

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 13, 2024

SUBJECT: Resolution 2024-21, Approving the Official Map for the Town of Keystone

Executive Summary:

This resolution establishes the map approved by the District Court in the Town's incorporation proceedings as the official map for the Town of Keystone.

Recommendation:

Staff recommends that the Town Council approve Resolution 2024-21 approving the official map for the Town of Keystone.

Background:

Now that the Town's incorporation is complete, it is helpful to have an official map of the Town delineating its territorial boundaries. Because the Town's incorporation was based on the same map approved by the District Court in the Town's incorporation proceedings, it's reasonable for the Town to use that court-approved map as the official map of the Town of Keystone.

Alternatives:

N/A

Financial Considerations:

None.

Previous Council Actions:

None.

Next Steps:

None.

Suggested Motions:

I move to APPROVE Resolution 2024-21 Approving the Official Map for the Town of Keystone

I move to DENY Resolution 2024-21 Approving the Official Map for the Town of Keystone

Attachments:

- Resolution 2024-21 Approving the Official Map for the Town of Keystone
- Exhibit A: Official Map for the Town of Keystone

**TOWN OF KEYSTONE
Summit County, Colorado**

RESOLUTION 2024-21

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO
APPROVING THE OFFICIAL MAP FOR THE TOWN OF KEYSTONE**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, on April 3, 2023, the District Court for Summit County entered an order approving the petition for incorporation of the Town together with a map of the proposed Town of Keystone in Case No. 2022CV30105, and the Town was subsequently incorporated based on such map; and

WHEREAS, a copy of the map the District Court approved (the “Court-Approved Town Map”) is attached hereto as **Exhibit A**; and

WHEREAS, the Town Council desires to approve the official map for the Town.

Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:

Section 1. Town Council approves the Court-Approved Town Map as the Official Town Map of the Town of Keystone.

Section 2. The Official Town Map of the Town of Keystone shall be amended and revised when any future annexation or disconnection of territory to or from the Town becomes legally effective.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

ADOPTED by a vote of ___ in favor and ___ against, this _____ day of _____, 2024.

By: _____
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: _____
Town Clerk

By: _____
Town Attorney

EXHIBIT A
OFFICIAL TOWN MAP

Official Map Town of Keystone

All in Township 5 South, Ranges 76 and 77 of the 6th
Principal Meridian

B. Vail Summit Resorts - Tract Z in the
Village at Wintergreen First Amendment
Reception No. 1206102

A. Vail Summit Resorts - Old Keystone
Golf Course Sub Open Space
Reception No. 553524







E. Vail Summit Resorts - Tract E in
Keystone Ranch Phase I Amended
Revision I
Reception No. 243457

D. Vail Summit Resorts - Tract F
in West Ranch
Reception No. 227170


C. Vail Summit Resorts - Tract B in
Mountain House at Keystone
Reception No. 637475

Notes:
 1. Parcel boundary data compiled from Summit County GIS data in addition to CDOT right-of-way information. Data downloaded 6/20/2022.
 2. Public Land Survey System data downloaded from Bureau of Land Management on 6/20/2022.
 3. Map Date: 7/27/2022.

Legend

 Proposed Boundary	 Township and Range Lines
 Parcels	 Section Lines
 Road Centerlines	 Fractional Portions of Sections

0 500 1,000 2,000 Feet
 1 inch = 1,000 feet



Point of Beginning
for the Description of the
Territory of the Town



TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 13, 2024

SUBJECT: Resolution 2024-22, Designating the Official Newspaper of Record for Publishing Local Legislation and Other Matters

Executive Summary:

Articles 6 and 10 of Keystone’s Home Rule Charter include certain notice and publication requirements in conjunction with the enactment of legislation (ordinances) and budgets. The proposed resolution before you would designate the Summit Daily as the official newspaper for purposes of fulfilling the publication requirements of the Charter and other matters for which legal notice is required, such as land-use matters.

Recommendation:

Staff recommends that the Town Council approve Resolution 2024-22, Designating the Official Newspaper of Record for Publishing Local Legislation and Other Matters.

Background:

The Town’s Charter, as well as many state statutes, require the Town to publish notice in advance of a Town action being considered, immediately following the official action, or both. For transparency and consistency, it is beneficial to identify and designate the newspaper for these publications and which meets the qualifications of a “legal newspaper” set forth in C.R.S. §§ 24-70-102 and 103. This resolution designates the Summit Daily as the official newspaper for these publications.

