

MINUTES

Eugene City Council
McNutt Room--City Hall

May 20, 1996
5:30 p.m.

COUNCILORS PRESENT: Tim Laue, Laurie Swanson Gribskov, Shawn Boles, Barbara Keller, Kevin Hornbuckle, Jim Torrey, Pat Farr.

COUNCILORS ABSENT: Nancy Nathanson.

Her Honor Mayor Ruth Bascom called the meeting to order.

I. APPROVAL OF THE ORDER OF THE AGENDA AND TIME ESTIMATES

Mr. Laue moved, seconded by Ms. Swanson Gribskov, to approve the order of the agenda. The motion passed unanimously, 7:0.

Mayor Bascom introduced Apple Oxman of the Chinju, Korea, Sister City Committee, who noted that Chinju was Eugene's first sister city, as well as the first-ever sister city program in Korea. Ms. Bascom said that the delegation was honoring an artist from Chinju, Wu Chong, and there was a display of his work at the Harlow Road Selco Credit Union. She introduced the artist and other members of the delegation, and said a video about Chinju would be available to councilors in the council office. The delegation presented the gift to Council President Laue. Ms. Oxman invited the council to a public reception for Wu Chong the following evening at 5:30 p.m.

II. TELECOMMUNICATIONS PLAN

Randy Kolb, Administrative Services Department, provided the staff presentation. He defined telecommunications as the infrastructure required to transmit voice, video, and data using fiber optics, wires, or airwaves. Mr. Kolb said that local government had a policy interest in the recent passage of the 1996 Telecommunications Act because government managed the public right-of-way, which was needed for the installation and operations of telecommunications facilities, and he anticipated a period of more intensive use of the right-of-way as competing providers installed infrastructure. He said that local government needed to be concerned about the integrity of the right-of-way and both the public and private infrastructure located within in it.

Mr. Kolb discussed technology changes occurring in Eugene, including the City's own network of computers; the Lane Education Network (LEN), which was seeking to connect all local schools for distance learning; and the Fiber Optic Group (FOG), a consortium of agencies led by the Eugene

Water & Electric Board and Springfield Utility Board, which was considering establishing a publicly owned telecommunications system. He said that the City had been approached by two competing telephone service providers seeking to install infrastructure in the locally owned right-of-way within the last month. Additionally, TCI Cablevision was considering offering telephone and Internet services.

Mr. Kolb anticipated that the council would encounter zoning, franchise, and consumer advocacy issues as a result of the passage of the act. He said that the telecommunications industry was going through a period of intense change through a convergence of technology and providers. Mr. Kolb said that new services were available from a number of providers, including utilities.

Mr. Kolb said that the act removed regulatory barriers for the providers and encouraged competition, although deregulation would occur prior to true competition. He anticipated short-term rate increases as a result. The act guaranteed access to the right-of-way for telecommunications companies. Mr. Kolb said that the act granted local government the ability to manage the public right-of-way, charge reasonable franchise fees, and to meet important community needs.

Regarding the right-of-way, Mr. Kolb said that there were issues regarding wear and tear of public streets from the installation of infrastructure, visual clutter, abandoned facilities, and the potential for damage to telecommunications lines from public maintenance crews. He showed the council slides that illustrated examples of telecommunications facilities in other communities.

Regarding franchise fees, Mr. Kolb said that the franchise fees could represent significant amounts of money. He said that as providers become more alike in the services they deliver, local government will have to treat them alike.

Regarding community needs, Mr. Kolb said that the act stipulated that services were to be provided to hospitals and schools at below-market rates. He said that the City did not know yet what the telecommunications needs were for citizens and the business community, although much work had been done on the needs of the schools and government. Mr. Kolb said that was not surprising because previous to the passage of the act, each customer had acted independently in dealing with telecommunications providers. The act gave citizens an opportunity to identify needs as a community.

