



STAFF REPORT

DATE: May 7, 2019
CONSENT

AGENDA ITEM: Cable Franchise Extension
SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

Included in your packet is an email from Tim Finnerty, Cable Commission Executive Director. It provides details on the background and proposal before the Council.

ISSUE BEFORE COUNCIL:

Should the Council extend the cable franchise agreement with Comcast?

PROPOSAL:

The cable commission is requesting an extension of the cable franchise agreement with Comcast until February 28, 2020 to allow good faith negotiations to continue.

It is not all uncommon for franchise renewals to take extra time as they are a very complex matter.

RECOMMENDATION:

If removed from the consent agenda:

“Motion to approve the resolution to extend the cable franchise agreement until February 28, 2020.”

ATTACHMENTS:

- Email from Tim Finnerty
- Resolution to extend cable franchise agreement
- Timeline for Negotiations

From: [Tim Finnerty](#)
To: [Kristina Handt](#)
Cc: [Ginny Holder](#)
Subject: Extension agreement for Council approval
Date: Tuesday, April 23, 2019 1:25:39 PM
Attachments: [RamWash 2-28-20 extention to signed by Comcast.pdf](#)
[Franchise Renewal Timeline \(Revised March 2019\).pdf](#)

Dear Kristina:

Attached please find a proposed Agreement for another extension of the Franchise with Comcast. The Cable Commission is recommending that the City Council approve the Extension Agreement. The Agreement will extend the expiration date of the current Franchise from August 31, 2019 to February 28, 2020. The purpose of the proposed extension is to allow for continued informal negotiations between Comcast and the Cable Commission regarding the long-term renewal of the Franchise. Comcast is in agreement with this.

Background

As you know, the Cable Commission has been working on the matter of Franchise renewal with Comcast given that the existing Franchise Agreement that is set to expire August 31, 2019. The Commission and Comcast have conducted negotiations during 2018 and 2019 thus far, and prior to that, the Commission had developed and documented a comprehensive needs assessment to serve as the negotiation objective on behalf of member cities. The needs assessment report is available at:

https://drive.google.com/drive/folders/0B37m--_T9u7TcUNaZUh6MziPWms

Renewal issues can be resolved through “informal” processes (negotiation), or through a “formal” hearing process. Based on the time required to complete the formal process, the Commission has adopted and updated two schedules. In both, the parties start with negotiations, but move the formal process forward so that it would be completed by roughly the date scheduled for franchise expiration if negotiations were not successful. One schedule assumed that the expiration date stayed as is (August 31, 2019), and effectively required the parties to reach negotiated deal points by April. In the other, the parties would extend the franchise to give themselves more time to engage in negotiations.

Recommendation to Approve Extension

The Cable Commission and Comcast have exchanged proposed terms and counterproposals and held several negotiation sessions. While no proposed deal has yet been reached, both parties recommend extending the time schedule to allow for continuation of negotiations. Therefore, the parties have agreed to recommend extending the franchise expiration date to February 28, 2020 in order to allow negotiations to continue to proceed informally.

To accomplish this, Cable Commission recommends that the City approve the attached Extension Agreement. The Cable Commission believes this simple extension of the current franchise expiration will allow both parties to continue informal negotiations without being put at a disadvantage. **The extension preserves the City's right to**

use the I-NET, and preserves existing PEG support and channels (including high definition channels) for local cable programming. It does not harm the communities in any way.

Finally, please find attached a revised the franchise renewal schedule to reflect how the timeline proceeds under this extension. The Commission leadership believes it is important to follow this schedule to protect the interests of its Member Municipalities.

Please feel free to contact me after you have had a chance to review this if you wish to discuss it or have any questions. Thank you!

