



# Agenda

CITY CLERK'S OFFICE

DATE 9-27-11 TIME 8:30am

SERVED BY Juan Torres

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## AMENDED

### TELECOMMUNICATION ADVISORY COMMITTEE

Thursday, September 29, 2011

10:00 am – 12:00 pm

City Councilors' Conference Room

City Hall

200 Lincoln Avenue

- I. PROCEDURES
  - A. Roll Call
  - B. Approval of Agenda
  - C. Introductions
  - D. Election of Vice Chairman
  - E. Future meeting dates and time
- II. NEW BUSINESS
  - A. Ordinance 2011-15, Review
  - B. Resolution 2011-33, Review
  - C. Committee Duties and Responsibilities, Review
  - D. Reports and Timelines, Discussion
- III. ITEMS FROM THE COMMITTEE
- IV. ITEMS FROM STAFF
- V. NEXT MEETING DATE
- VI. ADJOURN

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520, five (5) working days prior to meeting date.



# Agenda

CITY CLERK'S OFFICE

DATE 9-21-11 TIME 9:28am

SERVED BY TUAN TONES

RECEIVED BY [Signature]

## TELECOMMUNICATION ADVISORY COMMITTEE

Thursday, September 29, 2011

10:00 am – 12:00 pm

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MINUTES OF THE  
TELECOMMUNICATION ADVISORY COMMITTEE  
City Councilors' Conference Room  
September 29<sup>th</sup> 2011

**I. PROCEDURES**

**A. CALL TO ORDER AND ROLL CALL**

A regular meeting of the Telecommunication Advisory Committee called to order by Richard Carlisle, Chair on September 29<sup>th</sup> 2011, at approximately 10:00 a.m., in the City Councilors' Conference Room, City Hall, Santa Fe, New Mexico. Roll call indicated the presence of a quorum, as follows:

**MEMBERS PRESENT:**

Richard Carlisle, Chair  
Gar Clarke  
Stephen Easley  
Dustin Gentry  
Ralph Vincent

**STAFF PRESENT:**

Juan Torres, Staff liaison  
Sean Moody, Economic Development  
Nick Schiavo, Community Services  
Melissa Byers, City Attorney's Office  
Kelley Brennan, Assistant City Attorney  
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance

**B. APPROVAL OF AGENDA**

**MOTION:** Stephen Easley moved, seconded by Ralph Vincent to approve the Agenda as published.

**VOTE:** The motion was approved on a voice vote with Stephen Easley, Dustin Gentry and Ralph Vincent voting in favor the motion, no one voting against and Gar Clarke absent for the vote.

*The meeting agenda with attachments (8 pages) is incorporated herewith to these minutes as Exhibit "1"*

## C. INTRODUCTIONS

Chair Carlisle asked everyone to introduce themselves, and tell a little about their experience. Robert Romero, City Manager, thanked the members of the Committee for taking the time to serve on this Committee, because it is very important to the city and to Economic Development.

*Gar Clarke arrived at the meeting*

## D. ELECTION OF VICE CHAIRMAN

Chair Richard Carlisle said it is the Chair's prerogative to choose the Vice-Chair, and asked Ralph Vincent to serve as Vice-Chair and Mr. Vincent accepted.

## E. FUTURE MEETING DATES AND TIME

After discussion, it was the consensus among the Committee to meet once a month on the third Thursday at 10:00 a.m. in the City Councilors Conference Room, and to revisit the meeting dates and times in January. Mr. Torres said the next 3 meetings will be October 20<sup>th</sup> 2011, November 17<sup>th</sup> 2011 and December 15<sup>th</sup> 2011.

# II. DISCUSSION MATTERS

## A. 2011-15-REVIEW

## B. RESOLUTION 2011-33 - REVIEW

## C. COMMITTEE DUTIES AND RESPONSIBILITIES - REVIEW

## D. REPORTS AND TIMELINES - DISCUSSION

*Items II(A), (B), (C) and (D) were combined for purposes of presentation and discussion*

Kelley Brennan, Assistant City Attorney, said there is information in the packet which includes the enabling Resolution, as well as a compilation of the two Franchise Ordinance enactments.