Mr. Kolb recommended that the City develop a telecommunications plan with three major work items: 1) develop an ordinance, zoning, and right-of-way policies to address the new environment; 2) determine a fair franchise fee for the use of the right-of-way; and 3) identify community needs and analyze how those needs can be met. He reviewed a model for the plan, which included vision and policy sections and three planning elements—a needs and options analysis, ordinance and franchise fee development, and a legislative strategy to protect the interests of local government.

Mr. Kolb provided a time line and staff estimate for the development of the plan. He said that Administrative Services Director Warren Wong, Public Works Director Chris Andersen, and Library, Recreation, and Cultural Services Director Jim Johnson would serve on the executive team, and the staff team would include him, Linda Lynch, and Tish Peterson. Mr. Kolb said that the Washington, DC, law firm of Miller, Cantfield, Paddock, Stone and the Seattle engineering firm R.W. Beck would

be employed as consultants for the project. The Lane Council of Governments would assist in the project locally. Mr. Kolb reported that the Council Committee on Automation (CCA) proposed that a Council Committee on Telecommunications be formed to provide policy direction to staff as it worked on the plan. The CCA further suggested that the newly formed committee include a member of the Budget Committee and a Planning Commissioner.

Mr. Wong said that FOG had contacted the City about using the right-of-way for a fiber optic network, and the City had a formal proposal from one competitive access provider and had received inquiries from another. He anticipated several more such requests. Mr. Wong said that all departments were affected by the plan in one manner or another, and accordingly staff would present the council with work plan adjustments at the trimester work planning session.

Mr. Wong recommended that the City bring in a staff person from Miller, Cantfield, Paddock, Stone to conduct an interagency training in Eugene. Ms. Norris added that staff would coordinate the training with EWEB, SUB, and the City of Springfield and intended to continue to work with those agencies to ensure that there would be consistency between the two communities in the policies and regulatory framework.

Ms. Keller asked how much time the City had to prepare the plan. Mr. Kolb said that the estimated time line was probably about as much time as the City had; the law stated that the City could not prohibit use of the right-of-way, but could take sufficient time to make reasonable and thoughtful revisions to local ordinances. Ms. Keller asked if a public utility would have to be treated in the same manner as other providers. Mr. Kolb said that the City must be careful to avoid anti-trust issues and would probably have to treat all requests in the same manner. Ms. Keller asked if the act included a provision for addressing airwave pollution. Mr. Kolb said that the issue was being addressed at the Federal level by the Federal Communications Commission and was not within the purview of local government. Ms. Keller asked if the City could limit the types of facilities that were constructed by telecommunications providers. Mr. Kolb responded that the City must provide access to those authorized by Congress to use the right-of-way. He said that the City was able to control its zoning and right-of-way, and could work with the providers to locate facilities where the community preferred. Ms. Keller asked if staff was aware of any pending legislation that would affect the City's ability to act. Mr. Kolb said he was unaware of any legislation proposed at this time, but he understood from the conferences he had attended that the providers would be represented at the legislative level.

Council and Intergovernmental Relations Division Director Linda Lynch confirmed Mr. Kolb's remarks, adding that US West had already approached the Association of Oregon Counties. Ms. Norris observed that providers were concerned about having to face varying requirements in different communities. She said that the City would press for its right to control its right-of-way and franchise agreements.

Ms. Keller was supportive of the proposal for the subcommittee, but objected to giving it the authority to provide staff with policy direction.

Mr. Farr noted that Eugene was considered a "Tier III" community under the act, and asked if Tier I and Tier II communities already had legislation in place that the City could take advantage of. Mr.

Kolb agreed, but said that the legislation had been largely developed prior to the act and many of these cities had to revisit the agreements they had entered into with providers. He added that the City would be able to draw upon some of that experience, as well as information developed by the National League of Cities and Public Technology, Inc. Mr. Farr indicated his willingness to serve as a member of the committee.

