



Staff Report

TO: Honorable Mayor Noon and Members of City Council

THROUGH: Elisha Thomas, Deputy City Manager

ON BEHALF OF: City Council Fiber Steering Subcommittee

FROM: Eric Eddy, Assistant to the City Manager
Jill Hassman, Assistant City Attorney
Tim Scott, Fiber Executive Director

DATE OF MEETING: November 14, 2016

DATE OF SUBMITTAL: November 4, 2016

SUBJECT: Creation of Centennial FiberWorks and the Centennial Fiber Commission

1. **Executive Summary:**

As the City's Fiber initiative continues to mature and the City's goals of a fiber optic backbone are becoming a reality, the governance structure for future management of the backbone needs to be examined. The Fiber Steering Subcommittee has reviewed best practices, operational models, and City governing practices in order to develop a recommended approach.

The recommended structure would create "Centennial FiberWorks" as an operational department of the City. Centennial FiberWorks would be overseen and managed by the Centennial Fiber Commission, consisting initially of three City Councilmembers. Resolution No. 2016-R-80 (attached) details the mechanisms for the ongoing operation of Centennial FiberWorks ("FiberWorks") and the duties of the Centennial Fiber Commission ("Commission"). This program and management is intended for the initial start-up and initial operations of Centennial FiberWorks and the governing Resolution may be amended as Centennial FiberWorks matures.

The Fiber Steering Committee recommends Council provide consensus to move forward with the creation of Centennial FiberWorks and the Centennial Fiber Commission.

2. **Discussion:**

Background

In 2013, Centennial voters overwhelmingly passed Ballot Question #2G, authorizing the City to indirectly provide cable television service, telecommunications service, and high speed internet access to citizens and businesses. Council appointed a Fiber Steering Subcommittee to explore opportunities related to fiber optic infrastructure and recommend next steps for the City.

The Fiber Steering Subcommittee worked with Staff, the City Attorney's Office, and professional consultants to review community input, assess opportunities, develop goals, and identify next steps. Policy goals and direction were developed with the input and guidance of City Council. These policy goals were refined into the Fiber Master Plan, which recommended construction of a competitively neutral dark fiber optic backbone. The backbone is critical City-owned infrastructure to support Council's policy goals (Resolution No. 2015-R-72). The Fiber Master Plan was ultimately adopted by City Council and \$5.7 million in capital funding was appropriated.

As Council is aware, construction of the first phase of the backbone should begin by the end of 2016. As portions of the backbone are constructed and made available to partners, the day-to-day management of planning, construction, and operations will require a substantial commitment of time and expertise. This effort will require greater involvement and commitment than are typically available to City Council during its regular meetings. For these reasons, the Fiber Steering Subcommittee recommends Council consider the formation of Centennial FiberWorks, to be governed by the Centennial Fiber Commission.

A proposed (Resolution No. 2016-R-80) for the organization and creation of FiberWorks and the Commission is included with this Staff Report. Resolution No. 2016-R-80 would explicitly delegate authority to the Commission for the day-to-day operation and maintenance of FiberWorks.

Summary of Resolution No. 2016-R-80 – Centennial FiberWorks

As proposed by the Fiber Steering Subcommittee, FiberWorks would be formed as an operational department of the City and serve as a publicly-owned business operation for the management and operation of the City's fiber optic infrastructure. The continuing construction, use, maintenance, and extension of the City's fiber optic infrastructure would fall under the purview of FiberWorks. The City Manager would serve as the General Manager and be responsible for administrative support and operations. The City Manager would make available to FiberWorks City administrative employees, and when appropriate, City contractors to assist in the performance of the duties and responsibilities of FiberWorks.

Users of FiberWorks will be both public and private entities with expectations for quick turnarounds on key issues involving engineering, planning, and potential partnerships. As contemplated, FiberWorks will be a function that differs from typical City operations in that it requires high levels of expertise and knowledge of the current and evolving telecommunications landscape.

Summary of Resolution No. 2016-R-80 – Centennial Fiber Commission

The Commission would be governed by a board of directors initially comprised of three (3) members of the City Council. As written, Resolution No. 2016-R-80 allows for the growth of the Commission (not to exceed seven members) with the appointment of additional Council members, residents, and/or persons with experience in construction, operation, or management of fiber optic systems. In recognition of the substantial commitment of time and attention to the Commission, the resolution sets a monthly stipend to be paid to Commissioners. Individual members of the Commission would be required to serve the public interest in a nonpartisan

capacity, unaffiliated with their districts or neighborhoods, and for the operational sustainability and best interests of FiberWorks. Additionally, members of the Commission would be governed by the City's policies concerning ethics and conduct.

The Commission would provide policy direction, management, and day-to-day oversight of FiberWorks. Certain powers and authority held by City Council would be delegated to the Commission, while certain actions would remain the prerogative of Council as required by the Home Rule Charter. For example, subject to prior Council appropriation of funds, the Commission for FiberWorks may execute contracts for goods and services related to the City's fiber optic assets and infrastructure. The Commission may also establish a schedule of rates and charges which shall be reviewed and ratified by the Council. The power to enact legislation and create debt/issue bonds would remain within the authority of the City Council.

Summary of Resolution No. 2016-R-80 – Overall Approach

The Fiber Steering Committee evaluated and considered multiple governance options, including those utilized by other municipalities across the nation. The approach recommended for FiberWorks and the Commission is tailored to the specific circumstances faced by Centennial, including the Home Rule Charter, Colorado state law, and the Taxpayer's Bill of Rights ("TABOR"). At this time, the City's fiber initiative does not qualify to be considered as an "enterprise" or an "authority" under state law.

FiberWorks and the Commission are recommended as an appropriate approach for this point in time. The framework allows for future changes as may become necessary to retain flexibility. As proposed, FiberWorks is more similar to a City department with a distinct identity and operational needs. As conditions change, the Fiber Steering Committee may recommend other governance options to Council.

3. Recommendations:

The Fiber Steering Committee recommends Council provide consensus to move forward with the creation of Centennial FiberWorks and the Centennial Fiber Commission.

4. Alternatives:

Council may provide alternative direction.

5. Fiscal Impact:

At this time, the direct fiscal impact of Centennial FiberWorks and the Centennial Fiber Commission is limited to the monthly stipend in the proposed resolution for each member of the Commission. As drafted, the annual fiscal impact would be \$12,600.

Additional fiscal impacts may occur based on the direction of Council and the Centennial Fiber Commission.

6. Next Steps:

Pending Council consensus at the Study Session, Resolution No. 2016-R-80 will be placed on the agenda for November 21st.

7. Previous Actions:

No previous actions on the fiber governance model have been taken by Council.

8. Recommended Motion:

As a Study Session item, no motion is required.

9. Previous Actions:

Council has not previously taken action on the governance structure of the fiber initiative.

10. Suggested Motions:

As a Study Session item, no motion is required.