



MT. HOOD CABLE REGULATORY COMMISSION

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Serving Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale and Wood Village

MT. HOOD CABLE REGULATORY COMMISSION

MetroEast Community Media, Studio A

March 16, 2015 Meeting Minutes -- **APPROVED**

SUMMARY MINUTES

MINUTES AS APPROVED AT THE MAY 18, 2015 MHCRC MEETING.

Call to Order: 6:31pm

- Roll Call

Commissioners present: Carol Studenmund (Chair); Leif Hansen (Vice Chair); Scott Harden; Mike Bennett; Sue Dicile; Norm Thomas; Rich Goheen.

Commissioners Absent: Toya Fick

Staff: Mary Beth Henry, Director; Julie Omelchuck, Program Manager; Ben Walters, Legal Counsel; Rebecca Gibbons, Program Coordinator; Kim Whelan, Assistant Program Specialist

- Agenda Review: none.
- Disclosures: Studenmund said her business office receives Internet services from Comcast. Studenmund said her office lost its Internet connection last week due to construction work in the parking lot next door. Studenmund said her employee mentioned to Comcast representatives working to resolve the issue that Studenmund is Chair of the MHCRC. Studenmund said she regrets her employee's comments and assumes that Comcast addressed the issues in the same manner and timeframe it would have done for any other business/subscriber.
- Public Comment: none.
- Consent Agenda

Studenmund removed C1. January 26, 2015 Public Hearing and Regular Meeting Minutes from the consent agenda. Studenmund said the minutes will be considered separately under the Regular Agenda.

C2. February 21, 2015 Retreat Minutes

C3. Community Technology Grant Agreement: Flying Focus Video Collective

C4. Community Technology Grant Agreement: The Skanner Foundation

C5. Community Technology Grant Amendment: Corbett School District

MOTION: Dicile moved to approve the Consent Agenda items C2 through C5. Bennett seconded.

VOTE: 7-0 passed

- Regular Agenda

C1. January 26, 2015 Public Hearing and Regular Meeting Minutes

Studenmund asked that the minutes reflect the January 26 meeting took place at Portland Community Media.

MOTION: Dicile moved to approve the January 26, 2015 Public Hearing and Regular Meeting Minutes as corrected to reflect the meeting location. Thomas seconded.

VOTE: 7-0 passed.

R1. Resolution 2015-01: Recommending and Transmitting to the City of Portland a Cable Franchise Renewal Agreement with Qwest Broadband Services, Inc. d/b/a CenturyLink
Henry said that after a lengthy negotiations period, it is staff's pleasure to transmit the proposed CenturyLink cable franchise renewal for Commission consideration. Henry said that at the January MHCRC meeting, the Commission held a public hearing on the public benefits included in the proposed renewal franchise. Henry said the public benefits included in the renewal franchise equate to the similar public benefits included in the Comcast franchise. Specifically, Henry said the CenturyLink renewal franchise retains: the 3% PEG/I-Net fund; subscriber access to PEG channels; all PEG channels in High Definition (HD); 5% franchise fees; PEG VOD channels; PEG programming on all subscriber guides. Henry said the duration of the franchise term is contingent on CenturyLink reaching certain penetration thresholds. Henry said that as a new entrant into the cable TV market, CenturyLink will be challenged to penetrate the market against the existing, dominant provider. CenturyLink's current cable franchise expires at the end of 2015. Henry said public outreach to the community for the Public Hearing included a press release, a notice sent to the MHCRC mass mailing list, which included all existing stakeholders, articles in the Oregonian and information posted on the MHCRC and Office for Community Technology websites. Henry said the MHCRC received public comment from Portland Community Media in favour of the proposed renewal franchise. Henry said attached to the staff memo included in the meeting packet are comments from Comcast on the proposed renewal franchise. Henry said staff's response to Comcast is also included in the meeting packet. Henry said Comcast believes that the franchise should require CenturyLink build out to all subscribers in Portland as Comcast's predecessors were required to do thirty years ago. Henry said staff responded that in today's marketplace, it's very difficult to meet such a requirement. Henry said staff believes that such a requirement would deter any new entrant into the market. Henry said staff's response also included a 2007 memo from MHCRC legal counsel, citing FCC opinion that questions whether local authorities have the right to require a complete build out for over-builder entrants. Henry said there were no other public comments received.

Henry said Scott Demming, CenturyLink Area Operations Manager, is in attendance to help answer any questions.

Commission Discussion

Bennett asked if the threshold penetration rates for term extensions are defined in the franchise. Henry said yes, the franchise allows for a two year extension if services are available to 20% of all Living Units in the franchise area and an additional three years if 30% of all Living Units is reached.