Ms. Brennan gave a brief history of the current Ordinance, noting Qwest sued the City immediately after adoption of the Ordinance. She said the City has not yet enforced the Ordinance, but is about to do so. She said there was a preliminary injunction hearing in Las Cruces last fall, noting there were two hearings which she believes went well for the City. She said the judge sent us to settlement discussions, and we worked out some kinks, and came back and amended the Ordinance. The amendments were quite minor, but needed to be made. Ms. Brennan said Qwest withdrew its preliminary injunction after the judge strongly signaled that Qwest hadn't proved the likelihood of success on the merits nor irreparable harm. She said the City now is in discovery. She said Qwest filed a State action saying it had filed a case in State court because they are wanted the State court to find that the franchise fee is a tax, not a fee, which would mean it has to be approved by the electorate. She said the City doesn't believe it is a tax. If it is then Santa Fe and every other municipality in the State has been doing it wrong "since the beginning of time." Ms. Brennan said the City is now defending in two forums. She said the City feels these were tactical elements. The Federal judge has issued an order saying there is no reason he

would prevent Qwest from amending its claim to take out the tax claim it had put in its Federal claim because it is now being heard in State court.

Ms. Brennan said the City now has an application for a franchise, noting it is largely fiber right now, transiting through the city rather than connecting. She said they have applied for a franchise looking ahead to making connections. She said they are having a conference call about this at 11:00 a.m. Ms. Brennan urged the Committee to read the information and call her with any questions.

Ms. Brennan reviewed the process to apply for a franchise to operate in the City's rights-of-way [ROWs]. She said the City Council must approve the franchise and we can negotiate a little bit based on the applicant and what they are proposing. Once the franchise is granted, the applicant goes to the Planning Commission to present their proposal and build-out, which is approved by the Planning Commission. Ms. Brennan said it is hoped, over time, through this land use process, to get some uniformity in the City's approach to public ROW to get a sense of what is in the public ROW. She said the Qwest lawsuit has made it very clear to us that the City needs to have more control of that and to regulate how things look which is really important in Santa Fe. She said the land use process takes care of that, and the Ordinance outlines basic principles, "If you're going to go through the city, please put it in a major arterial. We prefer you stay out of the escarpment and the historic zones, and there are higher tests if you want to install something in those zones, for example." She said there are height requirements, appearance requirements. She said once the Planning Commission approves a plan, they then can build it out and they have to go get the usual permits, such as street cut permits.

Ms. Brennan said a lot of "dust was raised" around the Ordinance. She came into the process relatively late and made some changes to the Ordinance, such as to include grandfathering for those already in the ROW. She said the land use provisions came in at that point. She said there was a lot of concern about what was going to get built, and how, so the land use provisions supersede Chapter 14 land use provisions as to ROW. She said she anticipates they will bring a franchise to this Committee for review as we go through this process with ENMR, and will look to this Committee's expertise to help them to understand what are reasonable conditions, and what perhaps "we need to push back on." She looks forward to working with this Committee.

Chair Carlisle asked how the Santa Fe Complex fits in this process. Ms. Brennan said the Santa Fe Complex has been charged with working with Mr. Torres generally, to develop a master plan. She said this Committee is charged with reporting to the Council in this regard. However, the Committee can't report on something which hasn't come before it. She said Mr. Torres will be making an initial report to the Council on behalf of this Committee saying "We haven't received the master plan. When we receive the master plan, we expect to do a preliminary report within 6 months of that and the final report within a year." She said, however, she doesn't know the status of the master plan at this point. Mr. Torres said, in the previous iteration of the committee, there was some work done by a subcommittee of the Santa Fe Complex and other individuals. They prepared a preliminary report at the time the lawsuit was coming forward, so that report was never formally submitted, and he can provide that report to this Committee at its next meeting

for review. He said it was a generalized outline of the steps needed to develop a master plan, which also included a franchise ordinance component which now can be removed from the report. He said the previous committee was supposed to be making recommendations on the franchise ordinance, but this Committee is not.

Dr. Easley said when he read the material there were some deadline dates we clearly can't meet. He asked if these documents need to be revised at the Council to let the Committee have an extension or can we just informally get an extension. Ms. Brennan said it should be sufficient for Mr. Torres to report on the status and the timelines, and to give a general projection on revised timelines. Mr. Torres said he will do that as soon as possible before the Council, and will report the results back to this Committee.

