

**Synopsis:** *The City of Longmont, Colorado is considering providing not only Wi-Fi but also a whole package of telecommunications services, from voice to broadband to video, which would put the municipality in direct competition with multiple private companies. But market-oriented solutions are more efficient and less risky. Adopting the failed model of municipal networks is a mistake, as many municipalities across the country can attest.*



## A MUNICIPAL COMMUNICATIONS NETWORK IN LONGMONT—STILL A BAD IDEA

*by Bartlett D. Cleland*

For years, municipalities around the country have tried and failed to either set up communications networks or to partner with private companies to get into the business of video and telecommunication services. The reasons for the failures are numerous, including bankruptcy of a private “partner,” often resulting in taxpayer funds being wasted. And while some would nitpick the details of the failures, the fact remains that taxpayer money was put at risk, sometimes without approval of taxpayers, and was often squandered.

Nonetheless, some in Longmont seem enthralled with trying the same thing over and over again but expecting a different result; insisting, despite all evidence to the contrary that their path is one fraught with peril, they somehow will fare better than the many others before them.

In fact, Longmont wants to take things one step further and undertake providing not only Wi-Fi but also a whole package of telecommunications services, from voice to broadband to video, which would put the municipality in direct competition with multiple private companies. But adopting the failed model of municipal provision of communications services is the wrong idea, as many municipalities across the country can attest.

### A HISTORY OF PROBLEMS WITH MUNICIPAL SYSTEMS

In 2004, IPI first cautioned municipalities about the risks of municipal broadband networks and local Wi-Fi projects. We explained that governments chronically underestimate the cost of building out and maintaining networks, and chronically overestimate adoption

rates. We described the hazards of government entities “competing” with private sector companies. But even by 2004, municipal broadband networks were already losing money in a number of cities across America. In 2007, IPI updated our findings and described subsequent failings in places such as Tempe (Arizona), Chicago, Philadelphia, Portland, Ashland (Oregon), Lompoc (California), and Orlando.

Longmont itself is no stranger to challenges and failures with municipal networks. While taxpayer funds were expended in 1997, 14 years later the promised potential has never materialized, despite two private service provider attempts (in 2001 and 2007) and failures. And, of course, loss of potential is hardly the biggest concern when taxpayer money was wasted.

In 2009, Longmont gambled again, asking citizens if the city could wager their money and city resources to update and operate a network. Longmont citizens wisely voted down this risk by a huge margin. But in 2011, those who favor government competing with the free market are at it again.

There are several inevitable problems with municipal broadband systems. First, technological innovation far outpaces the speed of government, local or otherwise, which simply cannot compete with the market. In other words, private networks will offer better, cheaper, and faster service than governments can expand their budgets or raise taxes fast enough to offer the same.

Further, as online services continue to become more sophisticated, customers have become accustomed to regular upgrades, further challenging the ability of governments to keep up with demand. The challenges are multiplied a hundred fold when the complications of delivering video and voice are added. Video services alone are in a constant state of upgrade, either in providing more channels, more programming, or providing services to customers to allow them to customize their own video experience, such as with video on demand.

Technology infrastructure investment is not for the faint of heart or the partially committed. One must jump in with both feet, update and innovate both the technology and the business models just to keep up with competitors.

Of course, as a greater variety of more complicated technology and services is offered, the more expensive the building of the system and overall operation

becomes. In turn this places even more taxpayer money at risk because when these systems fail it is not investors who lose money but taxpayers. When local and state coffers are depleted because of these sorts of risky government bets, the cry is for more tax revenue, for cuts in city services, or for a bailout.

## **MORALITY TALE?**

But these arguments miss a larger, and perhaps more appropriate point. While Longmont could enter into the communications marketplace with taxpayer money, should they be doing so?

Should a government entity be in the business of using taxpayer funds to enter into competition with private enterprises? If these governments have that much extra revenue, so much extra that they can invest the millions or even billions of dollars necessary to start or update and then maintain a competitive communications business, shouldn't that money be returned to taxpayers or tax rates reduced? Should a government, which after all, takes revenue from its citizens ultimately under threat of force, risk that capital on a business venture? Are there not better options?

## **BETTER OPTIONS DO EXIST**

### *Greater efficiency*

Longmont's same goals could be reached in a much more efficient manner if thoughtfulness, vision and leadership were provided. Certainly Longmont's government has a range of options, particularly given Longmont's home rule status.

If the concern is making sure that everyone has access to broadband communications services, then couldn't the City incentivize the private sector in particular geographic areas at lower costs and certainly with less liability exposure to taxpayers?

The answer is yes. So IPI has suggested, to the Federal Communications Commission (FCC) and around the country, a market-friendly idea for encouraging broadband buildout to unserved areas based on the proven success of enterprise zones over the past thirty years.

In areas designated as “Broadband Enterprise Zones” (based on broadband mapping), broadband providers would receive state or local tax credits

which could be used to offset the company's overall state or local tax burden. And vouchers could be issued to homeowners to pay for installation and setup within the Broadband Enterprise Zone.

### ***Don't Use Economic Regulation for Social Goals***

If the concern is about certain segments of society not having access, then another idea would work.

For every new service, someone always claims that regulation is needed to ensure access for certain populations. But complex price and revenue regulation inherent in government provision of products and services makes no sense. State legislators, or perhaps even local governing bodies, could authorize spending to provide direct subsidies to those in need. For example, food stamps are supplied to the poor rather than regulating the grocery business. In general, a much better approach would be to clearly identify the objectives and then allow competitive industries to determine the best technology and business case to meet the goals.

