

RESOLUTION NO. 2020-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELLINGHAM, WASHINGTON DIRECTING THE ADMINISTRATION TO CREATE AN AD HOC BROADBAND ADVISORY WORKGROUP TO ADVISE THE CITY ON POLICY CONSIDERATIONS REGARDING MUNICIPAL BROADBAND

WHEREAS, Access to the internet with reliable connections, low latency, high bandwidth and high speed is increasingly important and today is considered a basic need and essential for businesses and households; and

WHEREAS, Broadband, or high-speed internet, is defined by the Federal Communication Commission as 25megabits per second (mbps) download and 3mpbs upload for private companies offering internet service. However, this standard is increasingly out-dated, and there are households and businesses seeking greater symmetrical speeds up to 1 gigabit per second (gbps) to meet growing demand for internet consumption and interconnected devices; and

WHEREAS, The State of Washington, under the direction of Governor Inslee, is funding and developing programs to expand access to high speed internet to rural areas of the state to support economic development, education, health care, public safety and basic services; and

WHEREAS, fast, affordable internet is seen as one way to assist existing local companies expand, or to attract new companies; and

WHEREAS, the City of Bellingham, in partnership with the Bellingham School District and the Port of Bellingham, owns and operates a public fiber optic network serving city owned utilities, Bellingham School District, Western Washington University, Port of Bellingham facilities, City and Whatcom County Public safety communications systems, Whatcom Transportation Authority; and

WHEREAS, the Bellingham public fiber infrastructure system may have capacity to serve additional users; and

WHEREAS, the Bellingham City Council allocated \$100,000 with the approved 2019-2020 budget to fund a consultant study to develop a business plan and consider options to use the City's fiber optic network for public purposes and further desires to consider fiber as critical infrastructure to meet society's needs both today and in the future; and

WHEREAS, the Bellingham City Council desires to form a workgroup utilizing the assistance and advice of local residents, local professionals and expert consultants; and

WHEREAS, the purpose and mission of said workgroup is to evaluate the possibility of municipally owned broadband infrastructure as one way to further the goals of greater availability, affordability, equitability, and quality of broadband access across the community;

to address policy considerations, and the financial costs and benefits thereto; to assess existing conditions related to broadband access, equity and affordability as well as options and ways to use the City of Bellingham fiber optic network as it exists today, or as may be expanded or improved, to improve access, equity and affordability to quality broadband and to the report findings and recommendations to the City so that the Council can hold public discussions on a broadband infrastructure policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

SECTION 1. Advisory Workgroup

The Bellingham City Council, directs the Mayor to appoint a volunteer ad hoc Broadband Advisory Workgroup, (“the Workgroup” or “BAW”) consisting of not less than 5 and not more than 9 community members and industry professionals comprised of the following:

- a. General: At least 3 local residents with general backgrounds or experience with education, small business, manufacturing, organized labor, contractor associations, non-profit entities, and other interests representing diverse public interests.
- b. Fiber Network Industry: At least 1 but not more than 3 individuals with professional technology experience and training in fiber optic networks, internet provider industry, fiber optic installation, telecommunication utility providers, information technology or similar fields. Individuals currently employed by telecommunications service providers, fiber optic installers or similar are encouraged to apply, provided that there is no direct benefit to a current employer or business interest.
- c. Financial: At least 1 but not more than 3 individuals with professional experience and training in business, finance, economics, municipal operations or similar field. Individuals in this area shall not represent the views of their employer.
- d. In the event of a resignation or vacancy, the position will be filled by Mayoral appointment. Unexcused absences of more than 2 consecutive meetings shall be considered a resignation from workgroup. Substitutes or alternates shall not be allowed for any member.

The Mayor and Council shall consider perceived or real conflicts of interest in appointing and confirming members to the Workgroup.

The Mayor and administration shall support the Workgroup by appointing members, assigning staff, coordinating and implementing communications strategies, providing contract procurement and administration. The Council’s role is to confirm or reject appointments and receive and consider the advice and recommendations of the Workgroup.

The administration shall advertise, through usual and customary means, for applications from interested individuals, residents, community members, and industry professionals. The Mayor shall give preference to residents of the City in considering appointments. The Mayor is authorized to make appointments to persons not residing within City limits if the training, knowledge and experience, or number of applicants, from interested City residents is not sufficient to meet the mission of this Workgroup. Consideration of a diverse and inclusive group reflecting the demographics of the City shall be made in forming the Workgroup. The Workgroup shall be appointed by the Mayor and confirmed by the City Council. Individuals may be removed by the Mayor.

In addition, staff from the City Council office, Public Works Department and Information Technology Departments shall serve on and support the Workgroup as non-voting ex-officio members. Staff from the Bellingham School District and Port of Bellingham as well as other individuals or organizations identified by the Mayor may also serve as non-voting ex-officio members. Council confirmation is not required for non-voting ex-officio members. Elected officials and persons employed by the City of Bellingham shall not be appointed to the Workgroup but may serve as non-voting ex-officio members at the discretion of the Mayor.

