

**CITY OF SHOREVIEW  
MINUTES  
CITY COUNCIL SPECIAL WORKSHOP MEETING  
May 19, 2014**

**CALL TO ORDER**

Mayor Martin called the workshop meeting of the Shoreview City Council to order at 8:00 p.m. on May 19, 2014.

**ROLL CALL**

The following attended the meeting:

City Council: Mayor Martin; Councilmembers Johnson, Quigley, Wickstrom and Withhart

Staff: Terry Schwerm, City Manager

Comcast Carley Werner  
Representatives Emmett Coleman

**DISCUSSION REGARDING CABLE FRANCHISE RENEWAL**

Councilmember Wickstrom reported that the NSCC Board met on Thursday, May 15, 2014. The Board voted 8 to 1 to recommend preliminary denial of Comcast's formal renewal proposal to member cities. The major reason for denial is related to not meeting community needs. Councilmember Wickstrom stated that she was the single no vote.

City Manager Schwerm stated that this meeting is in response to Comcast's request to the Council to meet directly with cities prior to consideration of Comcast's formal renewal proposal. The major issue in the franchise renewal relates to PEG fees for public access (public education and government services). The major issue is funding public access and the operational model to which cities have become accustomed. PEG fees have funded both operational costs as well as capital costs. A ruling by FCC states that operational support cannot be required as a part of a Cable franchise renewal, and Comcast's proposal is unwilling to continue operating funding. This is the biggest issue and there have been some informal negotiations, but no agreements have been reached.

Mayor Martin referred to Comcast's letter sent to NSCC in January. Since that time there has not been significant change in position to work toward agreement.

Mr. Coleman stated that the informal negotiations have been going on for a couple of years, but there has been no movement in either the NSCC or Comcast positions. There is a lot of confusion and misrepresentation about Comcast killing public access. The concept that the Commission or cities can ask and Comcast could give the operational support is true, but federal

law is specific in that passing this cost through to customers could open Comcast to a class action lawsuit. Comcast is unwilling to expose itself to that risk. There is a significant lack of concern for these implications. In comparison with other communities, Comcast customers in the North Suburban Communications Commission pay a much higher PEG fee (\$4.15/month) than in other cities. He noted that the franchise agreement has been set to expire for a very long time. The NSCC has done nothing to secure additional funding to cover operational support.

Councilmember Wickstrom stated that the focus of the Commission has been to put pressure on Comcast, such as initiating additional notices of violation that are trivial. For instance, NSCC found Comcast in violation of the franchise agreement because they are not using the full 6 megahertz for digital channels. Comcast has kept the 8 channels, but that does not require 6 megahertz with the conversion to digital.

Mr. Coleman stated that he covers four states and over 200 communities. These 10 communities in Ramsey County take the most time not only during franchise renewal, but also in ongoing oversight and administration. There is no other Commission like this nationwide. Operating money is put in a pot, and the Commission has used this money to hire legal counsel to put pressure on Comcast for additional money that the Commission needs for operations. Comcast looks at the franchise renewal with two objectives: 1) resolve this cycle of abusive regulatory practices so that a normalized relationship can be established; and 2) to stop having the high fee on bills for operations that continues to be used against Comcast.

Councilmember Withhart asked the rationale for requested growth in the PEG fee. Mr. Schwerm stated that it is for increased costs for capital equipment.

Councilmember Wickstrom noted that many cities have used franchise fees in their General Fund and not updated equipment. Those cities now want to update equipment through PEG fees, not their own budget. Shoreview has upgraded through its budget using franchise fees.

Mr. Coleman suggested that in the last 10 years, Shoreview has not spent over \$300,000 to upgrade equipment. The proposal Comcast was asked to respond to is to allow each city \$475,000 for equipment capital over the next 10 years. The numbers do not make sense. Little Canada has set aside a fund for upgrade expenditures and has a balance of over \$600,000 from the last 10 years. Why would Little Canada need \$475,000? Would Shoreview spend as much as \$475,000? Federal law states that funding has to meet community needs that are real.

Mr. Schwerm suggested that more than likely Shoreview would vote to preliminarily deny the formal proposal from Comcast, which in his opinion, is not in the best interest in the City. As the Council has discussed, there are two options. The first option is to remain part of the NSCC and hope that a franchise agreement can be negotiated through the informal process or through the formal process. One is whether to keep the 10 cities together, which, he believes, may be determined in the next two informal negotiating sessions. A second option would be for Shoreview to withdraw from the NSCC and then negotiate directly with Comcast for a franchise agreement. He would recommend that an attorney be brought in who specializes in telecommunication franchises, which would be a one-time cost. At least initially he does not believe that the City can maintain a public access presence because it would require staff and a

place for production. This issue would have to be researched much further if the Council wants to have public access programming. However, the City would continue to cablecast City and Planning Commission meetings.

Mayor Martin stated that it is important for the Council to understand that there will be community concern regarding potential loss of public access programming.

Councilmember Wickstrom stated that she is not sure that full public access is needed. The Commission is using this to be against the Comcast proposal. The viewership of the current programs being produced is very low. The \$4.15 PEG fee per customer does not cover government programs or schools. It is the 5% franchise fee, approximately \$300,000 to Shoreview that is used by the City for local programming and capital improvement costs, staff costs, *ShoreViews* newsletters and payment of \$72,000 to NSCC to manage the franchise agreement. The PEG fee goes directly to CTV. There used to be regular equipment grants, which are not provided for anymore by NSCC.