Dr. Easley said what he is hearing is that this Ordinance is sort of a reactive planning tool, where Chapter 14 will come in and put conditions on some of the franchise applications, and Ms. Brennan said no. Dr. Easley said we need to proceed with granting some franchises because of potential lawsuits. Ms. Brennan said the discussion about having a master plan has been going on since 1991, and there has been a desire to do it, but it hasn't happened. She said the members of the Complex expressed the need for a master plan during the process of approving the franchise ordinance, and the Council agreed which she believes is important. However, the Council also understood that it had to be a parallel path, and the City could not, given a number of legal imperatives as well as practical ones, wait for a master plan before the City Council adopted an ordinance. Ms. Brennan said the master plan ultimately may drive changes to the Ordinance. However, she said the Ordinance is a "stand-alone and expresses the will of the Council at this point, and it's being challenged in court, and I think that will be the final arbiter of whether it's effective or not." Ms. Brennan said, in terms of the relationship between Chapter 14 requirements, the Governing Body recently adopted a new Chapter 14 ordinance, hopefully simplified, regulating largely wireless, and that applies outside the ROWs. She said in fact, we brought land use provisions into the ROW Ordinance specifically to keep it as simple as we could and have everything in one ordinance, because the Chapter 14 ordinance was highly impractical. Ms. Brennan said what is contemplated is that a provider may come to us wanting to operate both within the ROWs and outside the ROWs which would trigger Chapter 14. She said they have tried to make those now work well together. She said, "We have said to applicants, if you want a franchise and you're also going to be outside the ROWs, triggering Chapter 14, you can come before the Planning Commission on one application with both before it, which was sort of the reason we went with the Planning Commission as the body reviewing it."

Mr. Vincent asked if there is a will within the City to inventory the ROWs, which is a huge undertaking. Ms. Brennan said she believes this is where we'll have to go because of the lawsuit, and she has been pressing for it, commenting it is hard because of resource issues. She would like to write a letter to everyone in the ROW and tell them they need to come in for a franchise. She said we've tried to get some answers from Qwest because most of the providers are attaching to Qwest within the ROW, and they know. However, they say "we'd love to tell you but we can't." She is hoping this is information which will develop, but it was part of understanding that information didn't exist that made us want to do this so we could have a system where people were putting things as an overall

picture which is on the record, as opposed what we have now which are street cut permits. She said those permits usually are pulled by contractors, not by the provider, so we have no way of connecting these hundreds and hundreds and hundreds of street cut permits with a specific provider to tell whether or not they are in our ROW. Mr. Vincent asked if this could this be accomplished with a non-disclosure agreement between the providers. Ms. Brennan said yes, once we bring them as part of the franchise, but first we need to know who needs the franchise. She believes that the City is going to get that information, in the next few months she hopes.

Mr. Vincent asked if there are multiple lawsuits, or is it just Qwest, and Ms. Brennan said it is just Qwest.

Mr. Vincent asked what were the points of contention. Ms. Brennan said Qwest claims that a massive increase in fees effectively inhibited their operating and providing telecommunication services in the city, and therefore we were violating the Telecommunications Act, and they filed some civil claims associated with that. Ms. Brennan said Qwest has filed this tax claim in State court, noting all of the other claims are under the Telecommunications Act. She said because there is a Federal law that says Federal courts can't decide on State tax claims, Qwest has filed a State court action saying this is a tax not a franchise, and asking the court to rule in their favor. She said right now, it's only Qwest, but she is sure there are people standing by waiting for the results. She said felt the City was successful in the course of discovery in preparing for the preliminary injunction hearing, and during the course of the hearing gained a lot of information which suggested we needed to file some counterclaims, which the City has done. She said the City believes there are several million dollars in unpaid franchise fees going back for 25 years.

Mr. Vincent asked what is the injunction supposed to stop. Ms. Brennan said they wanted to stop the City's enforcement of the Ordinance specifically against Qwest, commenting "we have not yet pushed that." She said staff is happy to see someone who is willing to apply and didn't find our Ordinance to be a "terrible thing."

Mr. Vincent asked when the City will begin to enforce the Ordinance. Ms. Brennan said the Ordinance was enacted, but we aren't enforcing people who already are in, but will be enforcing it for those just starting to come into the ROW, and will be telling them they need a franchise.

