

TO: Honorable Mayor and City Council

FROM: City Administrator Ron Johnson

SUBJECT: Mediacom Franchise Renewal

DATE: March 3, 2017

BACKGROUND

At its February 21, 2017 regular meeting, City Council approved an ordinance granting a franchise to Hiawatha Broadband Communications, Inc. to construct, operate, and maintain a cable communications in the city.

Mediacom's franchise was extended to the end of 2015 and not extended further. Mediacom, of course, continues operating presumably on the legal theory that franchise rights remain until either the company's renewal request is denied or a new franchise is issued.

Attached is a memo from Bob Vose, Kennedy Graven Chartered, the city's consulting attorney, providing a brief background and stating Mediacom's position with the franchise agreement. Mr. Vose will be present to provide more information, including options for Council regarding the Mediacom cable franchise renewal, and accept questions from City Council.

Note: Mr. Vose forwarded his memo to Mediacom and they responded with the attached letter.

A Cable Commission meeting has been set for Monday at 5:30 p.m.

REQUESTED COUNCIL ACTION

Consider options regarding the Mediacom cable franchise renewal.

Attachment(s): Bob Vose memo; response letter from Mediacom

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MEMORANDUM

Date: February 24, 2017
To: City of Cannon Falls, City Council
From: Bob Vose
Re: Mediacom Franchise Renewal

Now that the City has issued a competitive franchise to Hiawatha Broadband Corporation (HBC), I am seeking direction concerning Mediacom's renewal. As the Council knows, Mediacom's franchise was extended to the end of 2015 and not extended further. Mediacom, of course, continues operating presumably on the legal theory that franchise rights remain until either the company's renewal request is denied or a new franchise is issued.

Mediacom indicates that it will accept a franchise that is materially equivalent to HBC's except as follows:

1. PEG Fee – Mediacom will agree to pay a \$30,000 “grant” for new PEG equipment/capital equivalent to HBC's obligation. Mediacom has also agreed to continue the \$1.25 per customer, per mos. PEG Fee, but demands to retain \$1.00 until the “grant” is recouped. HBC does not have this right. Moreover, Mediacom's prior franchise required a \$25,000 grant and \$1.25 PEG Fee with no right to recoup.

Mediacom's attorney explains: “If Mediacom fails to recoup the Grant, customers in other Mediacom cities will effectively subsidize the City's demands; and if Mediacom increases rates to recoup the Grant, many customers will likely find alternate video providers which do not impose such costs such as DirecTV, Dish, Netflix, Amazon, Hulu, etc. That hurts both the City and Mediacom and is, therefore, unacceptable.”

2. HD PEG – Unlike HBC, Mediacom will not agree to provide one or more PEG channels in high definition (HD) due to the cost. Mediacom did upgrade its system to all-digital which should have improved signal quality, including for the PEG channels. Mediacom offers to revisit this issue in the fifth year of a 10 year franchise as follows:

6.1.e. HD PEG. Grantee shall provide the PEG access channels on the Basic Cable Service tier. At any time beginning five (5) years after the Effective Date of this Franchise, Grantee shall, within sixty (60) days of written request by the City, meet with the City to determine whether to convert one (1) standard

definition (SD) provide a PEG access channel to in high definition (HD) on an HD tier then-available on mutually acceptable terms and conditions. The City shall be responsible for all equipment and associated costs of providing HD programming beyond the demarcation point, defined as the specific location inside the building-served where the Grantee's facilities connect to internal wiring, and the Grantee shall be responsible for all System equipment and costs associated with providing the HD channel(s) on its side of the demarcation point.

3. 2-Way Connections – Mediacom proposes to provide return connections from the sites it currently serves which the company believes are: Cannon Falls High School, City Hall and the High School football field, but not John Burch Park. City staff believes Mediacom has return capacity from John Burch Park but not the High School football field.

