashing, and limiting travel or travel selectively. He shared broad information about the vaccine and the need to be patient as supply and logistical execution ebbs and flows. The Mayor will do another revision to Council's COVID-19 letter to the community and share with Councilors for their feedback.

City Clerk Semi-Annual Report. City Clerk Erica Boucher presented the Clerk's Department semi-annual report. Highlights included a summary of the grants the department submitted and received between September and December; successfully training the new Deputy City Clerk, outreach and communication regarding COVID-19 and the September snowstorm; modifications related to liquor and marijuana rules and regulations because of COVID-19, and an update on records management, Youth City Council, and Municipal Court activity.

Staff and Council Reports. Staff gave brief reports. Council directed staff to contact the owners of the now vacant Dollar Tree (231 W. Tomichi Avenue) to learn what their intentions for the property. Staff is also working on a MOU with High Mountain Concepts for Phase 3 of the Lazy K Housing Development. Council gave brief reports.

With no further business, the Mayor adjourned the Regular Session meeting at 9:17 p.m.



Attest:

Erica Boucher, City Clerk

Jim Gelwicks, Mayor