Mr. Vincent said then, for those who are grandfathered in, it is only for the current term. Ms. Brennan said this is correct, noting this Ordinance allows a term of only ten years.

Dr. Easley asked Mr. Torres to comment on what was done by the previous committee so we have some sense of where we are starting out. Mr. Torres said a lot of the time and focus of the committee was spent on reviewing the legal language of the Ordinance and, in a lot of cases, questioning some of the legal language, commenting it took awhile to get through that. He said at the said time there also were wireless issues. He said the committee got bogged down in those issues and wasn't very productive. He said the subcommittee that worked with the Complex got further along with the master planning

outline idea, and that is where there is a framework for this Committee to review going forward. Mr. Torres said a lot of points in the master plan report make a lot of sense, reiterating that the committee really got bogged down by a lot of these legal, wireless type issues for along long time. He said the preliminary report he will bring back to this Committee with regard to master planning will give this Committee a reasonable start.

Mr. Torres said neither this Committee, that committee, nor any other committee can just come up with a master plan. He said the best we can hope for is to come up with the components, the framework and a timeframe for what a reasonable master plan would look like. He believes this is what the City Council will be wanting to see in the first preliminary report from this Committee which, if the Council agrees to the changed timeframe, would be due in March 2012, six months from today's meeting. He said another report is due twelve months out, which would be June 2012. Mr. Torres said if the Council agrees, the Committee can begin looking at the outline of the master planning work done by the Complex - agreeing with it, disagreeing with it, changing it, or starting over whatever the Committee chooses and then reporting this Committee's progress on that effort by March 2012. He said we are further along than it might seem. He said once you get some more background information, you will see that there are a lot of big pieces there and it is up to this Committee to decide if this is the right focus, the right timetables, the right things to think about. And if not, then to decide what those things should be. Ms. Brennan said you are talking about generally outlining what a master plan should be and including, and thinking about how to fill in those blanks through existing resources, or outside consulting.

Mr. Torres said there is another group, the Santa Fe Regional Telecommunications Coalition composed of the City, the County and the Santa Fe Community College. He said he represents the City on the Coalition, which has been working for past 3 years on "essentially an *ad hoc* master plan based on a preliminary engineering report done by a broadband planning group, that outlines size, parameter, etc." Mr. Torres will bring this plan for this Committee to review. He said the Coalition has been working to get funding to actually enact the plan, but that funding hasn't happened. He said the Coalition is now seeking planning funds which are becoming available at the Federal level to do the engineering hard work on a serious master plan. He said the work of this Committee will sort of inform any kind of proposal to the State or Federal level for planning monies to do a formal regional master plan for telecommunications.

Dr. Easley asked if the people who worked with the Santa Fe Complex are still available to continue that work. Secondly, he would like a "brief, 30,000 foot overview of what they're looking at, at the Santa Fe Complex, what their vision is and how they would make this master plan work out." Mr. Torres said Gar Clarke was a member of the subcommittee, commenting it was sort of *ad hoc*, and there were some people from the Complex, others from the community. He can find out their availability to continue that dialogue, noting Richard Lowenberg was on that subcommittee, and he can speak to that. Responding to Dr. Easley, Mr. Lowenberg said he still is a member of the board. He said 1<sup>st</sup>-Mile Institute, an organization within New Mexico, which is focused on broadband issues, is a program of the Santa Fe Complex. Mr. Lowenberg said he prepared the report which was submitted, recommending a master plan as basis for comprehensive and



coordinated decision-making. He said there is an economic dimension critical to decision-making which is missing right now, and a number of other issues. He said he believes we need an assessment of the current assessment of the current situation in Santa Fe, and an assessment of costs of other factors, and then present a number of options for decision-making, noting he believes any plan should be phased. It was the feeling of the Complex that a master plan should be comprehensive and should assist decision-making.

Mr. Clarke asked if there is a structure, an active group that is doing this now. Mr. Torres said at the heart of the Santa Fe Regional Coalition is a broadband, middle mile, fiber optic network with 144 strands, 100 Megabits minimum with a 1-gigabit network system at 106 anchors, very specific stuff, which would stretch from north Santa Fe to the Airport. He said as this moves forward, he can ask a member of the Coalition to brief the Committee on the work which has led into this. This is a very concrete plan to build a high speed broadband network for an open access network which is critical, which would be privately operated, municipally or regionally owned and providing access to any players on an equal basis.

