

**TOWN OF OPHIR
RESOLUTION 2015-1**

TAKING FORMAL ACTION TO AUTHORIZE MUNICIPAL BROADBAND-RELATED ACTIONS

WHEREAS, CenturyLink currently is the sole private provider of telephone service to the Town of Ophir and its subscriber residents within the Town of Ophir and the region. Ophir currently lacks “advanced internet service” and “cable television service” as those terms are defined by Colorado statutes¹. Upload speeds often do not approach 256Kbps through the current satellite providers, the service is very unreliable, and has low data quotas; and

WHEREAS, Ophir has sent a letter to Century Link requesting agreement to provide “advanced internet service” and “cable television service” to the Town of Ophir and its subscriber residents pursuant to provisions of subsection (1)(b) of C.R.S. § 29-27-202. Exemption for unserved areas:

- (1) A local government shall be exempt from the requirements of this part 2 and may engage or offer to engage in providing cable television service, telecommunications service, or advance service if:
 - (a) No private provider of cable television service, telecommunications service, or advanced service provides the service anywhere within the boundaries of the local government;
 - (b) The governing body of the local government has submitted a written request to provide the service to any incumbent provider of cable television service, telecommunications service, or advanced service within the boundaries of the local government; and
 - (c) The incumbent provider has not agreed within sixty days of the receipt of a request submitted pursuant to paragraph (b) of this subsection (1) to provide the service or, if the provider has agreed, it has not commenced providing the service within fourteen months of the receipt of the request.

WHEREAS, the General Assembly of the Town of Ophir desires to engage in or offer to engage in cable television service, telecommunications service, or advance service if the local provider does not agree to provide such services in accordance with statutory requirements; and

¹ § 29-27-102. Definitions

As used in this article, unless the context otherwise requires:

- (1) "Advanced service" means high-speed internet access capability in excess of two hundred fifty-six kilobits per second both upstream and downstream.
- (2) "Cable television service" means the one-way transmission to subscribers of video programming or other programming service, as well as subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

WHEREAS, Federal Communication Commission maps incorrectly list the Town of Ophir as served by broadband services; and

WHEREAS, the Town of Ophir may be eligible to apply for certain grants, including Connect America and Colorado Department of Local Affairs (DOLA) grants to assist with the planning, design, engineering, surveying, of facilities to possibly provide or assist in providing high-speed broadband internet service including “advanced internet service” and “cable television service” to the Town of Ophir, its residents, and potentially enable in cooperation with third parties provision of such services in all or part of the nearby region, including Trout Lake, Ames Fork subdivision, the Ophir Valley, San Bernardo subdivision, Pathfinder subdivision, and other nearby areas; and

WHEREAS, the Ophir Broadband Committee has been established to investigate options for providing or obtaining broadband service within Ophir and the nearby region; and

WHEREAS, the Town of Ophir has contracted with Tri-State to provide Ophir with a CH2M engineering services feasibility study for the installation of an Optical Ground Wire extension on the existing Telluride-Ophir 115kv line; from Ames substation to Ophir; and

WHEREAS, the Town of Ophir has commenced discussions with San Miguel Power Company, the United States Forest Service, San Miguel County, and private landowners to acquire easements to obtain broadband signal in the Pathfinder subdivision and extend that signal to a potential connection to OPGW at the Ames substation and over public and private lands.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR THAT:

SECTION 1. Formal Action to Authorize Municipal Broadband

- A. The General Assembly hereby takes formal action to authorize, accordance with C.R.S. § § 29-27-202, the Town of Ophir to engage or offer to engage in providing directly or indirectly cable television service, telecommunications service, or advance service within the Town of Ophir, provided that CenturyLink does not agree to provide such services as outlined above in accordance with statutory requirements. The General Assembly hereby ratifies and retroactively approves the request to CenturyLink described above.
- B. In the event that CenturyLink does agree to provide such service but does so in a manner that would require the Town of Ophir and its subscriber residents to pay the cost of new or modified facilities as a condition of providing such service, the Mayor may call an election for referendum pursuant to § 29-27-201. Vote – referendum. The ballot at an election conducted pursuant to this section shall pose the question as a single subject and shall include a description of the nature of the proposed service, the role that the local government will have in provision of the service, and the intended subscribers of such service. The ballot proposition shall

not take effect until submitted to the electors and approved by the majority of those voting on the ballot.

SECTION 2. Action to Authorize Applications for Grants.

The General Assembly hereby takes formal action to authorize application by the Town of Ophir to apply for and obtain Connect America, DOLA, or other public and private grants for the purpose of directly or indirectly providing or obtaining broadband service to the Town of Ophir and potentially for all or part the nearby region. An attached Service Area Map is hereby adopted for such purposes. Such Map shall be subject to modification as planning progresses.

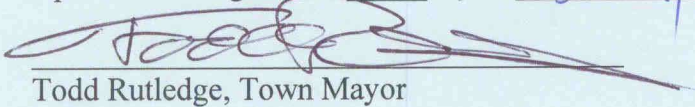
SECTION 3. Action to Authorize Negotiations, Acquisitions, and Applications for Extension of Broadband Service.

The Mayor, Town Administrator, Ophir Broadband Committee, and Town Attorney are authorized to negotiate to acquire or enter into agreements to acquire easements, licenses, and interests, and contracts necessary to acquire and extend directly or indirectly broadband service to the Town of Ophir and its subscriber residents and potentially to customers or localized providers in the Service Area. The Town of Ophir is authorized to apply to the U.S.F.S. for a special use permit for extension of broadband cable and/or OPGW over Forest Lands. Consideration and final execution shall be approved after recommendation by the Ophir Broadband Committee by Motion and Vote by the General Assembly and subject to annual appropriations.

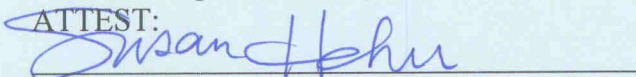
SECTION 4. Action to Authorize Related Actions.

The General Assembly hereby authorizes all necessary and related actions by Town officials to promote the rapid and efficient provision, directly or indirectly, of broadband service to the Town of Ophir and potentially for all or part the nearby region as cost-effectively as possible, subject to necessary approvals by the General Assembly when required by the Ophir Home-Rule Charter.

RESOLVED, APPROVED AND ADOPTED by the Town of Ophir General Assembly at a public meeting on this 20 day of January, 2015.



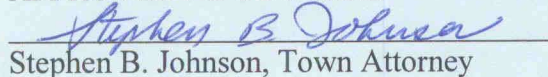
Todd Rutledge, Town Mayor

ATTEST:


Sue Hehir, Town Clerk

(SEAL)

APPROVED AS TO FORM:


Stephen B. Johnson, Town Attorney