Simply put, there are a number of ways in which states and municipalities can find better, less risky means of encouraging the rollout of broadband services without putting taxpayers on the hook.

## **THE CURRENT PROPOSAL**

### ***What is the problem?***

The City of Longmont, Colorado, will have a question on its November 1 ballot asking whether the city residents should allow the city to provide “telecommunications services, advanced services and cable television services”, and “including any new and improved high bandwidth services based on future technologies.”

Moreover the language very clearly grants a blank check by saying that the City has the allowance to compete against the private sector “directly or indirectly with public or private sector partners” and for both “residential or commercial subscribers” clearly putting taxpayers at risk, and disrupting private sector investment in the area as well as jobs.

Such broad language has already caused City Council Members to try to defend their language by making claims that they currently do not have a plan to launch a city operated service. While these assurances are helpful with respect to the current Council, what about future Council members?

Moreover, these assurances hardly cover all of the potential problems. The City is already the regulator of competing private sector providers. So Longmont would end up as both regulator and competitor. And nothing seems to limit the City from cross-subsidizing its service from other revenue sources, including utilities.

Most troubling is that the City Council almost proudly claims to have not even studied whether there is a problem, and has refused to do so before seeking the authority to commit the citizens of Longmont to a service scheme. Hence, no one is even clear whether Longmont is lacking in any particular service, or whether this is simply a move to get government into the business of competing with the private sector.

### ***Current Competition***

In fact, had the Council taken the time to conduct an even cursory examination they would have had an answer—Longmont is well-served. In addition to three broadband providers (CenturyLink, Comcast and Ridgeview Tel, LLC), other service providers compete and may in fact be the better option for some; for example, satellite service is available. In addition, many wireless options exist and with the way that Internet users access the Web today, wireless is often the most attractive service option. Providers such as Cricket, AT&T and Verizon all compete to provide robust offerings to Longmont citizens.

### ***Freedom of speech?***

Very recently, another problem with municipalities controlling communications networks was raised in San Francisco, a city with a supposedly rich tradition of civil liberties. There, a municipal communications system was purposely shut down to prevent people from engaging in specific, legal, communications. In a chilling statement, city officials got directly to the point, “Cellphone users may not have liked being incommunicado, but BART officials told the SF Appeal, an online paper, that it was well within its rights. After all, since it pays for the cell service underground, it can cut it off.”

Whether San Francisco should be paying for municipal communications systems at all is a question for another day, particularly when the city has unrestricted budget funds of just 1% of general revenues, and the third highest unfunded pension liability (\$34,940 per household) in the nation, soon to exceed the cost of its police force. The more pressing concern is one first raised by IPI in 2004—the freedom of speech problems that arise when a municipality owns a communications system.

A common argument from those who support and prefer government built communications systems is that they simply trust government more than “big corporations” to protect their interests. We have pointed out again and again, that any entity, regardless of how it is organized, that uses its power to restrict our Constitutional freedoms should be anathema to all. Unfortunately, we again have an example of the government using its power to stop speech, and arguing that since it owns the system it can do as it likes.

If this were a private entity acting improperly then law enforcement, courts and regulatory bodies would still exist as a monitor, but when government owns the system they do as they want.

### ***No Promise of No New Taxes***

The proposal cleverly begins with “Without increasing taxes, ...” in an effort to mislead Longmont into believing that the provided services would not require raising taxes. In fact even a plain reading of the proposal offers no such thing, but instead only promises that granting such authority will not require raising taxes. Costs to operate and maintain a system will in fact be expensive. The risk then is that consumers and taxpayers will actually be paying more than they are today in the private market and receive a lesser service.

Additionally, given that the system that was previously built but failed is now 14 years old raises questions as to whether it is even capable of being used to deploy the advanced services promised without more significant investment by the City.

As in 1996 and in 2009, the citizens of Longmont are being asked to blindly put their city at risk to run an unnecessary municipal system.

### **THE NORTH CAROLINA MINIMUM STANDARD**

If Longmont does want to enter the business of providing voice and video service then it should at least formulate into law what proponents keep offering as their true intentions (despite the language of the ballot initiative).

North Carolina addresses municipal involvement in broadband networks not by creating an outright ban, which would be far more preferable, but rather by imposing requirements intended to provide a level playing field with any competing private sector participant. This would seem to be a minimum

standard—governments entering into competition with the private sector should have to play by the same rules.

So what does being treated equally look like? In North Carolina to provide phone, cable and broadband services in competition with private providers municipalities must:

1. Comply with laws and regulations applicable to private providers—including the payment of taxes;
2. Not cross-subsidize their competitive activity using taxpayer or other public monies;
3. Not price below cost, after imputing costs that would be incurred by a private provider;
4. Not discriminate against private providers in access to rights-of-way;
5. Those funding the venture, the citizens, must be allowed a vote before incurring debt, when the venture competes against a private sector company;
6. Have a local government commission evaluate the competitive environment before approving loans for a competitive purpose, as a further community protection.

### **CONCLUSION**

If any initiative to deploy broadband technology must be supported, then it should instead support the expansion of broadband into truly unserved, or underserved, rural areas using market incentives. When municipal broadband networks fail, it is the taxpayers end up paying for the loss. The City Council members will likely be gone, and as the history in Longmont shows those who were contracted to operate a system for the City will be gone. The citizens are left with less in their pockets, and a dimmed future for their city.

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