Dr. Easley said he doesn't disagree with Mr. Lowenberg. He said he [Easley] has experience in working on master plans. He is on the Railyard Board and they have the master plan for that. He said it is a very useful document, because it represents the consensus of a lot of people, which tightens the ability to have options. He said if you need options, you can go and ask the City and County for a waiver and a variance. He said we need to think carefully how we construct the master plan in terms of options. He believes it should be general enough to provide latitude to interpret. He said part of our charge is to get public input, which means we need to do consensus building.

Mr. Vincent asked if there are resources available to produce the master plan. Mr. Torres understood there were State resources at one time. Mr. Clarke said he is willing to provide part of that, but it's specific to creating a municipal/tribal master planning guidebook, which would be the outline. It would contain things such as Federal regulations, "gotchas," things you are learning such as the Telecommunications Act and what that means. He said this would be a first start at creating the outline, and gives him what he needs to create the guidebook. He said if Santa Fe Complex is the appropriate place to do this, he is willing to contract with them to start that. He said this could be another element for discussion at the next meeting, noting it is about \$45,000.

Mr. Torres would like to get a better idea of the costs, then we can go to our partners and ask what they can contribute. However, he doesn't want to do this until the costs are known. He hopes that we will be there by the end of the year, so we would have a general consensus of what the master planning would cost.

Ms. Brennan said it is important to remember that the legal considerations here are very important, noting it is very regulated. She said in April 2011, a Notice of Inquiry was posted by the FCC. It seems very clear that it was industry driven. She said the Telecommunications Act left the courts to decide a number of questions under the Act, on the theory the law would organically make a number of determinations which were suitable for localities. She said the industry hasn't been happy with a lot of those court

decisions and the variety of decisions in different jurisdictions, and has gone back to the FCC and are looking to get the FCC to put back what is now local regulation over ROWs. They also are trying to get tighter timeframes and it's an interesting exercise. She said the New Mexico Municipal League and a number of consultants are responding and trying to bring the FCC back to the realities of local life. Ms. Brennan observed that the FCC should not be regulating the rights of these localities.

Ms. Brennan said they have had no issues processing applications. She said the City has been held up by appeals, trials, continued public hearings and these kinds of things - about things specifically preempted by Federal law from our consideration but things within the jurisdiction of the Board in making a decision. She said a number of the appeals have, and are being heard in State courts - appeals mostly from wireless sitings. He said there is a Federal court ruling which very specifically defines the City's jurisdiction and what it can and cannot consider and why. She will provide a copy of that court ruling at the next meeting. She said therefore the master plan has to consider the legal framework at the moment and how it may change, commenting we are in a period of flux. Mr. Clarke agreed, saying this is a murky area, commenting this is what they want to "ferret out" with the guidebook. Mr. Lowenberg said he agrees the legal aspects are critical to avert further lawsuits and legal costs in missteps this area. He said, conversely, this is a time where there is a lot happening at the Federal level and the FCC is embroiled in a political process corporate reaction. He said Century Link, the new iteration of Qwest, is actively involved in lobbying in Washington and at the State level. He thinks we need to be very cautious in New Mexico in the next 1-2 years. He said this is a time of opportunity for certain municipalities to set example for the next iteration of local legal documents, planning documents, and various finance and investment approaches, et cetera, to telecommunications. He said we could get expert Federal help on our master plan from other communities across the nation to create a template for Santa Fe and other New Mexico municipalities.

Mr. Vincent asked if there are good models that are ahead of this trend. Mr. Lowenberg said that is tricky, commenting they are, but it's hard to discern. He said there are good models emerging about what not to do as well as what to do - who's doing it right. He commented ARRA funds would be available, as well as funding from the State to assist us in doing this the right way. He said failures are really harmful.