The Workgroup shall not in any way have influence or control over any contract, procurement, award, or contract administration.

SECTION 2. Facilitator -

Council directs the Administration to contract with an outside entity or individual to serve as a neutral Facilitator to support the Broadband Advisory Workgroup, to chair and organize meetings, prepare agendas, guide the work of the Workgroup, prepare reports, prepare meeting minutes and otherwise generally support and guide the Workgroup. The Public Works Department shall be responsible for procurement and contract management as necessary. Facilitator shall work and liaise with communications staff in the Public Works Department and the Mayor's office in disseminating information on the progress of the workgroup and general outreach and general communications on the work of the Workgroup. Funding for the facilitator shall be from the existing budget authorization.

SECTION 3. Workgroup Scope of Work -

The Broadband Advisory Workgroup shall take the following actions and present a final report and recommendations to the City Council:

- a. Assist with development of a Request for Proposals to select a qualified consultant to prepare a report assessing current conditions and future options for municipal broadband
- b. Assist with development of a Scope of Work for a consultant (the Consultant) to address the following items, provided there is sufficient funds in the authorized budget:
 - i. Survey of existing quality, accessibility, equity, and affordability of broadband service options for residents and business within the City of Bellingham and its Urban Growth Area Boundary

- ii. Inventory and evaluate existing broadband infrastructure within the City of Bellingham and its Urban Growth Area Boundary
 - iii. Provide analysis and recommendations, including economic impact analysis and business case, on a range of common options for municipal broadband and fiber networks offered by other Cities including fully public, public private partnership, dark fiber leasing, open access and other options as may be known to the consultant or workgroup members. Recommendations should include any additional infrastructure and other operational and security needs and/or requirements for the range of service model(s).
 - iv. Provide an analysis and recommendation on the development of a Fiber to the Home (FTTH) and/or Fiber to the Premises (FTTP) network. The work shall include consideration of the City as provider and the creation of an open access or leased system or other options as may be identified by the Consultant. Recommendations should include any additional infrastructure and other operational needs for the range of service model(s). Estimate capital and operating cost (including staffing and equipment requirements), connection costs and equipment installation costs for a City of Bellingham FTTH and/or FTTP at 100 mbps and at 1.0 gbps symmetrical speeds.
 - v. Assess financial models for operations and capital improvements for options considered including but not limited to pay as you go, property tax levy, local improvement district, general fund, enterprise utility creation, user fees or other means as may be known to the Consultant or Workgroup members
 - vi. Provide recommendations to increase quality, access, equity, and affordability of broadband and higher speed internet services.
 - vii. Consult and coordinate with the Workgroup on a regular but not less than monthly basis.
- c. Advise in the Selection of a qualified Consultant (note that final selection and contract award shall be made the Mayor or his designee and not by the Workgroup). The Mayor or his designee shall be the administrator of the contract between the consultant and the City. The Workgroup shall not have any control or influence on contract administration.
- d. Participate in discussions with City staff and its contractor as the scope of work is completed. A report shall be drafted and written by the contracted Consultant. Upon completion of the final report by the contracted Consultant, the Workgroup shall submit the final report to the Council Workgroup of the Whole with recommendations of the Workgroup for further action by the Council. The presentation shall be made by the Consultant and Facilitator with written or oral commentary and discussion by such members of the Workgroup as may be decided on by the Workgroup.

- e. The Workgroup and Consultant shall focus on broadband and fiber optic networks and the use of the city's fiber optic network to potentially expand quality, access, equity, and affordability and shall not investigate other forms of telecommunication services providing broadband including cellular, cable, digital subscriber line, or satellite services, except insofar as they directly relate to fiber optic networks.
- f. The total cost of the contracted consultant work and facilitator services shall not exceed \$100,000 as budgeted. The scope of work in Section 3b shall be prioritized by the Workgroup to fit within the approved budget. Work not able to be completed within the approved budget shall held for future phases as funding becomes available.

SECTION 4. Schedule

The Workgroup shall proceed quickly and efficiently. The Workgroup shall use the following general schedule in developing the work plan:

- a. October 2020 – Workgroup membership confirmation by City Council
- b. November 2020 – First Workgroup meeting and agreement on rules, roles and responsibility, selection of members to coordinate with Facilitator, procedures, schedules, understanding of protocols and decorum
- c. January 1, 2021- RFP posted for Consultant
- d. April 2021- Consultant Contract executed and Notice to Proceed issued by City staff
- e. May 2021- Workgroup progress report submitted to or presented to City Council
- f. October 2021- Consultant work completed
- g. November 2021- Consultant, facilitator and Workgroup submits and presents final report and recommendations to City Council

Where possible the Workgroup is encouraged to complete the work faster than this schedule. All work of the Workgroup, Consultant and Facilitator, including presentation on recommendations shall be completed not later than December 31, 2021.

