**Southwest Colorado Council of Governments**

January 13, 2012 3:15 p.m.

Durango Public Library Program Room, Durango

**Members Present:**

Tom Yennerell, Town of Mancos

Bryce Capron, Town of Dove Creek

Joanne Spina, La Plata County

Jason Wells, Town of Silverton

Ron LeBlanc, City of Durango

Ernie Williams, Dolores County

Bobby Lieb, La Plata County

Miriam Gillow-Wiles, Town of Ignacio

Chris LaMay, Town of Bayfield

Willy Tookey, San Juan County

Greg Schulte, Archuleta County

Shane Hale, City of Cortez

David Mitchem, Town of Pagosa Springs

Dan Ford, Town of Bayfield

Gabe Candelaria, Town of Bayfield

**Guests:**

Gary Shaw Ute Mountain Ute Tribe

Ken Charles, DOLA

Chris Tookey, Town of Silverton

Bob Hart, Town of Pagosa Springs

**Staff/Consultants:**

Ed Morlan

Laura Lewis Marchino

Paul Recanzone

John Ehmann

**Call to order and Introductions:**

The meeting was called to order at approximately 3:15 p.m. by Tom Yennerell, Chair. Introductions were skipped given they were done at the immediately preceding Forum for Elected Officials.

**Additions or Changes to the Agenda:**

Decision E- Invoice communities that haven’t paid match yet- was advanced to be considered first in the decision section at the request of Ryan Mahoney and the approval of the Board.

Jason Wells indicated that the Town of Silverton will need to appoint a new alternate member because of the resignation of that responsibility by Pat Swonger to avoid a conflict of interest and asked whether that needed a Board vote. Laura Lewis Marchino explained the process for the Town to make a written notification of the change. Ed Morlan also indicated to Jason that the EAGLE-Net Regional Community Representative position will be discussed under the discussion section, along with the existing agenda item for the EAGLE-Net meeting.

**Consent Agenda:**

The Consent Agenda included the minutes for the Friday, December 21, 2011 meeting and the financial reports for November and December. Bobby Lieb asked about the negative account balance on the end of the year cash balance on the December balance sheet. Item C, the financial reports for December, was removed from the consent agenda and the rest of the consent agenda was approved. Laura Lewis Marchino then explained that a large check to the City of Cortez had to be cut before the end of the year prior to having an account receivable from DoLA to cover it (which has since been received). Laura indicated that the check was issued with confidence of reimbursement from DoLA and would not have been distributed until payment was made. She also indicated that she had met with the new Treasurer to establish working procedures. It is anticipated that there will be a need for one more revision of the 2011 financial reports at the next meeting to close the year out. Then Ernie Williams made the motion to approve the December 11 financial report and Bobby Lieb seconded the motion that passed with all in favor.

**Reports:**

The Chair asked for questions or comments on the management and telecommunication reports but they were accepted as presented without further discussion.

**Decision:**

Invoice communities that haven’t paid match

On item E, Invoice communities that haven’t paid match, Ed Morlan and Laura Lewis Marchino explained the impetus for the resolution- needing to receive local match before we can receive reimbursement from DoLA. The goals are to improve project cash flow and confirm continued community participation. The resolution seeks either payment of the initial 10% of local match billed for the project or at least the 25% match for expenses already incurred. Ryan Mahoney explained that because of an inability to immediately get fiber into the town of Dolores they have decided to wait on clarification of what Eagle-Net will be able to provide when their plans are made. There are also concerns on increases in the project cost estimate in the context of a tight town budget with other pressing priorities. Therefore they haven't included any money for the project in their 2012 budget. They are in a holding pattern but may still decide to move forward in 2013.

Ed Morlan reminded that 75% of project expenses are eligible for reimbursement thru the grant. He noted that other institutions besides the town would benefit from the project and could potentially be asked to help meet the match requirement. He also explained that there is information available giving more insight into EAGLE-Net's plan and possible financial participation that could help complete the project planned in the town of Dolores.

Tom indicated he had heard information that Rico Telephone might assist with the Rico payment. Ed indicated he had talked with Mike England and thought the payment could get made by Rico Telephone though it would require the approval of the town board. Ernie Williams also expressed concerns, indirectly on behalf of Rico and directly for Dolores County, about making payments into the project without knowing for sure what the project will do and deliver.