*Ms. Brennan and Mr. Moody left the meeting*

Dr. Easley asked if Pojoaque, or other similar communities, have a stake here. Mr. Gentry said that's hard to say, noting Pojoaque has an agreement with Qwest, which might be a barrier to them participating in a community type system such as is being discussed, commenting he really can't speak to this at this point. Mr. Torres said it is obvious that the City's Resolution and Ordinance apply to the limits of the City. However, the City is a member of the Santa Fe Regional Telecommunication Coalition ["SFRTC"]. He said this Committee may want to look at a regional approach to master planning since the City is in this partnership. The Committee has the ability to impact the decisions of the Coalition, noting it is in the stated duties and responsibilities that this Committee will work closely with the SFRTC. He said REDI Net is involved in this

effort, noting REDI Net is involved in an SFRTC funded broadband project, and he can ask one of its representatives to brief this Committee on its work. He said the REDI Net and Kit Carson projects and the SFRTC are three technically consistent projects which were submitted as separate projects to the Federal government. He said for all intents and purposes, you can connect them "straight down the line" and every one of the components are the same. He reiterated they are working on a regional broadband network which would stretch from Taos to Santa Fe, and that's still technically consistent with the way it's laid out.

Dr. Easley asked the one or two principal strategic goals of what we're doing here - "what are we trying to get to; what's our ultimate accomplishment out of doing all this; where do we want to be that we're not now." Mr. Torres said, in his opinion, it is the role of this Committee to evaluate the plans and the proposals - is this the right thing, this broad band network, 144 strands connecting from "this place to that place," having the right anchors, etc., will this bring about a good economic development educational attainment, savings for the city in infrastructure. Dr. Easley said then these are very strategic goals. "Our goal is to advise them." Mr. Torres said yes, you need to advise them what they should or should not support.

Chair Carlisle asked how the Coalition master plan works with the Complex master plan. Mr. Torres said the Complex Master plan emerged from the City Council as a "separate and distinct thing." There were some members of the Coalition on that subcommittee, as well as the County, and the Santa Fe Indian School, and so forth. He said about half of the SFRTC was there in the subcommittee working with Mr. Carlisle and Ed Angel to inform them about regional ideas and to get their input on what made sense. He said, "The work of the Complex, initially, was informed by the SFRTC and it was cooperative between the two, so it's not like there's going to be anything radically different in there the SFRTC isn't with, and once you get the report, you'll be able to look at it and ask more questions about that."

Mr. Vincent said Design 9 already has produced quite a few master plans for communities. He asked for an idea of the cost. Mr. Lowenberg said, based on various factors, somewhere between \$30,000 to \$75,000 for an extensive assessment overview of a lot of things, noting this can be done in phases as well. One of his concerns right now is that decisions aren't well coordinated. He said the SFRTC and the fiber potential are an important piece of the puzzle. He said there are other different pieces which need to be addressed, such as, for example the different steps needed to be taken by City Public Works, should we have a dig-once ordinance, should we be tracking spatially the activities of the providers - things which cost almost nothing. Mr. Clarke asked Mr. Lowenberg to provide samples of regional or city-wide master plans to this Committee so we can get an idea of what the "guts of this thing are looking like." He believes this would be a good place to start so we know what we're talking about, in terms of what makes a good master plan, especially regional master plans. He said the coupling of what the City is doing and what the regional coalition is doing is very important. Mr. Lowenberg said he can get him different things. He said most are specific to a specific community, and an RFP. He has seen no plan which deals with the next iteration of community network planning. He said he can provide good examples. Mr. Clarke said

then perhaps he could provide the Committee with two or three examples so we can look at the components. Mr. Torres said he already has five reports, one of which is from 1<sup>st</sup>-Mile, which he can email to the members of the Committee. He suggested at the next meeting, the Committee look at the background information from the Santa Fe Complex Report, the SFRCC Broadband Planning Group Report, and some information about REDI Net from Northern New Mexico. He said the Committee can decide, based on that information, how deeply the members want to get into master plans and other things as a starting point. He said in the interim he will get with Mr. Lowenberg with regard to other information he can provide.

Dr. Easley asked if the City follows the same rules as the State Procurement Code, noting any contract over \$50,000 has to be done through an RFP process, and asked if this is the same as the City, and Mr. Torres said this is correct. Mr. Clarke said one track would be to look at this as component where the State would buy one component, the City another, and keep everything under \$50,000. He said his funds are specific to a guidebook which would build on something else. Mr. Torres said the Economic Development Division developed several RFPs. He said they figure a 90-day period based on their template. He said the component approach might be the quickest way to get this done.

