

**CABLE ADVISORY COMMITTEE MINUTES**

September 7, 2017



The Cable Advisory Committee met in the Selectmen Conference Room as scheduled with Attorney Bill Hewig, Heather Lemieux, Steve Walker, Jo McLaughlin, Steve Malandrinos, Tom Alonzo, and Paula Bertram present. Greg Franks attended late.

**Public Comment**

None

**Announcements**

None

**Minutes/Correspondence**

Paula made a motion to approve the minutes of June 19, 2017, July 25, 2017 & August 22, 2107, Tom seconded; voted unanimously.

**Current Business**

**Negotiations with Comcast on New Cable Contract** - Committee discussed the most recent offer from Comcast which was received yesterday; offer is:

- PEG FEE 5%
- Capital grant of \$130,000/10 years
- Video return line from high school at Comcast's expense
- Third channel within two years of the effective date

This proposal does not meet our needs. Bill Hewig outlined that one option available is to request that the Board of Selectmen send them a preliminary assessment of denial, which gives us more time to negotiate and may put more pressure on Comcast. We have to send correspondence into the Department of Telecommunications and Cable letting them know we are continuing to negotiate and the extension should be granted. If negotiations don't produce results then there would be a hearing before Board of Selectmen, if Selectmen uphold the decision then it goes to Board of Telecommunications and Cable

Committee discussed how capital is paid. The license fee is the percentage of gross annual revenue and then the franchise fee is all other costs and includes capital.

At this point Mr. Franks of Comcast joined the meeting.

Mr. Hewig explained that the offer is way too low and we were hoping for a lot higher. Mr. Franks responded "If I give you \$240K I would have to reduce franchise fee to 1%". Mr. Hewig said that doesn't help, he was hoping that Comcast could get to higher numbers by doing it incrementally; that would reduce the amount of cost to subscribers and keep the pass through costs low. We are asking to go from \$.24 to \$.60, which is a small amount. The question at hand is the standard of review the Town's responsibility during ascertainment is to identify the future cable related needs. We think our request is reasonable and we are meeting our part of the bargain; what is the resistance from Comcast? The numbers don't seem to be that big. Mr. Franks responded that it is actually a very good offer, they have to look at the "big picture" and this offer is much higher than the City of Marlboro last year. The increase in the percentage fee equates to two million over the course of the license. He believes any administrative court will uphold Comcast's offer.

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Paula Bertram said that she does not believe Comcast is looking at the big picture. We have clearly outlined the Community's needs over the next ten years and are attempting to respond to the request of our citizens for more public programming which has a positive impact on Comcast's subscriber base. Mr. Alonzo pointed out the percentage increase equates to one million because we are already getting a million and it is a million that our citizens pay.

Jo McLaughlin asked if Marlboro provided a business plan. Mr. Franks responded that every Town does some type of ascertainment in the end I am not sure how much of a difference it really makes, he added that Marlboro has something like 10,000 subscribers there we only have about 3,000 here.

Attorney Hewig stated that every Town has its own ascertainment and its own set of circumstances; so you can't compare one Town to another, it is not fair and is not rational. That is not how the cable act works; it works by showing your own community's needs. You said you came to the table with a realistic and reasonable offer; you are obligated to meet the Town's future cable related needs considering the cost. You need to be able to justify why you are not responding to our needs. We are reasonable we have considered the costs. I've just told my committee that if we can't get more capital then I am going to recommend that the Selectmen petition for a 60 day extension to begin the process of commencing a letter of preliminary non-renewal. I haven't ever done that because I haven't really believed we had a good enough case to win this but in this case we do.

Mr. Franks responded "Understood." Mr. Alonzo emphasized that we need to provide the services that the citizens have requested; people are asking for the education channel. That is what the people are asking us to do and it my job is to fight for what they want.

Mr. Hewig said the he gets some plans that ask for the moon, this plan is good and it is actually less than what we need. He told Mr. Franks that if he can move on these numbers than we want to hear it; Mr. Franks responded that is the best offer he can provide. Mr. Hewig recommended that the Committee report out to the Board of Selectmen that we have not succeeded in negotiations to date and Counsel is recommending that the Board petition the Department of Telecommunications and Cable (DTC) for a 60 day extension in which the Town will begin the process of filing a preliminary letter of non-renewal. He added that the hope is that during the 60 day extension period we can come to successful resolution. Paula so moved; Steve seconded. Voted unanimously.

Mr. Hewig told Mr. Franks that he appreciated the offer came up to 5% and the offer of the video return line; but we have made a case for the capital. This Community has a vision for the future that benefits Comcast, We are in a partnership.

At this point Mr. Franks left the meeting.

Committee discussed plan moving forward. The Town Manager will place this topic on the Selectmen's September 19<sup>th</sup> agenda. If the 60 day extension is granted, we will have until about November 4th to continue negotiations; if the extension petition is not granted we will have to issue a preliminary assessment of non-renewal. If after 60 days we can't renegotiate and the Board of Selectmen vote to deny renewal Comcast can take us to DTC for a hearing, which is similar to a trial.

Mr. Hewig informed the Committee that he has never been to DTC and he never seen Comcast behave like this before. Mr. Alonzo noted that our viewership went up, he would love to know in other Towns what their subscriber base is; Comcast is making about 32 million per year on Lunenburg subscribers.

Bill Hewig said that during negotiations we always talk about the value of pass through, he has never seen them argue about \$.60.

Mr. Alonzo said that in his opinion two years for the third channel is ridiculous.

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Committee discussed the sample side letters received, which indicated that a community can get the HD channel when 90% of the community has it. Tom Alonzo commented that Mr. Franks response time is unsatisfactory; he said he would get the letters to us within a week after the last meeting yet he sent them yesterday.

Heather Lemieux asked if we can we take a look at what other communities of comparable size are receiving? Mr. Hewig said he will investigate but emphasized that each Town is unique. Heather Lemieux pulled up the DTC website and looked at Ashburnham who has a population of 6000 they received \$90,000 and percentage is 4.8%. Mr. Hewig will look at the data for communities similar to Lunenburg.

Tom Alonzo will make a presentation to the Board of Selectmen on September 19<sup>th</sup>. Attorney Hewig will forward a letter to the Board of Selectmen and copy the Cable Committee Chair on why he is recommending extension and possible preliminary assessment of non-renewal.

Steve Walker asked that if the laws regarding Cable change, does that preempt the side letters? Attorney Hewig responded affirmatively.

Paula asked if Attorney Hewig could have the letter to DTC prepared for the meeting on the 19<sup>th</sup>. Attorney Hewig agreed to provide the letter in advance of the meeting on the 19<sup>th</sup>.

Attorney Hewig said he will reach out the Mike Gale, DTC attorney about the possibility of mediation.

Committee briefly talked about what we are arguing about; the difference between what we are requesting and what Comcast is offering equates to \$11,000 per year. The pass through cost to the subscriber is actually about .32 cents on a monthly bill. Comcast's unwillingness to invest in the system severely impacts our ability to meet the needs of the Community. Committee discussed the possibility of seeking some initial capital infusion in a lump sum and then adding the remaining capital to the subscriber bills.

The Chair will determine a date for the next meeting after the hearing with the Selectmen on the 19<sup>th</sup>.

Steve Walker made a motion to adjourn at 7:50 p.m., Paula seconded. Voted unanimously.

Respectfully submitted,

Paula Bertram

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