Both Ryan and Ernie expressed willingness to pay the 25% match for the expenses already incurred. Greg Schulte then moved that the communities who haven't paid local match yet be invoiced the 25% match for expenses already incurred. The motion was seconded and passed without objection.

Ryan indicated he would be making further investigation into the ability of the town of Dolores to complete the project, use and maintain it. Ed agreed that Dolores would need more equipment to take full advantage of the service.

Resolution 12-01

Bobby Lieb made the motion and David seconded that Resolution 12-01 designating 2012 check signers be approved and the motion passed without objection.

Contract with Region 9 for 2012

Laura Lewis Marchino explained that the contract to provide staffing and administrative services to the COG with Region 9 was limited to 6 months to encourage the COG to develop its own on-going capacity. Miriam Gillow-Wiles asked if Region 9 would be amenable with provide payroll services if the COG hired a staff person. Laura indicated that Region 9 would do so & continue to do the COG accounting and that the main focus was on addressing the staff time to provide support the COG meetings and projects.

General Manager services contract (Resolution 12-04)

On the General Manager services contract, Ed asked if the Board intended to consider this item in Executive Session. The Board decided to stay in open session. Tom Yennerell asked if we have a fundamental understanding with Arona to agree to the contract. Ed indicated he believed he does.

Miriam Gillow-Wiles asked about the length of the contract. Ed indicated it was set at 7 months based on the amount requested per month in the submitted proposal and the $55,000 budget. Bobby Lieb noted that the Board originally intended to contract for services for a year and also asked if the contract will be funded 100% from existing project revenues. Ed indicated that the 7 month term was based on the bid request for $7,000 per month and the available budget but acknowledged that further negotiation was possible if the Board decided to award the contract and desired further negotiation. Willy Tookey asked if 7 months is enough time to make revenue. The general manager contract work is intended to develop revenue and some revenue is already coming in from dark fiber leases and Ed indicated if the project proceeds as planned it would be enough time to make the budgeted revenues.

The just recently announced Eagle Net community representative position has some compatible duties and might provide some of the funding to the work so there are plans to pursue SCAN involvement with that position. Bobby Lieb asked if the expenses for the project consultant Paul Recanzone will go away. Ed said no because, while the roles are related, they each have a distinct focus and both are needed.Jason Wells asked if Dr. Smith intends to resign from the Eagle-Net board. Ed indicated that Dr. Smith intends to do so but is waiting to see if he is awarded this contract first. The Eagle-Net position decision is probably within a few weeks.

The Board discussed the requested monthly rate and reimbursement of travel expenses. Ed requested direction from the Board. There was some support from several members for use of an hourly rate instead of a monthly amount or at least the option of an hourly rate. The Board discussed several rate levels that could be offered. There was concern about how many hours we would be buying- 40 hours per week, more or less. There is no hours specification in the contract currently. Several members suggested a lump-sum contract was another option. Additional discussion was offered about the appropriate of paying expenses on top of the monthly rate, especially for routine travel to the administrative office or travel with the primary intent to raise additional revenue that could provide further support for extension of the contract services.

A motion was made by Dan Ford and seconded by David Mitchem to approve award of the contract conceptually, to enter into further negotiations with regard to hourly rate, hours and expenses but it was withdrawn.

There was further discussion of whether to ask for a non-compete clause and whether we could get one. There was a question of whether Dr. Smith might seek separate contracts with both SCAN and EAGLE-Net.

Several Board members noted the vital importance of Dr. Smith's participation in efforts to obtain the DoLA grant.

A motion was made by by Jason Wells to approve Resolution 12-04 to award of the contract conceptually, to enter into further negotiations for approval and signature of the chair, with the resolution modified to include taking into consideration items raised by the Board and applying best judgment on hourly rate, hours reporting, whether to pay expenses and non-compete protection. Discussion continued. Ron LeBlanc noted the challenges of making decisions on particulars in a contract as a large group and urged Ed to draw upon this discussion and the input of the Executive Committee and the Telecom Committee and pull together a best judgment solution. Ed advised the Board that there is some concern about Dr. Smith past relationship with Fast Track, as there has been between the project to date and Fast Track, but he has ideas to address it going forward. The motion on to approve Resolution 12-04 to award the general manager services to Arona and finalize the contract approval and signature of the chair was then made again by Dan Ford and seconded by Ernie Williams and it was approved without objection.