Mr. Vincent said he believes we need an inventory fairly soon, but said it doesn't sound like we would get to that very quickly. Mr. Clarke said that probably needs to be done by City staff. He said the ROW is a big issue. He said one of the grant pieces he's looking at is to create a ROW contact list for the State, which would include Federal, tribal and local governments - where/who do you go in the City to ask about a ROW – a person and contact. He said this won't identify the ROW, commenting it is a huge undertaking which needs to be done eventually. Dr. Easley asked Mr. Clarke how much of the GPS data he collected would be available now to facilitate that process. Mr. Clarke said, in terms of broadband planning, they haven't launched their website, but he will email the website address to everyone when it is launched. He said it contains an interactive broadband map, and you can type in your address, and see what broadband and technology are available for that site, noting you can also do a grab by area, and it will "pop you over to what providers are in that area and what technologies." He said they have non-disclosure agreements with 50 providers to get their data, whether it is DSL, mobile or microwave, etc. He said this looks at availability, noting they also are collecting speeds, but there are so many variables he doesn't want to publish it because it becomes a point of contention. Mr. Torres said, "One caveat about the broadband mapping is that it's inaccurate. The SFRTC has been using Federal mapping tools, and the information we get back is that we are 96% connected here in Santa Fe and we don't need any broadband, at speeds that are incredible.... it makes it hard for the SFRTC to make a case for a need when it is being reported at the Federal level that we don't need any broadband. Mr. Clarke said they give their information to the feds, and he would suggest that we use his, Mr. Clarke's map. He said there is a speed tester on the map as well.

Mr. Torres reiterated, under the Ordinance, that the first report is due March 2012, 6 months from our starting date, today. He said the second report is done within 12 months of today, in June 2012 (Mr. Vincent later questioned this timeline as 12 months would be the end of September, not June. Mr. Torres concurred). He said the third report is

contingent on adoption of an actual Telecommunications Plan, noting it would be due 6 months after that. He proposed we postpone discussion on that well into the future. Chair Carlisle said one problem the initial committee experienced was that at "every meeting it came up, what does the Committee do, and we never got the question answered. So I want to make sure before we move forward, that we're not doing this at every Committee and that everybody understands what the Committee is supposed to do." Mr. Clarke said that is fairly clear in the Resolution. He believes our focus is master planning, and commented that's a lot of work.

Mr. Torres said to that end he will be providing the Committee with a lot of reports and studies, and if the Committee would like any witnesses or presentations as the discussions proceed, they should let him know and he will get those people and/or entities before this Committee.

Dr. Easley said, "What I see us doing is, we're managing a process, and the process is the master plan and the framework and all that. And we're actually to manage that process and see that it gets done, because we don't have the resources to go full out on our own and sit down at the table and crank that out. Does anybody disagree that that is really what we're doing here, is manage this process to a specific outcome down the road. Is that a fair description of what you see." Mr. Gentry said he agrees, but he is questioning where the resources will come from. He asked what resources does the City have, and what staff is committed to this. Mr. Torres said he sees it in terms of background and preparatory work, so whatever City staff persons you need to prepare things for you, you can give him that information. He can't say until he contacts them what kinds of resources they have in terms of "turning stuff around."

Mr. Clarke said one action might be that City staff develop the contract vehicle for the first increment we're discussing, which is the master guidebook which will give us the outline. He said he will provide the small contract vehicle for that, as well as the deliverable tables which are required. Mr. Torres asked if the Committee wants to work on a scope of work, or give him a scope of work and he can include that in the instrument. Mr. Clarke said no, he wants to provide the City "with the constraints of the dollars" he has, and then the City will produce the scope of work, keeping in mind this will build upon something which will be a master plan for the City. However, the first increment will be a master planning guidebook for all municipalities, which is the first step for providing an outline. Dr. Easley said the Committee can review it, and if we like it, he can issue a contract for someone to start working on it. Mr. Torres said he and Mr. Clarke can communicate, and he then will develop a draft scope of work for the Committee for review at the next meeting.

Chair Carlisle asked if the Committee would have anything to do with the ENMR-Plateau application. Mr. Torres said in this iteration of the Committee, there is no specific legal requirement for this Committee to provide input, or to deny or to approve any franchise agreement, although Ms. Brennan did ask for input which is fine. He said that was a specific requirement of the previous committee.