MOTION: Hansen moved to approve Resolution No. 2015-01 recommending and transmitting to the City of Portland a cable franchise renewal agreement with QBSI d/b/a CenturyLink and a side letter of agreement for consideration and final action by the Portland City Council prior to the December 31, 2015 expiration of the extended term of the current franchise agreement.

Dicile seconded.

DISCUSSION: Walters clarified that the penetration requirement for the additional three year extension to December 31, 2026 would require that CenturyLink offer services to an *additional* 30% of Living Units in the franchise area; meaning penetration rate has reached a total of 50% of all Living Units.

VOTE: 7-0 passed.

Thomas encouraged CenturyLink to consider expanding services to the Gresham area.

Hansen congratulated staff and said this is a significant milestone for the MHCRC and the City of Portland as it's the first time Portland residents will have a competitive triple play provider.

Dicile said Comcast's letter raised some interesting questions. Dicile said she appreciated Walters' interpretation. Dicile said she believes the renewal franchise mitigates any concerns raised by Comcast's comments in a lawful way.

R2. MHCRC/City of Portland IGA for Reimbursement of I-Net Capital Costs

Omelchuck said that the MHCRC, under the renewed Comcast franchise, collects all PEG/I-Net funds and is responsible for distributing those funds back into the community. Omelchuck said that under the previous expired franchise, Comcast retained the I-Net funds and expended those funds following MHCRC authorization. Omelchuck said that at the December MHCRC meeting, the Commission approved a limited IGA with the City of Portland Bureau of Technology Services (BTS) that would allow the MHCRC to pay the BTS for specific capital costs related to the I-Net. Omelchuck said the limited IGA has expired. Omelchuck said the IGA included in the meeting packet for MHCRC consideration was developed for the purpose of developing a longer-term process for reimbursing BTS for I-Net capital costs. Omelchuck said the IGA was developed in cooperation with the City of Portland's Communications Division and other City of Portland staff, and MHCRC legal counsel. Omelchuck said staff will continue to authorize planned expenditures for I-Net capital projects and also verify actual costs once a project is complete.

MOTION: Dicile moved to approve a Master Intergovernmental Agreement (IGA) with the City of Portland, which establishes a process to reimburse the City's Bureau of Technology Services for I-Net capital expenditures under the cable services franchise agreements. Goheen seconded.

DISCUSSION:

Thomas asked if the IGA has an expiration date to match the term of the Comcast franchise.

Walters said the IGA language that allows the agreement to continue in perpetuity in order to maintain the agreement through any franchise term extensions.

Thomas said he would be more comfortable with an IGA date-specific term expiration.

In response to a question from Hansen regarding early termination language, Walters said an option would be to include a five year term with an option for either side to renew.

Dicile said that she is concerned that a five year term would set the stage for added administrative work to re-negotiate the terms of the agreement.

Walters said that should for example, the City of Portland change the way that it charges for services, then the MHCRC could terminate or re-negotiate the agreement under new terms.

In response to a question from Bennett regarding the process for reviewing and approving expenditures, Walters said the proposed process allows BTS to issue invoices and for staff to review and approve payments against the invoices.

Omelchuck said the MHCRC budget includes a total dollar amount for I-Net cost reimbursements within a given fiscal year. Omelchuck said the MHCRC will vote annually on this amount and what it is intended to cover. Once the total dollar amount is approved, then staff authorizes the work.

VOTE: 6-1 passed. Thomas voted nay.

R3. Cable Companies Annual Activities Presentation (Information Only)

Studenmund said Frontier and Reliance Connects representatives were unable to attend the meeting tonight.

- Marc Farrar, Comcast, said Comcast's call answering statistics reached a 95.6% service level in December and in January it was 94%. Farrar said Comcast is operating at a much more efficient level today than ever before. Farrar said Comcast contributed \$8 million in franchise fees and just under \$5 million in PEG fees. Farrar thanked PCM for its digital literacy class partnership. Farrar said Comcast and PCM partnered on providing the community with eight classes. Farrar provided other examples of Comcast's commitment to the community such as: a partnership with Dress for Success; free video service to over 200 schools, 40 city offices and discounted services to fire and rescue agencies; and Gigabit service for all I-Net sites. Farrar said I-Net stakeholders are saving \$2.4 million annually compared what they would pay on the open market for internet services and network connectivity. Farrar said Comcast continues to upgrade the network and do regular maintenance. Farrar said Comcast awarded \$550,000 in scholarships for Leaders and Achievers college scholarships. Farrar said 199 Comcast employees work within the City of Portland; 504 live in the MHCRC community.
- Scott Demming, CenturyLink, handed out a document detailing CenturyLink's past year's accomplishments. Demming said CenturyLink supports numerous local food drives and CenturyLink employees contributed over 1,000 hours volunteer hours in the community. Demming said CenturyLink gave \$63,000 in grants to Teacher in Technology to support schools throughout Oregon and is a longtime partner of Schoolhouse Supplies. Demming said other community partnerships are with SMART, OAME, Oregon Food Bank, Doernbecher Children's Hospital.