Alternatives:

N/A

Financial Considerations:

None.

Previous Council Actions:

None.

Next Steps:

None.

Suggested Motions:

I move to APPROVE Resolution 2024-22, Designating the Official Newspaper of Record for Publishing Local Legislation and Other Matters

I move to DENY Resolution 2024-22, Designating the Official Newspaper of Record for Publishing Local Legislation and Other Matters

Attachments:

- Resolution 2024-22, Designating the Official Newspaper of Record for Publishing Local Legislation and Other Matters

**TOWN OF KEYSTONE
Summit County, Colorado**

RESOLUTION 2024-22

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO
DESIGNATING THE OFFICIAL NEWSPAPER OF RECORD FOR PUBLISHING
LOCAL LEGISLATION AND OTHER MATTERS**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, Sections 6.5 and 6.6 of the Keystone Home Rule Charter require the “publication” of ordinances approved on first reading, as well as the “publication” of ordinances following final passage; and

WHEREAS, Sections 10.6 and 10.12 of the Keystone Home Rule Charter requires the “publication” of hearings on the proposed budget and the adopted budget; and

WHEREAS, Section 10.14 of the Keystone Home Rule Charter permits the “publication” of records of expenditures; and

WHEREAS, the Town Council wishes to designate an official newspaper of record for the purposes of publishing the actions of the Town and Town Council regarding proposed legislative actions and final legislative enactments, as well as notices of public hearings on budgets or land-use matters, notices of an adopted budget, records of expenditures, and all other required legal notices; and

WHEREAS, the Town Council finds and determines that the Summit Daily is a newspaper of general circulation within the town within the meaning of C.R.S. § 31-16-105 and meets the qualifications of a legal publication and newspaper prescribed in C.R.S. §§ 24-70-102 and -103, respectively.

Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:

Section 1. The official newspaper of general circulation for publication of proposed or adopted ordinances, including emergency ordinances, any notice of a hearing on a proposed budget, any adopted budget or any record of expenditure, or other required legal notice shall be the Summit Daily; except that if the Town Clerk determines that the submission schedule, publication deadline, or other circumstances make publication in the Summit Daily ineffective, impossible or otherwise undesirable, the Town may utilize another newspaper published or having general circulation within the limits of Keystone.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

ADOPTED by a vote of ___ in favor and ___ against, this _____ day of _____, 2024.

By: _____
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: _____
Town Clerk

By: _____
Town Attorney

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 13, 2024

SUBJECT: Resolution 2024-23, Designating the Official Address for the Town of Keystone

Executive Summary:

This resolution establishes the official address for the Town of Keystone for purposes of receiving official correspondence.

Recommendation:

Staff recommends that the Town Council approve Resolution 2024-23 designating the official address for the Town of Keystone.

Background:

Now that the Town's incorporation is complete, it is helpful to have an official address of the Town for purposes of receiving official correspondence addressed to the Town or its officers. The Town Clerk is charged with, among other things, keeping the Town's records and papers. Because the Town Clerk's office is located at Town Hall, it's reasonable for the Town to use the address for Town Hall as the official address of the Town of Keystone.

Alternatives:

N/A

Financial Considerations:

None.

Previous Council Actions:

None.

Next Steps:

None.

Suggested Motions:

I move to APPROVE Resolution 2024-23 Designating the Official Address for the Town of Keystone

I move to DENY Resolution 2024-23 Designating the Official Address for the Town of Keystone

Attachments:

- Resolution 2024-23 Designating the Official Address for the Town of Keystone

**TOWN OF KEYSTONE
Summit County, Colorado**

RESOLUTION 2024-23

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO
DESIGNATING THE OFFICIAL ADDRESS FOR THE TOWN OF KEYSTONE**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the Town Council desires to designate the official Town address for purposes of receiving official correspondence.

Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:

Section 1. The official address for the Town of Keystone for purposes of receiving official correspondence addressed to the Town or its officers and employees shall be 1628 Sts. John Road, Keystone, Colorado 80435.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

ADOPTED by a vote of ___ in favor and ___ against, this _____ day of _____, 2024.