Ms. Swanson Gribakov asked about the cost of the plan and the source of the funding. Mr. Kolb said that staff was now working on scoping statements for the different planning elements, which would determine the needed staffing resource. He believed that the staff effort would be extensive. He confirmed that no new employees would be hired, but staff would identify work item tradeoffs at the trimester work session. Mr. Kolb estimated consulting costs at between \$45,000 and \$85,000, and said that those costs would be covered by vacant positions in the Administrative Services Department.

Mr. Boles asked if the act precluded the City from recovering the cost of developing the plan from the providers. Mr. Kolb said no.

Mr. Boles referred to the staff notes and said that it was premature to assume that FOG could operate a financially and technically feasible publicly owned and operated telecommunications system given that the City's participation was not assured and EWEB had not responded to inquiries as to its interest. Mr. Kolb agreed. He said that the statement was taken from the FOG's business plan. The feasibility analysis assumed that major government agencies would use the system.

Mr. Boles asked if a reasonable fee could include, at a minimum, the fee structure now in place of seven percent of gross. Mr. Kolb suggested that would be a good starting point. Mr. Boles felt it was too low, and wanted to assure that the fee was no lower. Mr. Kolb said that was the type of policy direction staff would seek from the committee.

Mr. Boles asked if the concept embodied in FOG could be expanded to include the City's construction and lease of facilities to interested providers. Mr. Kolb said that was an alternative the committee could consider. Some cities were installing empty conduits and leasing them to providers, others were developing infrastructure and leasing capacity to private providers, while others were leasing capacity from a provider.

Mr. Boles asked if staff believed that the concept of reasonable fee encompassed a return on the public investment. Mr. Kolb said yes. Mr. Boles asked if the City could build a common channel for multiple providers. Mr. Kolb said yes. Mr. Boles said that he was also willing to serve on the proposed committee.

Mr. Torrey stressed the need for the City to ensure that its legislative concerns were addressed in concert with other Tier III cities. Mr. Wong said that there was a legislative strategy element in the plan, which was the reason for Ms. Lynch's involvement in the plan. He anticipated that by the time the plan was completed in October, the council would have established some positions that staff could carry to Salem.

Mr. Torrey asked if any existing City franchise agreements could be grandfathered under the act. Mr. Kolb said no; all the existing agreements have expiration dates as well as openers.

Ms. Bascom asked how the money the City secured from the Federal government in conjunction with the University and schools to create a network fit into the act. Mr. Kolb said that it was a sort of first step. The \$528,000 grant was used by the LEN to connect the schools with the University serving as the hub. The funding also supported the Internet Access Center at the library and was being used to develop content to be shared with the students.

Mr. Laue said that jurisdictional authority needed to be clarified. He believed that the current state of telecommunications in the community was not good and he received many complaints about service delivery. Mr. Laue said that before further deregulation of the industry occurred, he wished to see more improvement in the status quo. Mr. Kolb said that competition could force better technology and better prices. He also believed that the City needed to get more involved with the Public Utilities Commission (PUC) and work with the legislature to that end to increase local governments' influence over PUC actions. Mr. Laue said that he understood that PUC would regulate service less, not more, under the provisions of the act. Ms. Norris asked City Attorney Glenn Klein if the City would establish product or infrastructure standards through the plan. Mr. Klein responded that there was nothing in the act to preclude the City from establishing such standards, but the standards cannot discriminate against any particular provider.

Mr. Hornbuckle maintained that the act was supported by business that would profit from its provisions, and would result in waste in the form of damage to roads and would not help the current state of service delivery. He did not think the act was in the public interest, and he supported the development of standards that would limit competition to keep unqualified providers out of the market. Mr. Hornbuckle asked who was the consultant to FOG. Mr. Kolb responded that the consultants were Public Financial Management and Carlson Consultants.

Ms. Keller moved, seconded by Mr. Laue, to extend the time for the item by taking 15 minutes from item IV. The motion passed unanimously, 7:0.