- Tim Finnerty
Ramsey/Washington Cable Commission
timfinnerty@scctv.org
651-747-3802

EXTENSION AGREEMENT BETWEEN AND AMONG THE MEMBERS OF THE RAMSEY WASHINGTON SUBURBAN CABLE COMMISSION AND COMCAST OF MINNESOTA

WHEREAS, Comcast of Minnesota, Inc., (“Franchisee”) operates a cable television system (the “System”) in communities which are members of the Ramsey/Washington Suburban Cable Commission (RWSCC) pursuant to a franchise scheduled to expire on November 1, 2018, to which the City of Birchwood Village, the City of Dellwood, the City of Grant, the City of Lake Elmo, the City of Mahtomedi, the City of North St. Paul, the City of Oakdale, the City of Vadnais Heights, the City of White Bear Lake, White Bear Township and the City of Willernie, Minnesota, are parties (each community is a “Franchisor”); a March 9, 1995 Memorandum of Understanding; and the April 10, 2014 Settlement Agreement, as amended by Section 2 of that certain 2015 Transfer Agreement Between and Among The Members of the Ramsey Washington Suburban Cable Commission, Comcast of Minnesota, Inc. and Midwest Cable, Inc. (collectively, the Franchise and these documents are the “Franchise Documents”); and

WHEREAS, the parties previously agreed to extend the expiration date of the Franchise, and of obligations in the Settlement Agreement, through August 31, 2019; and

WHEREAS, the parties wish to extend certain time periods provided under the Franchise Documents to provide time for the parties to work together to attempt to resolve renewal issues,

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. The Franchise is extended through and including February 28, 2020.

Section 2. Paragraph 10 of the “Settlement Agreement Regarding PEG Capacity” is amended so that the reference to August 31, 2019 is changed to February 28, 2020.

Section 3. Otherwise, the Franchise Documents shall remain in full force and effect in accordance with their terms.

Section 4. Both parties agree that the further extension will not require recommencement of the renewal process under state or federal law, or require either party to re-conduct any studies or proceedings that may have been or are being conducted.

Section 5. This Extension Agreement does not confer upon the Franchisee any additional rights under Section 626 of the Cable Act.

Section 6. By entering into this Extension Agreement, the parties do not otherwise waive their rights to rely upon the rights, procedures, protections and recourses granted to them pursuant to applicable Federal, state, or local rule, regulation, law or precedent.

Section 7. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement

IN WITNESS WHEREOF, the Parties have caused this Extension Agreement to be executed by duly authorized representatives of each Party on the dates written below.

COMCAST OF MINNESOTA, INC.

By: John D. Keller
John D. Keller
Title: Regional Vice President

Date: 4/11/19

CITY OF BIRCHWOOD VILLAGE

By: _____

Title:

Date:
CITY OF DELLWOOD

By: _____

Title:

Date:
CITY OF GRANT

By: _____

Title:

Date:
CITY OF LAKE ELMO

By: _____

Title:

Date:
WHITE BEAR TOWNSHIP

By: _____

Title:

Date:

CITY OF MAHTOMEDI

By: _____

Title:

Date:

CITY OF NORTH ST. PAUL

By: _____

Title:

Date:
CITY OF OAKDALE

By: _____

Title:

Date:
CITY OF VADNAIS HEIGHTS

By: _____

Title:

Date:
CITY OF WHITE BEAR LAKE

By: _____

Title:

Date:
CITY OF WILLERNIE

By: _____

Title:

Date:

**Ramsey/Washington Cable Commission - Franchise Renewal Timeline
(Revised March 2019)**

DATE	INFORMAL PROCESS	FORMAL PROCESS
March, 2019 - September, 2019	Informal negotiations	Preparation for drafting/issuing of renewal RFP
September, 2019	Negotiations Update/recommendations as to whether to issue RFP (formal process), or continue negotiations; final document preparation begins if applicable	Negotiations Update/deadline for recommendations as to whether to issue RFP (formal process), or continue negotiations; issue renewal RFP no later than September 15, 2019 if applicable
October, 2019	Final Franchise documentation is complete and provided to Commission office	Issue RFP with return date of no later than October 15, 2019
November, 2019	Public hearing on proposed Franchise	
December, 2019	Commission approval of final Franchise to be recommended to municipalities	Decision made to preliminarily deny or accept proposal; recommendations for conduct of formal proceeding
January, 2020	Final Franchise provided to each municipality for approval and signing	
February, 2020	Existing Franchise with Comcast expires February 28; existing payment arrangement could terminate at earliest on October 28, 2019	Hearing commences on formal process (90 days of prehearing discovery)
March, 2020		
May, 2020	Municipal approval of final Franchise is completed; approved Franchises for each municipality if forwarded to Comcast for signing	
June, 2020		Hearing completed; recommendations for final action on franchise submitted to municipalities