Mr. Clarke said he presumes the ENMR-Plateau request is to run fiber on the northern boundary of Santa Fe. Mr. Torres said yes, the ENMR-Plateau request is connected with the Northern New Mexico REDI Net project, which terminates at North Paseo Peralta. He said ENMR-Plateau originally had agreed with Santa Fe County to provide an extension of that connection from Paseo de Peralta, down St. Francis, across Rodeo Road to the proposed SFRTC pod which is on County land. He said the SFRTC pod connection actually will be built to get this interconnect connection from ENMR-Plateau. He understands the agreement is in exchange for space in the pod, based on ARRA dollars, so they are using the BTOP ARRA dollars to extend that connection.

Mr. Clarke said, for everyone who wants to be more familiar with all of the other BTOPs [Broadband Technology Opportunities Program] that have been awarded in New Mexico, the website has a brief description of those - amount of money and contacts - a one-stop shop place.

Mr. Torres said they aren't proposing to do any last mile service.

Mr. Gentry said the reason he asked is if this Committee gets into an advisory position, he will have to excuse himself from one board or the other, because he serves on the REDI Net Board. Mr. Torres said he can recuse himself. He said this Committee will not be making any policy decision, but it will make recommendations which then will be acted upon, or not, by the City Council.

Mr. Lowenberg said he has been talking with ENMR-Plateau about a potential southern open fiber lay south of Santa Fe which is another fourth leg to the regional fiber network which could create greater impetus for ENMR-Plateau and the City to do some of this in addition to the northern piece. Mr. Torres said the City also has been in discussions with ENMR-Plateau to try to figure out how the City can partner with it to expand this broadband network which ENMR-Plateau is putting in for the SFRTC's and the City's use. The discussions have yielded nothing to this time, but continue to happen.

Chair Carlisle asked Mr. Torres if he will be preparing items for the Committee which are required when it is necessary for the Committee and/or staff to appear before the Council. Mr. Torres said yes he will be taking items to the Council, if the Committee would like him to do so, noting the first item he will be taking to the Council will be the timetable with the reports, and Chair Carlisle said he would like Mr. Torres to do so. Dr. Easley said members of the Railyard Corp. are sometimes asked to attend to the Council to provide support, but staff usually presents to the Council. Mr. Torres said he will let the Committee know when items are on the Agenda. He said whether members attend is their decision.

Chair Carlisle asked if things from the Committee need to go before other City committees before going to the City Council. Mr. Torres said yes, probably to the City Council and Public Works, and it might to before other committees as well.

Responding to Mr. Vincent, Mr. Torres said the report due in September 2013, would be the meat of the work of this Committee, which is to look at everything, and make final

recommendations for master planning. And if the Council adopts it, the Committee would work on developing the formal resolutions which would be adopted by the City Council.

### **III. ITEMS FROM THE COMMITTEE**

There were no further items from the Committee.

### **IV. ITEMS FROM STAFF**

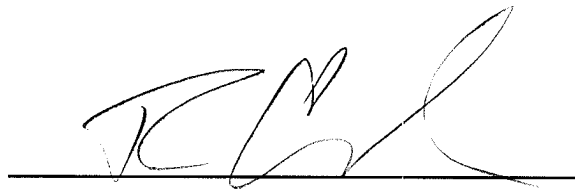
Mr. Torres reminded the members of the Committee that the Committee can form subcommittees of this Committee to continue to work outside the meetings, which is the way the previous Committee worked with the Complex. He said it is important to note that those subcommittees can include other people who don't serve on this Committee. Chair Carlisle asked if there is an approval process for creating and naming people to subcommittees of the Committee. Mr. Torres said no, because those are formed by this Committee, and it is at the discretion of the Chair and the Committee to decide the formation and membership of any subcommittees.

### **V. NEXT MEETING DATE – TBD**

The next meeting of this Committee will be on October 20, 2011, at 10:00 a.m.

### **VI. ADJOURNMENT**

There was no further business to come before the Committee, and the meeting was adjourned at approximately 11:30 a.m.

A handwritten signature in black ink, appearing to be 'R. Carlisle', written over a horizontal line.

Richard Carlisle, Chair