Eagle-Net non-disclosure agreement (Resolution 12-03)

The COG Board considered the issue of signing an NDA with EAGLE-Net. At the beginning of the discussion, Bobby Lieb reported that he had consulted with the La Plata County attorney about the COG signing the NDA and the opinion he got was that it was not appropriate for the COG as a public entity to sign the NDA, also noting his understanding was that EAGLE-Net and the COG were the same type of public entity. Greg Schulte, Archuleta County Manager, noted their legal counsel had said that it was more appropriate for an individual to sign the NDA as opposed to an organization. Shane Hale, Cortez City Manager, inquired if the COG could go into Executive Session and then Ed could disclose the information and it would be protected as confidential because it occurred in Executive Session. Pros and cons of that were discussed, one major con being that we should check back with EAGLE-Net first before doing this so as not to break any confidence.

Several board members noted practical difficulties with invoking non-disclosure and yet trying to communicate appropriately with their governments and communities.

A simple non-confidential summary prepared by Paul Recanzone was included in the packet.

Ed indicated that the additional confidential information would be of particular interest to about 5 communities and would provide details pertaining to specific routes to specific communities and specific carriers.

A motion for the COG to sign an NDA was made by Willy Tookey and seconded by Shane Wells but failed without any support despite interest in hearing the information. A motion to go into Executive Session was made by Shane Wells and seconded, discussed but then withdrawn. There was concern about the difference in legal opinions on how to proceed. The final outcome was that the confidential report that Paul had prepared was not shared at this time. Ed told the COG board that he did not think it would inhibit our progress with EAGLE-Net if they didn’t sign the NDA now and this information was not provided to them at this time.

**Discussion:**

Telecommunications:

The Telecommunications Chair Jason Wells noted the importance of further investigation into the EAGLE-Net community representative position. Ed indicated that he and Paul Recanzone are preparing a proposal to submit next week. The Century Link meeting went well. With regard to the search for a potential nominee to the EAGLE-Net board there were no volunteers and no other candidates identified yet so the item was tabled.

Invoice for additional Telecom match for cash-flow

This item was also tabled for now.

"All for one, one for all"

Ed briefly restated the benefits of an "all for one, one for all" project philosophy and discussed how in his view the process with the recent fiber extension to the airport varied from that operating strategy. He noted that we want to avoid vendors negotiating to individual member governments and have them to come to the SCAN network is because this approach maximizes what we can discuss and give and take with vendors, and it allows us to negotiate for the maximum benefit of the full region and the entire project. Bobby Lieb indicated that with community connections not yet in place it is difficult to say that there is a functional network yet and that reality partly explains why some discussions are occurring between individual governments and providers. The ownership of fiber also affects the communication choices. Ed mentioned Bayfield as an example where negotiations between a provider and the SCAN network could offer large benefits. A community open access policy with Century Link would lower Bayfield costs considerably and extend Fast Track's network. While there are mutual benefits in Bayfield itself, discussion with Fast Track at the network level would give us additional leverage and perhaps give them additional motivation to cooperate in Bayfield and elsewhere.

Report on Eagle-Net meeting

There is also a goal of bringing the SCAN and EAGLE-Net together to deal with vendors for maximum benefit to the projects.

Future COG staffing

The item was tabled.

Google Earth

A brief presentation was made on the use of Google Earth with regard to the SCAN project.

Google Earth can also potentially be a useful work tool. At the initiative of Paul Recanzone, the consultant to the SCAN project, Google Earth is being used as preliminary planning tool for the local community designs and the regional network. It can also be used in the near term to facilitate discussions with community leaders and other providers. Using additional shared screen technology, everyone on a phone call can see elements of the network design on their computer as well as “see” the physical environment they are located in the form of stock aerial or street level photos from their desk at a virtually infinite degree of zoom out and in. Google Earth was used in this manner yesterday to have a discussion with Century Link. It was also recently in presentations with the Knights of the Broadband Roundtable. It will be made available for Board member and community use. As community designs are finalized, the project will rely on the more robust mapping tool E-TICS purchased for that purpose.

**Announcements:**

Recognition of Dr. Rick Smith- A plaque was prepared as an expression of appreciation for past service and will be delivered to him at a later time.

The next COG meeting will be held on February 3rd in the Anasazi Room in the La Plata County Courthouse from 1:30 – 3:30 p.m.

**Adjourn:** The meeting was adjourned shortly after 5:00 p.m.

Minutes submitted by John Ehmann.