

Mt. Hood Cable Regulatory Commission
Wood Village City Hall
November 19, 2018 Meeting Minutes - **APPROVED**

Summary Minutes

MINUTES AS APPROVED AT THE DECEMBER 17, 2018 MHCRC MEETING.

Call to Order: 6:40 pm

- Roll Call
Commissioners present: Leif Hansen (Chair), Carol Studenmund, Scott Harden, Mike Bennett, Sue Dicile (arrived 7:10 pm), Norm Thomas
Commissioners absent: Rich Goheen

- Agenda Review: Hansen stated that a few regular agenda items have been removed from tonight's agenda. These items include Franchisee Activity Reports and PEG Provider Activity Reports. Hansen also noted the Executive Session on the Revised Agenda

- Disclosures: Hansen introduced the MHCRC's new Legal Counsel, Mark Wolf, Local Government Law Group, a member of Speer Hoyt. Wolf provided brief background information.

- Public Comment (non-agenda items): None.

- **Consent Agenda – No Discussion**
 - C1. September 17, 2018 Meeting Minutes

Motion: Harden moved to approve the consent agenda. Bennett seconded.

Vote: 5-0 passed

- **REGULAR AGENDA**

R1. Resolution No. 2018-01: Frontier Franchise Extension Recommendation

Omelchuck reviewed the Frontier Franchise extension materials contained in the meeting packet. Omelchuck said the Commission is a recommending body to the jurisdictions for franchise extensions or renewals. Staff will forward the Commission's recommendation to the member jurisdictions, with a sample ordinance and supporting documents. Omelchuck stated that staff initially identified eight issues to address with Frontier; however, four of the eight items have been resolved. The remaining items are addressed in the draft extension ordinance or in the MHCRC-Frontier Settlement Agreement. Omelchuck introduced George Thomas, Legal Counsel, Frontier Communication, and invited him to provide comments.

G. Thomas confirmed that Frontier is working towards launching the HD channels at MetroEast and the installation of the ethernet service at both MetroEast and Rockwood sites. G. Thomas also mentioned that Frontier has provided free WIFI at area events and has plans to continue to do so in the future. Additionally, Frontier has made \$20 million improvements to the infrastructure to provide better service to its subscribers.

Motion: N. Thomas moved that the Commission approve Resolution No. 2018-01: Recommend MHCRC Cities extend term of Frontier cable franchises to December 31, 2022, under certain conditions, and authorize the MHCRC Chair to execute the Settlement Agreement with Frontier in substantially the same format as Exhibit B to the Resolution. Bennett seconded.

Vote: 5-0 passed

R2. Resolution No. 2018-02: Cascade Access Franchise Extension Recommendation

Omelchuck reviewed the Cascade Access (also known as Reliance Connects) Franchise extension materials contained in the meeting packet. She stated that Cascade Access plans to discontinue its cable services under its franchise with Multnomah County. Staff is recommending a six-month extension to allow for an organized wind down of the cable services with subscribers and removal of any cable-related equipment in the right of way. Omelchuck introduced Matt Day, Project Manager, Cascade Access, and invited him to provide comments.

Day stated that in Multnomah County, Cascade Access serves the Corbett area in unincorporated Multnomah County. Due to the expense of providing cable service to only 72 subscribers in this territory, it isn't economically feasible to maintain cable service. Cascade Access is planning to offer Over the Top Services (OTT) and is seeking to provide subscribers additional time to select alternative products.

In response to a question from Hansen, Day confirmed cable services are only being discontinued in Multnomah County at this time, but as existing franchises expire, Cascade Access will likely consider not renewing franchises in other areas.

In a response to a question from Bennett, Day stated that Cascade Access is looking to offer a streaming service, much like YouTube or Hulu.

In response to a question from Studenmund, Day stated that most internet providers have the capabilities to work with local broadcast tv providers, so people can have access to local channels.

