

LEGISLATION, LICENSING & COMMUNICATIONS COMMITTEE

Tuesday, March 25, 2003

Committee Room #2

PRESENT: Alds. Treis, Bruderle-Baran, Ecks, Grimm, Subotich – 5

EXCUSED: Ald. Sullivan

ALSO PRESENT: A. Kesner, City Attorney; Ald. Matthews

Ald. Treis as chair called the meeting to order at 7:00 p.m.

Discussion of renewal and renegotiation of cable franchise

Atty. Kesner told the committee that the city's cable franchise expires three years from the beginning of April, 2003. The renewal negotiation process begins three years before the franchise expires. He then introduced Atty. Adrian Herbst of the Baller Herbst Law Group, P.C. Atty. Herbst assisted the city in the original contract negotiations and has been asked to assist with the upcoming renegotiations.

Atty. Herbst gave the committee an overview of the renewal process including Federal and State Law, FCC rules and local Ordinances.

He then gave examples of some of the elements the city should look at during the renegotiation. The examples included:

- design and capacity of the system
- service area
- future needs of the city
- broad program requirements such as a certain number of sports and news channels
- public, educational and government access channels, facilities, equipment and funding
- institutional networks
- customer service standards and enforcement procedures
- maintenance of the system
- review and approval of any transfer of ownership
- term of the franchise
- performance bond requirements
- periodic review and evaluation
- rate regulation for basic service

In addition Atty. Herbst gave examples of elements the city does not have authority over. These included:

- franchise of telecommunications services
- type of equipment used by the cable operator
- requiring the operator to carry specific programs such as ESPN
- regulation of rates other than for basic service
- regulation of cable modem service (pending appeal)

The city should look at four elements when evaluating the future needs as well as the past performance of the operator; 1) Has the current operator complied with the terms of the current contract? 2) Has the quality of the service met the needs of

the city? 3) Does the operator have the financial, legal and technical ability to provide the services set forth in the proposal? 4) Does the proposal meet the future needs of the city?

The renewal process can be conducted in either a formal or informal way. Atty. Herbst discussed the informal process. The process begins during a six-month window beginning three years before the franchise expires. The cable operator must give notice of a desire to renew during this time period. When the city receives this notice the renewal process must begin within six months.

The renewal process should include the following:

- The city gathers information regarding community needs and interests as well as past performance of the cable operator. This information could include senior citizen discounts and specific customer service standards.
- The city develops a request for proposal.
- The cable operator submits the renewal proposal.
- The city gives public notice of the proposal and an opportunity for public comment.
- The city reviews the renewal proposal.
- The city and cable operator negotiate the renewal documents.

Atty. Herbst also briefly discussed a master ordinance dealing with cable services. The ordinance would serve as a guideline establishing standards, obligations and commitments of any cable operator for the city.

In response to Ald. Eck's questions, Atty. Herbst told the committee that the city can require the cable operator to include a survey written by the city in customer bills. The operator is not required to give the city a subscriber list when this is done. Atty. Herbst said that he has had good response by sending out a random survey directly. He also told the committee that there are parental controls available enabling parents to block specific channels.

Ald. Matthews asked if there was an emergency alert standard in the current franchise agreement. Atty. Kesner said there are requirements in the current agreement at the request of the city. Ald. Matthews then asked about senior citizen discounts. Atty. Herbst told the committee that discounts for senior citizens, persons with disabilities and persons with financial needs can be agreed upon with the cable operator but not made mandatory.

The committee then discussed setting up a time line, making recommendations for an ad hoc renegotiation committee and developing a record of past performance and future needs.

Moved by Ald. Bruderle-Baran, seconded by Ald. Ecks to hold a special meeting at 7:15 p.m. on April 1, 2003 to submit structural recommendations for a cable franchise renegotiation committee – 5

The committee then discussed renegotiation issues such as operator competition, the general mix of channels, call center customer service, a community alert channel and typical arrangements made for public and private schools.

The meeting adjourned at 7:54 p.m.

Carla A. Ledesma, CMC
City Clerk