

ORDINANCE 2020-024:

APPROVING A FRANCHISE AGREEMENT BETWEEN THE TOWN AND IREA

NOVEMBER 17, 2020
TOWN COUNCIL





PROPOSED MOTION

"I move to approve the ordinance as introduced by title."

FRANCHISE AGREEMENTS

- Required by Town for utility/cable companies to use public rights of way to provide service
 - Town has franchise agreements with IREA, Black Hills Energy and Comcast
 - Rights of way are property interests the Town holds to maintain roads, trails, drainageways and other public infrastructure
- Benefit the utility/cable entities and their customers
 - The entities would otherwise have to purchase the property necessary to provide services themselves, driving up costs and charges for services
 - Co-locating utility infrastructure in Town rights of way also helps limit disruptions to the public when the infrastructure needs to be repaired, replaced or moved
- Provide for a franchise fee, which the Town charges for overall use of its rights of way in lieu of charging for each use of a Town right of way or easement

PROPOSED RENEWAL WITH IREA

- Authority to grant franchises is provided by Town Charter, which places a 10-year limit on any franchise – current agreement expires at the end of 2020
- Agreement outlines two major areas: how access and repairs are to occur, and the terms of the Town's compensation under the franchise
 - Staff has reached agreeable repair terms with IREA that strengthen the Town's position.
 - The changes are generally reflected under Article II, Sections 3 through 6
 - Public Works led on these changes and can respond to questions from Council
- Proposed financial terms have not changed from the current agreement

FINANCIAL DETAILS

- Franchise fee: would remain 3% of the first \$10,000 of annual gross revenue derived from the sale of energy at any one location, plus 2% of sales in excess of \$10,000
 - In 2020, this is expected to generate nearly \$1.3 million in Town revenue
- IREA each year would also allow the Town 1% of the previous year's adjusted gross revenue as an allotment toward any needed public electrical improvements
- Proposed agreement contains a “most favored status” provision, meaning if another area jurisdiction receives increased payments from IREA in its franchise while the Town's agreement is in effect, the Town can request the same increase
 - If approved, the agreement would begin January 1, 2021, and run through December 31, 2030