Motion: Bennett moved that the Commission approve Resolution No. 2018-02: Recommend Multnomah County extend term of Cascade Access Cable Franchise to June 30, 2019; recommend form of extension. Thomas seconded.

Vote: 6-0 passed

R3. Community Technology Needs Ascertainment - Key Questions

Dicile stated the Ascertainment Committee, comprised of five Commission members, has been working on the scope of work and resources needed to conduct the Community Technology Needs Ascertainment. Through the process, the Committee agreed to capture an understanding of the broader needs of telecommunications beyond cable within underserved communities, including an elevated emphasis on equity and inclusion. Dicile stated that staff will facilitate request for proposal (RFP) processes for two consultants and coordinate the work of and between the two consultants.

Omelchuck stated that the Commission is considering three separate agenda items related to the Community Technology Needs Ascertainment and reviewed the staff report contained in the meeting packet that outlined the Ascertainment key questions, RFP scopes of work, and a related contingency request. She also noted that Multnomah County Library and the City of Portland, Office for Community Technology are financially contributing to the Ascertainment consultants' work.

In response to a question from Bennett, Omelchuck stated that two RFPs are planned for two separate, but related, scopes of work: A Community Technology Needs Ascertainment consultant and a community engagement consultant. The community engagement consultant will specifically work with communities of color, those with disabilities, the elderly and other underserved communities to engage them in data gathering efforts. The Ascertainment consultant will focus on the overall community, the jurisdictions, the school districts, etc... Dicile stated that the Committee discussed RFP evaluation criteria so that the RFP evaluation committee can assess the applicant's experience and connections with specific hard-to-reach communities.

In response to a concern from Thomas, Hansen and Dicile said the Committee anticipated leveraging new technologies for engagement when implementing the Ascertainment process.

Motion: Thomas moved that the MHCRC adopt the key research questions to guide the design and implementation of the Community Technology Needs and Interests Ascertainment. Harden seconded.

Vote: 6-0 passed

*R4. Community Technology Needs Ascertainment – Consultant RFP Scope of Work

Motion: Thomas moved that the MHCRC authorize scopes of work for two separate, but related, consultant contracts. Dicile seconded.

Vote: 6-0 passed

*R5. Contingency Request - Community Needs Ascertainment

Motion: Thomas moved that the MHCRC approve \$5,000 from FY18-19 contingency to support the ascertainment. Bennett seconded.

Vote: 6-0 passed

R6. MESD Intergovernmental Agreement – I-Net Capital Costs

Omelchuck provided an overview of the draft Multnomah Education Service District (MESD) Master Intergovernmental Agreement (IGA) contained in the meeting packet. She stated that the Commission currently has an IGA with the City of Portland, Bureau of Technology Services (BTS), which has handled all I-Net equipment for all I-Net users in the past. MESD approached staff about being able to fund I-Net-related equipment to test options for the next generation of I-Net to prepare for the franchise renewal with Comcast. Omelchuck stated that staff has negotiated an IGA with MESD, that allows for reimbursement of MESD I-Net-related capital costs.

In response to a question from Bennett, Omelchuck stated that BTS, MESD, and Comcast are clear on delineation of work and equipment ownership of each party.

Motion: Harden moved that the Commission approve a Master Intergovernmental Agreement (IGA) with the Multnomah Education Service District (MESD), which establishes a process to reimburse MESD for I-Net capital costs under the cable services franchise agreements. Dicile seconded.

Vote: 6-0 passed

R7. FY2017-18 Year-End MHCRC Financial Report – Unaudited (Information Only)

Omelchuck provided an overview of the FY2017-18 year-end financial report contained in the meeting packet. She stated that the Commission has a very healthy financial status. She also noted a significant decline in cable franchise fees and PEG/I-Net fee revenues, which will be a consideration for budget preparation for the next fiscal year.

In response to a question from Bennett, Omelchuck stated that the Commission did not spend as much as was budgeted in earned interest.

