

**CITY OF SHOREVIEW
MINUTES
SPECIAL CITY COUNCIL WORKSHOP MEETING
May 18, 2015**

CALL TO ORDER

Mayor Martin called the workshop meeting of the Shoreview City Council to order at 6:00 p.m. on May 18, 2015.

ROLL CALL

The following attended the meeting:

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

Staff: Terry Schwerm, City Manager
Rebecca Olson, Assistant to City Manager

Cable Franchise
Attorney: Robert Vose, Kennedy and Graven, Chartered

REVIEW OF DRAFT CABLE FRANCHISE

City Manager Schwerm introduced Robert Vose, the City's cable franchise attorney, who has been assisting with negotiations with Comcast for a renewed cable franchise agreement.

Mr. Vose stated that negotiations have progressed to the point that the drafted proposal is being recommended for adoption. The City's strategy is to work individually and cooperatively with the cable company by negotiating its own franchise agreement directly. To that end, the City withdrew from the North Suburban Cable Commission (NSCC) at the end of 2014.

The City was able to benefit from NSCC negotiations up to the time of withdrawal from the Commission because NSCC was first to initiate negotiations.

It turns out that Comcast is not merging with Time Warner. Comcast will remain the key cable provider and potentially have a competitor with CenturyLink.

Quigley asked for an assessment of CenturyLink as another entity in the market. Mr. Vose responded that Minnesota has as many cities in competition for cable as any in the country. That is because there are 90+ small phone companies throughout the state. Those companies have been aggressive in entering the video business. Competition has resulted in better quality of care for customers, better systems and lower prices. CenturyLink will likely become a strong competitor with Comcast.

Mr. Vose commented on key points in the proposed Comcast agreement:

1. Item No. 7 talks about how the contract would be enforced. The 100% performance bond and 25% letter of credit is real money and is plenty to protect the City and enforce the contract.
2. Franchise fees: This is the rent the cable company pays for right-of-way. The City will receive 5% of gross cable revenues. Gross revenues is categorized in the broadest possible terms. When Comcast bundles services, the services are sold at a discount. The question becomes how that discount is applied to cable revenue and a reduction in the fee paid to local government. The contract requires that each discount be apportioned to the services in the package. The City will not lose on the franchise fee calculation and payment.
3. The City has a right to audit calculations and payments. The City has a right to interest on money owed plus accounting fees should errors be found.

Mayor Martin asked if there would be any flexibility to the franchise fee in the future.

Mr. Vose explained that the 5% fee is the upper cap by federal law.

4. Item No. 2 states that City Hall and other identified buildings will receive free cable drops and up to three converter boxes.

Mayor Martin asked if the new library is included as well as the school district which will occupy the old library.

Councilmember Wickstrom referenced page 23, 7.11 Interconnection and requested the word “county” be added in the first sentence, “to newly constructed City and school fiber for noncommercial programming...”.

City Manager Schwerm stated that the list was taken from the current franchise agreement. Mr. Vose added that as buildings are new or repurposed, they would be eligible for cable service. Typically, cable companies do give free service to government buildings.

5. Item No. 3 regarding customer service requirements is the same as FCC requirements. This agreement goes further in that a location is required where customers can go to talk to a cable representative about equipment or other issues. Further, there is a catchall in that the City is allowed to adopt any customer service requirements in the future that the cable company will be subject to.

Mayor Martin asked if the City will need personnel to handle complaints. City Manager Schwerm stated that he does not foresee hiring anyone to have to handle these issues. Mr. Vose added that there will be a phone number contact for customers to call with problems on their bills. Customers are requested to call the cable company representative before calling the City.

6. The agreement speaks to what Shoreview really needs, which is four PEG channels. This is less than previously received. There will be one for the City, one for the public and two being used by the respective school districts. There is additional capacity if needed in the future.

Comcast has agreed to provide HD capacity to local government when there is equipment and programming in place. The City has negotiated for HD to be simulcast, which means that one standard definition channel can also simultaneously be broadcast in high definition.

7. PEG support of \$4.35 per subscriber under the NSCC is at the top range in the country. He believes the proposed \$2.00 per subscriber will adequately meet City needs. He estimated this to be about \$130,000 a year.

Mayor Martin asked why the City should be satisfied with \$2.00 per subscriber, half of what NSCC currently receives. Mr. Vose responded that for the purpose the money is to be used for capital equipment and \$130,000 is sufficient real dollars each year to meet these needs. The highest number agreed to by Comcast in other communities that have renewed is \$2.30 per subscriber. Other agreements were renewed at significantly lower levels. Mr. Schwerm added that previously this money went to NSCC. Now this money will come to the City and can be used for capital equipment related to video production. By federal law, the money is to be used for capital improvements.

Councilmember Wickstrom stated that it is the customer who pays this amount, and it is seen on their bill. This amount will show that the City will not go overboard in producing programs that no one watches.

Mayor Martin asked if there would be any benefit to waiting to see what is in the NSCC agreement. Mr. Schwerm stated that he expects NSCC to push the contract renewal process to the end of 2016. Mr. Vose stated that some items negotiated will be lost if the City were to wait until next year.

Councilmember Wickstrom stated that negotiating earlier shows a good faith effort on the City's part to achieve a cooperative relationship.

In reference to the Competitive Equity Clause, Mr. Vose explained that state law requires that a cable franchise granted to a new competitor should not be less burdensome or more beneficial to that competitor with respect to three issues: 1) Should Centurylink be considered, the franchise fees would be a nonissue and remain at 5%; 2) four channels for community programming would be accepted; 3) the service area would be different; Comcast will serve the entire City. CenturyLink will argue that stipulation should not apply. This is a remedy clause to opt into CenturyLink provisions if deemed more favorable than the terms under the Comcast agreement.

Councilmember Wickstrom requested a number of changes to the draft proposal:

- Page 11, item (c) "orderly and workmanlike manner" should be "orderly and professional manner."
- References to sections of Code should also be added to the definitions in order to know the topic of that section.
- Page 14, item (c) Notice To Remove or Relocate should stipulate that the 45-days notice is on their own property, not necessarily anywhere in the City. Mr. Vose explained that refers to another utility requesting Comcast to remove or relocate its equipment.

- Page 16, Equal and Uniform Service is the clause where Comcast will compare any terms offered or agreed to with CenturyLink. Mr. Schwerm clarified that this relates to the same system design throughout the City. It is not competitive equity.
- Page 39, asked the definition of a Class IV Channel. Mr. Vose explained that it is a reference from state law that is required, even though the reference is outdated.

Mayor Martin asked the time schedule for approval. City Manager Schwerm estimated it will be presented to the Council for approval at a June Council meeting for implementation in July.

Mr. Vose noted that the process to renew a franchise agreement with Comcast is quite different from the process of considering a new agreement with CenturyLink that would include public notice, public hearings and statutory requirements to begin new negotiations.

Councilmember Wickstrom stated she would like to renew the Comcast agreement before consideration of an agreement with CenturyLink.

The meeting adjourned.