

Town of Lyons, Colorado
Board of Trustees
BOT Agenda Cover Sheet
Agenda Item No: X.2
Meeting Date: January 16, 2018

TO: Mayor Sullivan and Members of Board of Trustees
FROM: Kathie Guckenberger, Town Attorney
DATE: January 11, 2018 (prepared for January 16, 2018 meeting)
ITEM: Resolution 2018-12: a Resolution of the Board of Trustees of the Town of Lyons, Colorado Approving a Ballot Question to be Submitted to the Voters at the Regular Mail Ballot Election to be Held April 3, 2018 Related to the Local Right to Provide High-Speed Internet (Advanced Service), Telecommunications, and/or Cable Television Services

ORDINANCE
 MOTION / RESOLUTION
 INFORMATION

I. REQUEST OR ISSUE: Colorado law prohibits Colorado municipalities from using municipal funds, facilities, improvements, and other infrastructure to provide, directly or indirectly, high-speed Internet, advanced telecommunications, or cable television services (“Services”) to residents and businesses. See C.R.S. §29-27-101 *et seq.* Municipalities can reclaim the right to provide such Services if local voters approve in an election.

The Board of Trustees directed staff to prepare a ballot question regarding the Town’s ability to provide such Services to present to the voters in the April 3, 2018 regular mail ballot election. The Resolution sets the title and content for the ballot question, refers such question to the voters in the upcoming election, and authorizes staff to take such actions as may be required to place this question on the mail ballot for the April 3, 2018 regular election.

II. RECOMMENDED ACTION / NEXT STEP: Approve Resolution 2018-12. Upon such approval, Town staff will take steps as directed and necessary to place the question contained in the Resolution on the ballot for the April 3, 2018 election.

III. FISCAL IMPACTS: None.

IV. BACKGROUND INFORMATION:

To compete in today’s economy, communities across the state have become increasingly dependent on Internet access – and especially high-capacity (“broadband”) access - for business development and operations. Recently, Colorado local governments have

investigated investing public dollars in broadband infrastructure improvements or in partnerships with public and private sector providers to enhance local economic development efforts.

One of the biggest impediments to local governments enhancing broadband infrastructure is a Colorado law passed in 2005, commonly referred to as “Senate Bill 152” or “SB 152”. As noted above, SB 152 prohibits Colorado municipalities from using municipal funds, facilities, improvements, and other infrastructure to provide Services, either directly or indirectly, without first receiving voter approval in an election. According to a survey prepared by the Colorado Municipal League that covers the period from Fall 2008 to Fall 2017, eighty-six out of eighty-seven of these types of elections have approved questions similar to the one included in Resolution 2018-12 (and the one question that failed was in Longmont in 2009, which subsequently approved a question on the same topic in 2011). In its materials on this topic, the Colorado Municipal League notes that the vast majority of local governments who have passed SB 152 questions are not interested in hooking up homes and businesses and providing actual broadband services themselves. By and large, these jurisdictions are working to enhance local broadband infrastructure via public sector service providers or private sector service providers who would otherwise be unwilling or unable to serve their communities.

- V. **LEGAL ISSUES:** Before the Town may engage or offer to engage in providing the Services, voter approval is required pursuant to C.R.S. § 29-27-201.
- VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:** N/A
- VII. **SUMMARY AND ALTERNATIVES:** The Board of Trustees has the following options:
 - (1) Adopt Resolution 2018-12, as it may or may not be amended;
 - (2) Reject or deny Resolution 2018-12.

PROPOSED MOTION (if removed from consent agenda): “I MOVE TO APPROVE RESOLUTION 2018-12, A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, COLORADO APPROVING A BALLOT QUESTION TO BE SUBMITTED TO THE VOTERS AT THE REGULAR MAIL BALLOT ELECTION TO BE HELD APRIL 3, 2018 RELATED TO THE LOCAL RIGHT TO PROVIDE HIGH-SPEED INTERNET (ADVANCED SERVICE), TELECOMMUNICATIONS, AND/OR CABLE TELEVISION SERVICES.”

Attachment:

- 1. Resolution 2018-12