- Staff Activity Reports and Updates
 - BBK Legal Services – Cable Specific
Omelchuck confirmed that the Commission has retained BBK for cable specific legal services.
 - MHCRC FCC Filing – Cable In-Kind/ Mixed Networks
Omelchuck provided an update regarding the Cable In-Kind/ Mixed Networks FCC filing. She stated this FCC Notice of Proposed Rulemaking undermines authority over locally negotiated franchise agreements and could have a negative impact on local media centers and other public benefits in cable franchise agreements. She stated that reply comments are due December 15, 2018.
 - OCT Bureau Transition
Elisabeth Perez, City of Portland, OCT Acting Director, stated that Portland concluded its Fall Budget Modification Process, which contained funds for a new director position but no funds for OCT to physically move from its current space in the Revenue Division. She stated that she has had three possible candidates for an OCT interim director and has met with one candidate so far. In response to a question from Hansen, she stated that she is currently acting director, but would like to fill the role as soon as possible and still plans to be heavily involved after one is found.
 - Digital Equity Action Plan (DEAP) – Year 2 Report
Omelchuck handed out the Year 2 DEAP report and noted that OCT and the Multnomah County Library staff presented the report to the Portland City Council and Multnomah County Commission.
 - MHCRC Annual Planning Retreat – Omelchuck confirmed March 16, 2019 as the retreat date and, in consultation with Chair Hansen, confirmed Paula Manley as the retreat facilitator.
- Committee Reports
 - Finance Committee: Thomas noted the meeting on Dec. 6, 10:30-noon, Gresham.
 - Open Signal Board Appointee – Dicile stated Open Signal continues to gain grant funding. She also noted that Open Signal's strategic planning process will wrap up in December.
 - MetroEast Board Appointee – Thomas stated that MetroEast is doing very well raising grant and sponsorship funds.

- New business; Commissioner Open Comment
 - MHCRC Annual Evaluation of Admin Services
Hansen stated that due to staff change over and burdened workloads, he has chosen to forgo the admin/staff services review for FY17-18. In response to questions from Thomas and Harden, Hansen stated that the Commission has been providing feedback to Perez about current staff accomplishments and good work.

- Meeting Schedule

December 17 – MetroEast
January 28 – Open Signal
February – Recess
March 16 – MHCRC Planning Retreat
April – Recess
May 20 – Open Signal
June 17 – MetroEast
July/August – Recess

Hansen announced the Executive Session would convene following a ten-minute recess.

Meeting recessed at 8:05pm.

Meeting reconvened at 8:14pm.

Executive Session: Hansen convened the Executive Session at 8:15pm pursuant to ORS 192.660(2)(f), which allows the Commission to meet in executive session to consider information or records that are exempt by law from public inspection, specifically: ORS 192.355.

Representatives of the news media and designated staff (Julie Omelchuck) were allowed to attend the Executive Session. All other members of the audience were asked to leave the room. Representatives of the news media were specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the Executive Session, except to state the general subject of the session as previously announced. No members of the news media were in attendance. No decisions were made in the Executive Session.

The MHCRC considered and reviewed information and records exempt from public inspection related to the MHCRC general counsel, Mark Wolf, recommendation to enter into a potential Common Interest agreement with the City of Portland and for the MHCRC special counsel, Best, Best, & Krieger (BBK), to perform an issues review related to a lawsuit, Joel Rank v. Mt. Hood Cable Regulatory Commission, et al., which was dismissed in US District Court.

Hansen adjourned the Executive Session and reconvened the regular MHCRC meeting at 10:05pm.

R8. Contingency Request – BBK Legal Review of Dismissed Lawsuit Components

MOTION: Thomas moved to allocate up to \$15,000 from FY18-19 contingency for an issues review by the MHCRC special counsel, BBK, related to a dismissed lawsuit. Harden seconded.

VOTE: 6-0 passed

- Adjourn: 10:07p.m.

Respectfully submitted,

Tyler N. Dice
Assistant Program Specialist