By: _____
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: _____
Town Clerk

By: _____
Town Attorney

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: Gary Martinez, Interim Town Manager
FROM: Jennifer Madsen, Town Attorney
DATE: February 13, 2024
SUBJECT: Resolution 2024-24, Approving a Colorado Open Records Act Policy

Executive Summary:

This resolution designates the Town Clerk as the official custodian of Town records and setting forth the Town's Clerk's rules and regulations for inspection of public records.

Recommendation:

Staff recommends that the Town Council approve Resolution 2024-24 approving a Colorado Open Records Act policy.

Background:

The Colorado Open Records Act (CORA) is intended to promote public access to records and transparency in government. CORA provides that a custodian of records responds to requests for public records. The town clerk typically serves in the role of the records custodian.

Resolution 2024-24 approves a policy designating the Town Clerk as the official custodian of records for the Town. The policy also sets the Town Clerk's rules and regulations related to open records requests.

The Colorado state legislature enacted CORA in 1968, two years after Congress adopted the federal Freedom of Information Act. CORA covers public access to the records of government at the state and local level, except for criminal justice records. A separate law added in 1977, the Colorado Criminal Justice Records Act (CCJRA), governs the disclosure of records kept by criminal law enforcement agencies (e.g., police departments, sheriff's offices, district attorneys, the Colorado Bureau of Investigation, the Colorado Department of Corrections).

CORA establishes a presumption that non-criminal justice records are open for public inspection unless a specific provision of CORA or another state law indicates otherwise, or inspection is prohibited by federal law or a court order. CORA specifies some categories of records that *must* be withheld; other categories of records *may* be withheld on the grounds that disclosure would be "contrary to the public interest."

Here are some categories of records that *must* be withheld from disclosure:

- Sexual harassment complaints and investigations.
- Trade secrets, privileged information and confidential commercial, financial, geological or geophysical data furnished by or obtained from any person.
- Letters of reference.
- Medical and mental health records.
- Records submitted on behalf of an applicant or candidate for any employment position (excluding finalists for an executive position). Note: the applications of past or current employees are open for public inspection and copying, except for letters of reference and medical, psychological, and sociological data.

Here are some categories of records that *may* be withheld from disclosure:

Here are some categories of records that *must* be withheld from disclosure:

- Test questions on licensing, employment or academic exams, but scores are available to the person in interest.
- Details of research projects conducted by a state institution, including research undertaken by legislative staff or the governor's office in connection with pending or anticipated legislation.
- Real estate appraisals until title is transferred.
- Data generated by the Department of Transportation's bid analysis and management system.
- Identifying information in motor vehicle license records.
- Email addresses, telephone numbers and home addresses provided by a person to an elected official or an agency, institution or political subdivision of the state.
- Specialized details of security arrangements or investigations or the physical and cyber assets of critical infrastructure. Records of the expenditure of public money on security arrangements or investigations are open for inspection.

Alternatives:

N/A

Financial Considerations:

None.

Previous Council Actions:

None.

Next Steps:

None.

Suggested Motions:

I move to APPROVE Resolution 2024-24, Approving a Colorado Open Records Act Polic

I move to DENY Resolution 2024-2024-24, Approving a Colorado Open Records Act Policy

Attachments:

- Resolution 2024-24, Approving a Colorado Open Records Act Policy

**TOWN OF KEYSTONE
Summit County, Colorado**

RESOLUTION 2024-24

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO
APPROVING A COLORADO OPEN RECORDS ACT POLICY**

WHEREAS, the Colorado Open Records Act, C.R.S. §§ 24-72-201, et seq., declares it to be the public policy of the state of Colorado that all public records are open for inspection by any person at reasonable times (except as otherwise provided); and

WHEREAS, C.R.S. § 24-72-203(1) permits the custodian of records to make such rules and regulations as to the inspection as are reasonably necessary for the protection of the records and the prevention of unnecessary interference with the custodian's regular duties; and

WHEREAS, the Town Council desires to adopt a CORA policy designating the Town Clerk as the official custodian of Town records and setting forth the Town's Clerk's rules and regulations for inspection of public records.

Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:

Section 1. The Town Council adopts the Administrative Policy Regarding the Provision of Public Records Pursuant to the Colorado Open Records Act designating the Town Clerk as the official custodian of all records and identifying the Town Clerk's rules and regulations related to the inspection of public records. The administrative policy is attached as Exhibit A.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

ADOPTED by a vote of ___ in favor and ___ against, this _____ day of _____, 2024.