Mr. Laue moved, seconded by Ms. Swanson Gribskov, to appoint a Council Committee on Telecommunications, including a lay member of the Budget Committee and a member of the Planning Commission, to provide policy direction to staff who are developing a telecommunications plan.

Ms. Keller offered a friendly amendment to the motion, asking that the phrase "to provide policy direction to staff who are developing a telecommunications plan" be replaced with the phrase "to provide policy recommendations to the council." Mr. Laue and Ms. Swanson Gribskov accepted the friendly amendment.

Ms. Keller moved that the motion be amended to indicate that the councilors participating on the committee would be continuing councilors.

The motion died for lack of a second.

Ms. Keller expressed hope that the proposed committee would work closely with the Intergovernmental Relations Committee (IGR), given the important legislative issues involved in the telecommunications plan.

Mr. Boles suggested that the council establish the committee membership, noting that Ms. Nathanson had also agreed to serve on the proposed committee. The council agreed that Mr. Boles, Mr. Farr, and Ms. Nathanson would serve on the committee and that Mr. Torrey join the IGR Committee. Mr. Boles said that he would serve as the committee's liaison to the IGR Committee.

Mr. Laue offered an additional friendly amendment to his motion, asking that the following sentence be added: "The committee would include Councilors Farr, Boles, and Nathanson." Ms. Swanson Gribakov, as second to the motion, concurred.

The motion passed, 6:0; Mr. Hornbuckle being out of the room when the vote was taken.

III. CITY MANAGER CANDIDATE PROFILE DEVELOPMENT

Mr. Wong reviewed the process developed by staff for the profile development.

Ms. Swanson Gribakov said that she had asked David Donaldson of the recruiting firm David M. Griffiths and Associates to propose a process for broader community input to the council.

Mr. Boles said that as part of the interviews with the councilors, he had hoped the recruiter would probe for names of community members that should be included in the public involvement process. He objected to waiting until the end of June for Mr. Donaldson to interview councilors, and advocated for the interviews to occur the week of June 3. Ms. Keller agreed with Mr. Boles. She said that broad public input about the position profile should be sought from the community.

Mr. Hornbuckle also preferred that the interviews occur the first week of June.

Mr. Wong indicated that he would contact Mr. Donaldson and see if the interviews could be scheduled the week of June 3. He said that Mr. Donaldson had raised a concern about the fact that his bid included only one trip to Eugene to develop the profile and job description. The council indicated that it was willing to support the cost of additional airfare for Mr. Donaldson.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to schedule David M. Griffith & Associates for the following: 1) to meet with the mayor and each councilor individually and interested parties internal to the organization during the first week in June; 2) to conduct a public input process; 3) to present a draft job description and candidate profile for council approval; and 4) to resolve other key issues to conduct a recruitment process for City Manager position. The motion passed unanimously, 7:0.

IV. RATIFICATION OF COUNCIL OFFICER RECOMMENDATIONS

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to approve the recommendations of the May 20, 1996, meeting of the Council Officers.

Ms. Keller said that item 7(a), Staff Resources—Hyundai Plant Inspections, should have more council discussion. She did not think that the company should proceed with a level of construction that the City could not support within existing resources.

Ms. Keller moved, seconded by Mr. Boles, to amend the motion by directing staff to limit construction scheduling for Hyundai to match the City's ability to provide adequate inspections.

Ms. Bascom suggested that the council schedule the issue as an agenda item.

Mr. Laue clarified that the Council Officers had made no recommendation about the topic but had been made aware of the issue. He agreed that the council should schedule the issue as an agenda item.

Ms. Keller moved, seconded by Mr. Boles, to table the amendment to the motion to May 28 or May 29. The motion passed, 6:1; Mr. Farr voting no.

The main motion passed unanimously, 7:0.

The meeting adjourned at 7:10 p.m.

(Recorded by Kimberly Young)
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Respectfully submitted,

Linda H. Norris

Linda Norris
City Manager pro tem