SECTION 5. Quorums and Decisions and Meetings

- a. The Workgroup shall be comprised of 5 to 9 voting members as appointed by the Mayor.
- b. Quorum - Five voting members of the Workgroup shall constitute a quorum for the transaction of business if the Mayor appoints either eight or nine persons. Four voting members of the Workgroup shall constitute a quorum if the Mayor appoints either 6 or 7 persons. Three voting members of the workgroup shall constitute a quorum if the Mayor appoints 5 persons to the workgroup. No meeting shall be held without a quorum being present.
- c. The Workgroup shall not establish subgroups.

- d. Decision Making - Workgroup members shall strive for consensus on decisions and recommendations made to the Council. In the absence of consensus, the workgroup shall make decisions and recommendations by simple majority vote of the quorum. In the event of a simple majority vote, the minority votes will be allowed to submit a written dissenting opinion to be included in recommendation made to the Council.
- e. The Workgroup shall select 2 members to coordinate with the Facilitator on meeting schedules, agendas and communications issued by the Mayor's office.
- f. Attendance may be in person, via telephone, video conference, internet video stream or other method provided the member is able to listen, speak, fully participate and view all portions of the meeting.
- g. The Workgroup shall establish its own meeting schedule but shall meet monthly for coordination with the Staff and Consultant. Each monthly meeting shall not exceed 120 minutes in duration.
- h. The Workgroup shall terminate and dissolve upon presentation of the final report and policy recommendations described in Section 3 to City Council.
- i. The Workgroup shall advise and assist the City on policy issues as defined in previous sections. In an advisory role to the Council, the Workgroup shall use the following in conducting business:
 - i. Workgroup meetings shall be open to the public for observation, but shall neither be recorded (audio or video) nor rebroadcast by the City. Meetings may be live streamed using the City's usual and customary means.
 - ii. Notice of meetings and agendas shall be published using usual and customary means of the City.
 - iii. Summary meeting minutes shall be prepared by the Facilitator and provided to the public using usual and customary means of the City.
 - iv. The work of the Workgroup is limited to the scope described in this resolution. The Workgroup shall have no authority to set policy, direct actions of staff or otherwise replace or supplant any authority reserved for the City Council or Mayor
 - v. Workgroup meetings shall not include public comment periods nor shall the Workgroup be obligated to seek public comment on the work outlined in this resolution. Public comment and input on the policy advice and recommendations of the Workgroup and the Consultant shall be accepted by the City Council after the completion of the work and presentation to the City Council. The Workgroup is encouraged to include public surveys on needs and interests for broadband access, equity and affordability as part of the Scope of work to be completed by the Consultant.
 - vi. The Workgroup may consider inviting its own members or outside individuals or entities to make presentations to the Workgroup to establish a base of common knowledge, develop a shared understanding and increase knowledge base concurrent with other elements of work contained in this resolution.

SECTION 6. Workgroup Member Roles and Responsibilities

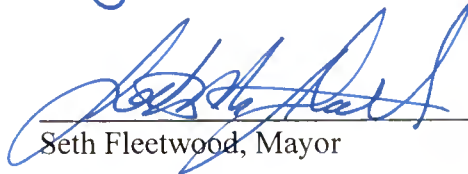
- a. All workgroup members have equal voice and status.
- b. Workgroup members shall be respectful of all opinions and views during all meetings and in all public forums outside of workgroup meetings.
- c. Workgroup members shall respect decisions of the Council and Mayor in appointing members workgroup and shall not criticize other workgroup members, individuals or represented companies for perceived conflicts of interest, background or profession.
- d. Individual Workgroup members will not represent an official Workgroup point of view unless expressly authorized by the Mayor's office or adopted by a formal vote of the Workgroup.
- e. Public communications using social media, traditional media, press releases, public statements, presentations, shall be authorized or issued by the Mayor's office only.
- f. Workgroup members shall attend all scheduled meetings or submit a request to the facilitator for an excused absence at least 72 hours in advance of the meeting. Unexcused absences may result in removal from the Workgroup by the Mayor.

PASSED by the Council this 24th day of August, 2020.



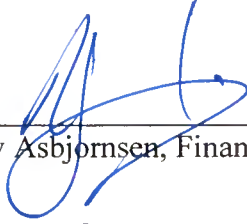
Gene Knutson, Council President

APPROVED by me this 31 day of August, 2020



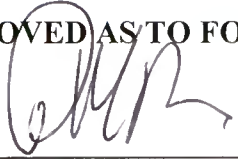
Seth Fleetwood, Mayor

ATTEST:



Andy Asbjornsen, Finance Director

APPROVED AS TO FORM:



Office of the City Attorney