By: _____
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: _____
Town Clerk

By: _____
Town Attorney

ADMINISTRATIVE POLICY REGARDING THE PROVISION OF PUBLIC RECORDS PURSUANT TO THE 'COLORADO OPEN RECORDS ACT'

Effective Date: These rules and regulations were adopted by the Keystone Town Council on February 13, 2024, Resolution 2024-24.

Custodian of Public Records: The Keystone Town Clerk is hereby designated as the official custodian of all records maintained by the Town of Keystone. The Town Clerk may, as deemed necessary, designate another person the duties required by these rules and regulations.

Town Clerk's Rules and Regulations:

1. Public records of the Town of Keystone are open for inspection and copying in the office of the Town Clerk during regular business hours as required by the Colorado Open Records Act, C.R.S. §§ 24-72-201, et seq. ("CORA") and except as otherwise provided.
2. All requests to inspect and/or copy public records must be made in writing to the Town Clerk. Each request shall include specific information about the record being requested as well as the requestor's name, address, and contact information. Requests may be made on forms provided by the Town Clerk or by any other written method.
3. Any requested public record not in the care, custody or control of the Town is not subject to inspection under these rules and regulations. Additionally, the Town Clerk has no obligation to reconstruct any record to satisfy the request. The Town Clerk will respond to the requesting party of this fact.
4. If the public record requested is in the care, custody or control of the Town and such record is not in active use or is in storage, and therefore is not readily available at the time the requesting party asks to examine it, the Town Clerk will set a date and hour at which time the record will be made available for inspection.
5. All original Town records shall remain in the possession, custody, and control of the Town Clerk at all times.
6. As required by law, the Town Clerk will redact any private, confidential, or otherwise protected information contained in a public record before releasing it to the requesting party.
7. The Town is not required to create a new public record or to create a different format than the existing one in response to a request.

8. Inspection of a public record will not be permitted if it is determined that the record is not permitted by any provision of the Colorado Open Records Act, 24-72-204(2)(a) and contrary to the public interest.
9. If the request is for a voluminous number of records and/or is likely to require more than one hour of time to complete the request, the Town Clerk may require the requesting party to make a reasonable deposit against the final cost of complying with the request. Once the deposit is filed, the Town Clerk will begin to fulfill the request.
10. The Town Clerk has three (3) business days in which to complete the request. If more time is needed, the Town Clerk may extend the time an additional seven (7) business days, for a total of ten (10) business days, to complete the request and will notify the requesting party of the additional time needed.
11. In calculating the due date, the Town Clerk applies the following guidelines:
 - a. If a request is received after 5:00 p.m., it is considered received the next business day.
 - b. In calculating the time to respond, the day the request is received is not counted.
 - c. For broad, general requests, the timeframe for fulfilling a request may be put on hold while the Town Clerk attempts to clarify or narrow the request with the requestor.
 - d. For requests that require a deposit or payment, the timeframe for completion of the request is put on hold until payment is received.
12. At the Town Clerk's discretion, requests with the same or similar search terms from one requestor will be consolidated as necessary, and the Town Clerk will notify the requestor of this decision. Each request will be handled in the order in which it is received. Once consolidated, the prescribed fee below will be charged for the staff time necessary to review and respond to the consolidated request.

Fees:

1. The first hour of research and retrieval is free. After the first hour, the rate for research and retrieval is \$33.58 and is pro-rated by the quarter of an hour.
2. Charges for copies of a public record is \$0.25/page.

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: Gary Martinez, Interim Town Manager
FROM: Jennifer Madsen, Town Attorney
DATE: February 13, 2024
SUBJECT: Option for Local Government Opt-Out FAMLII

Executive Summary:

This discussion is an overview of the Paid Family and Medical Leave Insurance (FAMLII) program and the ability of local governments to opt-out while still allowing employees to participate.

Recommendation:

Staff recommends that the Town Council provides direction to notice a decision to opt-out and provide written notice to the Town employees.