If Mediacom's position is unacceptable to the City Council, the only way to resolve this renewal (with a denial or renewed franchise) is the "formal process." To summarize greatly, this process would involve Mediacom's submission of a final proposal, the City's likely preliminary rejection of that proposal, and an administrative hearing process to determine whether or not the proposal is reasonable to meet the City's identified needs/interests in light of the costs.



Theresa Sunde
Senior Manager, Government Relations

Via Email to City Administrator

March 2, 2017

Mayor Robby Robinson and Members of the Cannon Falls City Council
Cannon Falls City Hall
918 River Road
Cannon Falls, MN 55009

Dear Mayor Robinson and Members of the City Council:

Mediacom has enjoyed a long and mutually rewarding relationship with the City of Cannon Falls and looks forward to continuing that relationship. We have made sizable capital investments to bring the City high quality voice, video and internet services.

We have also been a good corporate citizen, contributing \$35,000 to the City's Capital Campaign for the Cannon Falls Library reconstruction project.

We have worked diligently to complete the franchise renewal and appreciate your input on the last issues given we have a mutual interest in maintaining cable subscribership:

PEG Funding.

The City's current request is \$30,000 in up-front PEG payments and \$1.25 per subscriber per month in on-going PEG support. Keep in mind these funds may ONLY be used for federally authorized PEG capital needs and cable companies are allowed to recoup these dollars under federal law.

Mediacom customers will pay an average of \$1.85 per month every month over the next 10 years to meet the City's request based on current customer numbers, or \$222.00 per customer. Add to that the estimated \$582.00 each customer will pay in franchise fees and the total of City-imposed costs is over \$800 per customer.

Customers have more choice than ever in buying video services, none of which include these City-imposed costs. More and more, customers are choosing internet based video services like Netflix, Hulu, Amazon, etc. The recent launch of "skinny bundles" by these satellite and internet providers are "meaningfully accelerate[ing]" the drop in traditional cable customers according to Craig Moffet of MoffetNathanson Research, one of the premier analysts in our industry. Moffet concludes that "the main thing we have learned from this decline and the rise

of cheaper digital alternatives is that price matter above all else to customers.” The loss of cable customers hurts both the City and the cable operator.

In the face of these facts, Mediacom agreed to fund the \$30,000 up-front PEG equipment request from the City and agreed to maintain the \$1.25 PEG Fee. Our only request was to minimize the impact on customers by allowing us to recoup the \$30,000 out of the \$1.25 rather than adding to the \$1.25 PEG Fee. Based on Mr. Vose’s memo, we understand that the City staff has rejected that request.

We are deeply concerned about the impact of the staff position on overall cable subscribership but it would be irresponsible to pursue a formal renewal process as that would needlessly consume substantial resources for both the City and Mediacom. To resolve this issue, we would offer either one of the following options:

Option 1: PEG Fee of \$2.25 with Mediacom retaining \$1.00 per sub/month until the up-front grant is recouped (estimated to take about 70 months or a little under 6 years). After Mediacom recoups the \$30,000, the fee would be reduced to \$1.25 which would continue to be paid to the City for the remainder of the franchise.

Option 2: PEG Fee of \$1.85 with Mediacom retaining \$0.60 per sub/month until the up-front grant is recouped (estimated to take the entire franchise term of 120 months).

HD Channel.

Mr. Vose accurately stated Mediacom’s position – the cost for Mediacom to provide an HD channel is estimated to be about \$30,000 at today’s prices. However, it is likely these prices will come down in the future. Therefore, we agreed to revisit this issue in 5 years when we may be able to take advantage of these cost reductions. Mediacom also just upgraded its system to all digital which has provided noticeable improvements in picture quality for PEG channels.

2-Way Sites.

We mistakenly indicated we serve the High School field rather than John Burch Park. We will continue to serve City Hall, the High School and John Burch Park so this issue is resolved.

We look forward to promptly completing the renewal and continuing our positive relationship with the City. If you have any questions or concerns, we would be happy to address them.

Thank you for your input and consideration.

Sincerely,



Theresa Sunde