Staff Activity Reports and Updates

- FCC/Federal legislative developments: Henry said the MHCRC joined a coalition to file comments in response to the FCC's request on multichannel video programming distributors (MVPD). Henry said the FCC is proposing new rules to reflect that video

- services are increasingly provided over the internet. Henry said these new rules have the potential to affect consumer protection and cable franchise obligations include PEG. Henry said reply comments are due next week; however staff is planning a trip to participate in talks directly with legislative and FCC staff.
- 2015 Oregon legislative session: Henry said the 2015 legislation session is in full swing and that staff is monitoring two bills. Henry said one of the bills (HB2088) involves privilege taxation and could potentially impact public benefits such as I-Net and PEG funding. Henry said the other bill (SB611) addresses central assessment rules that would impact Comcast and CenturyLink if the companies have property in multiple geographic locations. Under the proposed bill, property taxes could be centrally assessed instead of assessed locally. Henry said centrally assessed companies pay on intangibles, i.e. a franchise agreement. In 2009 Comcast filed a lawsuit with the Department of Revenue opposing being centrally assessed, which tripled Comcast's property taxes in Multnomah County. Henry said SB611 would provide relief for rural communities and data centers, and possibly for Comcast and similarly situated companies such as Google. Henry said the Senate has passed the bill and it is now before the House. Henry said the challenge here is that property taxes fund essential community services.
 - 2014 Year-end Complaint Report: Gibbons, referring to the report included in the meeting packet, said complaints have normalized when compared with the previous year. Gibbons said Comcast transitioned its call centers to "centers of excellence" in 2013 which triggered a spike in subscriber complaints. Gibbons said things have settled since then therefore complaints have declined.
 - FY15-16 Budget Process/Information: Henry said the Finance Committee is scheduled to meet in April.
 - TechSmart Initiative – Activities Update: Omelchuck said staff is work to finalize an RFP for evaluation services. Omelchuck said staff curtailed work with PSU under the current IGA for evaluation services. Omelchuck said a limited scope of work IGA with PSU will be retained to provide staff and the new evaluator with student level data analysis. Omelchuck said staff is actively engaged in discussions with Portland Public Schools and Reynolds School District on grant project plans under the TechSmart Initiative. Omelchuck said staff anticipates bringing forward draft project plans in May/June. Omelchuck said the MHCRC should anticipate draft project plans from Centennial and Gresham Barlow in the fall. Omelchuck said Centennial and Gresham Barlow are engaged in district-wide strategic planning and wanted to wrap that process up before starting a project plan.
 - Other: none.

Committee Reports

- Finance Committee: none.
- Grant Committee: none.
- PCM Board Appointee: Studenmund said the PCM Board submitted a FY15-16 budget. Studenmund said the Board has a planning retreat on March 27.
- MetroEast Board Appointee: none.

New Business; Commissioner Open Comment

Studenmund gave an overview of the meeting schedule.

Omelchuck reviewed the TechSmart Initiative approval process planned for May and June. Omelchuck said the review process includes a work session of the full Commission at a regular MHCRC meeting. Final contract move forward at an MHCRC meeting following the work session meeting. Omelchuck said Commissioners should plan for a 1 ½ hour work session.

Franchisee Activity Report

None.

PEG Provider Activity Report

- MetroEast Community Media: Rob Brading, said referred to the article in the Willamette Week about POWfest, a media camp for girls. Brading said MetroEast is collaborating with Oregon Humanities and the Center for Advanced Learning (CAL). Brading said MetroEast also began offering classes in Spanish. Brading reported MetroEast celebrated its 30th anniversary with a successful public event.
- Portland Community Media: Bea Coulter, said the Board is launching into strategic planning process that will analyze activities and to set future priorities. Coulter said PCM is in the process of hiring a communications coordinator. Coulter said PCM's youth program is offering free spring programs.

Public Comment: none.

Adjourn 7:45pm

Respectfully submitted,

Rebecca Gibbons
Program Coordinator