Background:

History of Paid Family and Medical Leave Insurance (FAMLII)

On November 3, 2020, Colorado voters approved Proposition 118 for the state run FAMLII program. Colorado is the ninth state in the county to pass paid family and medical leave into the law and the first state to secure paid and family leave through a ballot initiative. The Colorado General Assembly had tried without success to create a paid family and medical leave program in Colorado through legislation in 2019. and 2020. In 2020, the proposed bill was not introduced because, in part, the COVID pandemic hurt the legislators' ability to solicit input from businesses and other stakeholders. In 2019, the backers of the paid family and medical leave program had also withdrawn similar legislation. In place of a paid family leave bill, the Colorado General Assembly passed a bill that directed the governor and legislative leaders to appoint a 14-member task force to (1) study whether a third party should run any portion of the program; and (2) study the costs and financial risks of such paid family leave program.

For the 2020 ballot initiative, supporters of Proposition 118 campaigned that Colorado employees should have access to equitable and affordable paid leave and that workers should not have to decide between taking care of the worker's health or caring for a family member and that worker's financial stability.

Employers are required to start submitting premium payments to the state in January 2023 and benefits to employees will be available beginning January 1, 2024.

Overview of FAMLI

FAMLI is a two-part program. The first part provides job-protected leaves of absences for employees for specified reasons. The second part provides employees with partial replacement pay during the job-protected leave of absence.

FAMLI requires employers to provide twelve weeks of job-protected leave in a rolling calendar year for the following reasons:

- To care for a new child, including adopted and fostered children;
- To care for themselves, if they have a serious health condition;
- To care for a family member with a serious health condition;
- To make arrangements for a family member's military deployment;
- To address the immediate safety needs and impact of domestic violence and/or sexual assault.

During the leave of absence, employees receive partial replacement pay through the FAMLI program. Upon the filing of a claim, the State pays the employee for a portion of the weekly wage through a debit card or direct deposit. FAMLI requires that employers restore the employee to the position held when the leave started once leave is no longer necessary or the twelve weeks has elapsed.

Employers and employees are responsible for funding the FAMLI insurance program through payroll premiums. For the first year and through 2025, the premiums are set to 0.9% of the employee's wages and the employer and the employee may split the cost of paying for the premium—each paying half. Thus, under the 0.9% premium, the employer pays 0.45% and the employee pays 0.45%. Participating employers are required to remit the premium amounts in January 2023.

The weekly benefit paid to the employee on FAMLI leave is a calculation based on the employee's average weekly wage. The portion of the average weekly wage that is equal to or less than 50 percent of the state average weekly wage is replaced at a rate of 90% and the portion of the employee's weekly wage that is above 50 percent of the state average weekly wage is replaced at a rate of 50 percent with the maximum benefit being \$1,100 per week. Employees may begin to receive benefits on January 1, 2024.

Employees become eligible to take paid leave after they have earned at least \$2,500 in wages in the state (not with the employer). Employees are only entitled to job protection if they have been employed with the employer for at least 180 days prior to the commencement of the FAMLI leave.

FAMLI establishes the rules for coordination with employer provided disability policies and paid time off and catastrophic sick leave. Under FAMLI, employers may require that FAMLI leave benefits are coordinated with leave under a disability policy. However, employers cannot require employees to use or exhaust any accrued vacation leave, sick leave, or any other paid time off prior to or while receiving FAMLI benefits. An employer and employee may agree that the employee may supplement FAMLI leave benefits with accrued paid time off up to the cap of the employee's average weekly wage.

Local Government Opt Out

Local governments may opt out of the FAMLI program. The decision to opt out must be made by the governing body for the local government. A decision to opt out is only effective for eight years and the governing body must reconsider an opt out decision eight years later. At any time, a local government may decide to opt in to the FAMLI program. If a local government decides to opt in to the FAMLI program, that decision is binding for three years, and the governing body must wait three years before reconsidering whether to opt out.

A local government may decline all participation. This option means that if an employee chooses to participate, that employee would need to register with the FAMLI system with the Colorado Department of Labor and Employment and report the wage data and remit quarterly premiums.

A local government can choose to decline only employer participation. This option allows a local government agency to decline to pay the employer share of the premium, while still supporting employees who want to participate by voluntarily deducting and remitting the employee share of the premium (0.45% of wages) and corresponding wage data to the FAMLI Division every quarter.

For a decision to decline participation, the Town must provide public notice of the vote to decline participation and employees must also be notified in writing prior to the vote.

The Towns of Dillon, Frisco, and Silverthorne and Summit County have all opted out of FAMLI.