Councilmember Johnson asked Comcast what is being done to educate the public on these issues to address the risk to the City with unhappy residents. Mr. Coleman stated that Comcast has a low key approach. The primary goal is to reach elected officials. Councilmember Wickstrom has been in touch with Mark Hughes, who produces *Disability Viewpoint*. Mr. Hughes has no issue. The preference of Comcast would be that community education take place through resolution of this agreement.

Councilmember Quigley stated that *ShoreViews* has been the big communication piece for the City. He questioned the value for the money the City is spending on the NSCC. The Community Survey does not identify community programming as a strong communication piece. Ms. Werner stated that negotiations with NSCC have not reached a conversation on value. Comcast would like to talk about value and is willing to look at what amount of money is being spent for what. This is not the conversation with the NSCC.

Mayor Martin stated that part of the research needed from staff is whether withdrawing from the NSCC would be revenue neutral or revenue positive. That is an unknown.

Councilmember Withhart stated that the amount of PEG money is significant but is not being tracked. If the Commission cannot be changed, then Shoreview may have to negotiate on its own.

Mr. Coleman stated if Shoreview wants to move forward on its own, Comcast would be willing to negotiate directly with the City to reach agreement. Comcast does not see a value in extending the deadline for negotiating with all cities. Further, he would be willing to talk about the informal negotiation points with Shoreview.

Ms. Werner stated that the current franchise agreement expired last October, and Comcast granted an extension of one year.

Schwerm said if the City wishes to negotiate directly with Comcast, the Council would have to authorize withdrawal from NSCC because under the Joint Powers Agreement with NSCC, the City has assigned the power to negotiate to NSCC. He does not anticipate a big expense for the City to negotiate alone because much of the agreement does not have to be rewritten.

Mr. Coleman stated that Comcast would continue to pay approximately \$311,000 in franchise fees to the City. Currently, \$72,000 of that is given to the NSCC for public access and most of which is being used for legal fees. If Comcast did \$1.00 per customer per month PEG fee, that would be another \$70,000 to the City to use for capital equipment and would lower the cost to subscribers.

Councilmember Johnson stated that Comcast is the expert with the speed of technology advances and public access across the country. She wants to hear the expertise Comcast has to provide and the best method for the City to provide public access. It is important as this moves forward that action is being taken for the benefit of Shoreview and not against anyone or any organization.

Mayor Martin responded that public access is not the role of Comcast. That is a decision by the City and paid for with PEG fees. It is important to note that Comcast has to be competitive and its competitors do not have PEG fees as high as those in NSCC cities.

Councilmember Wickstrom stated that a fair share of PEG fees could go to schools. CTV will have less money and priorities will have to be made. The City has been paying for capital needs from the franchise fee, but if Shoreview negotiates alone, capital needs can be taken out of the PEG fee. It should not be assumed that CTV will be able to continue doing what it is doing. She believes their budget is going to be cut significantly. She suggested the possibility of dropping out of NSCC and authorize staff to work out an agreement with Comcast.

Mayor Martin stated that it might put the City in a vulnerable position in negotiating with Comcast. More research needs to be done. Mr. Schwerm explained that the Council needs to vote to preliminarily deny because if the City does not vote by June 20, it means the City has approved Comcast's proposal as it is. A council action should indicate Shoreview's intent to withdraw from NSCC in order to directly negotiate with Comcast.

Ms. Werner stated that Comcast wants to make negotiations work and be productive. She works successfully with many cities in the metro area. Coon Rapids and Woodbury are good examples. Comcast has developed an on-line platform for public access because people are not watching it on TV as much. Cities with on-line public access are getting great feedback.

Mayor Martin thanked Mr. Coleman and Ms. Werner for meeting with the Council.

### **Council Discussion**

Councilmember Withhart stated that the charge to customers is a large fee/tax being collected without a lot of return. There may be more value for the money if the City operated alone. Mr. Schwerm stated that the value would benefit the City, but not necessarily public access.

Mayor Martin stated that research is needed about specific costs. Mr. Schwerm stated that it will take time to answer those questions. Funding will be needed for *ShoreViews*, the communications position and communications activity that is paid for now by the franchise fees. There is not enough money to fund public access programming. He can look into contracting for public access, but that may take some time. Only local government meetings would be broadcast with existing funding.

Councilmember Quigley stated that a business plan model is needed to fit all the pieces together. He asked how the fees would change. Mr. Schwerm stated that the \$4.15 fee would change, but the 5% franchise fee that is coming to the City would continue.

Councilmember Withhart stressed the few people who watch public access. Government access is watched more but only at 16%.

Mr. Schwerm stated that the nature of public access would change by pulling out because the City does not have the financial resources to provide it, particularly at the current level of service.

The consensus of the Council was to further discuss and consider authorizing its intent to withdraw from the NSCC in order to negotiate directly with Comcast at its June 2<sup>nd</sup> meeting. City Manager Schwerm will consult with the City Attorney regarding whether the action should be by resolution or by letter. The Joint Powers Agreement states that the NSCC must be notified before October 15th of the City's withdrawal.

The meeting adjourned at 9:50 pm.