Individual Employees may Elect to Participate

If a local government decides to opt out, individual employees may decide to participate in the FAMLI program and pay the premium for the FAMLI benefits. These employees would pay their share of the premium (0.45%) and the local government employer does not pay the premium. If the employee is entitled to take leave under FAMLI, the state would pay the employee's paid leave benefits. An individual's decision to participate in the FAMLI program requires a three-year commitment to the program.

Alternatives:

Town Council may provide direction to further study FAMLI or to opt-in to FAMLI.

Financial Considerations:

If Town Council decides to opt-in to FAMLII, the Town would be responsible for remitting 0.45% of payroll to the State.

Previous Council Actions:

None.

Next Steps:

None.

Suggested Motions:

There are no suggested motions. The Town Attorney will seek direction from Town Council as to whether to schedule a hearing and bring forward a resolution opting out of FAMLII.

Attachments:

None

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
THROUGH: Gary Martinez, Interim Town Manager
FROM: Jennifer Madsen, Town Attorney
DATE: February 13, 2024
SUBJECT: Town Franchise Agreements

Executive Summary:

Franchise agreements allow private companies to make use of public rights-of-way for private purposes. Pursuant to a franchise agreement, a cable operator as well as a provider of gas and electric services must pay a franchise fee as compensation for the use of public property – similar to paying a lease for Town rights-of-way. These agreements are usually for longer terms such as 10-20 years.

Recommendation:

Staff recommends that the Town Council direct Staff to negotiate standard cable and gas/electric franchise agreements to bring back for consideration at a future Town meeting. Approval of franchise agreements with both Comcast and Xcel would be through enactment of ordinances.

Background:

The Town holds its streets in trust for public use. A franchise agreement allows a private company to use public property (specifically Town streets and roads) to make private profit. Franchise agreements require the company to operate in the rights-of-way in accordance with specific rules and to pay compensation to the public (the Town) for use of the public's property. A franchise agreement authorizes the Town to require a private company to pay compensation to the Town for the use of its rights-of-way, usually for a term of 10-20 years. Note that a franchise agreement is not an opportunity for government to dictate the operations and management of a private corporation.

Cable Franchise

A cable franchise fee is an annual fee charged by a local government to a private cable television company as compensation for using public property (similar to paying to lease Town rights-of-way). A franchise agreement is negotiated by the Town and a cable operator in accordance with federal regulations. A cable television operator may not provide service without a franchise. Franchise fees are analogous to rent for the use of the public rights-of-way. The franchise fee may be up to 5% of gross revenues which are derived from the operation of the cable system in the Town. You may see the franchise

fee listed as a separate line item on your bill as the cable provider has the right to pass through the fee directly to subscribers. Notably, phone and internet services are not subject to cable franchise fees and would not be subject to any franchise imposed by the Town. In essence, the cable franchise agreement just relates to cable tv, not to telephone or internet services (even though a private company may bundle such services).

Presently, Summit County has a cable franchise in place with Comcast. Now that the Town has incorporated, Summit County no longer has the authority to collect franchise fees for Comcast's use of those rights-of-way specifically in the Town's jurisdiction.

Gas/Electric Franchise

Franchise agreements are also required to legally authorize the occupation and use of public rights-of-way to provide gas and electrical services to the public. Typically, gas/electric franchises require the provider to remit 3% of all gross revenues received from the sale of electricity and gas within the Town.

Alternatives:

Town Council may decide not to enter into franchise agreements.

Financial Considerations:

The Town's future implementation of both cable and gas/electric franchises will create revenue for the Town.

Previous Council Actions:

None.

Next Steps:

If Town Council provides direction to negotiate franchise agreements, the Town Attorney will draft an ordinance for approval by the Town Council.

Suggested Motions:

There are no suggested motions. The Town Attorney will seek direction from Town Council as to whether to work on negotiating a cable franchise agreement with Comcast and a gas/electric franchise agreement with Xcel. These agreements would need to be approved by ordinance at future Town Council meeting.

Attachments:

None

TOWN OF KEYSTONE, COLORADO

STAFF REPORT

TO: Mayor & Town Councilmembers
FROM: Gary Martinez, Interim Town Manager
DATE: February 13, 2024
SUBJECT: Town Manager Hiring Process

Executive Summary:

The Interim Town Manager will provide an oral report on options for the process of interviewing and selecting a town manager. The Interim Town Manager will ask for feedback and direction from Town Council on this process.