

**CITY OF FALCON HEIGHTS
COUNCIL RESOLUTION**

February 9, 2011

No. 11-03

**A RESOLUTION CONCERNING THE COMMENCEMENT OF FORMAL
RENEWAL PROCEEDINGS UNDER THE FEDERAL CABLE
COMMUNICATIONS POLICY ACT OF 1984, AS AMENDED**

WHEREAS, the City of Falcon Heights (“City”) enacted an ordinance and entered into a cable television franchise agreement (collectively, the “Franchise”) with MediaOne North Central Communications Corp. (“MediaOne”), which became effective October 1, 1998, to provide cable television service within the territorial limits of the City; and

WHEREAS, as a result of several transfers of the Franchise, Comcast of Minnesota, Inc. (“Comcast”) currently holds the Franchise; and

WHEREAS, the North Suburban Cable Commission (the “Commission”) was organized by the City and the other member cities pursuant to Minn. Stat. § 471.59, as amended, for the purposes of monitoring Comcast’s performance, operations and activities, and coordinating, administering and enforcing the City’s Franchise and the franchises granted by the Commission’s other member cities; and

WHEREAS, Section 626(a)(1) of the Cable Communications Policy Act of 1984, as amended (the “Cable Act”), 47 U.S.C. § 546(a)(1), provides that if a written renewal request is submitted by a cable operator during the 6-month period which begins with the 36th month before franchise expiration and ends with the 30th month prior to franchise expiration, a franchising authority shall, within six months of the request, commence formal renewal proceedings to identify the future cable-related community needs and interests, and to review the performance of the cable operator under its franchise during the then current franchise term; and

WHEREAS, the Franchise is scheduled to expire on October 1, 2013, unless sooner terminated or extended; and

WHEREAS, by letter dated October 11, 2010, from Comcast to the City, Comcast invoked the formal renewal procedures set forth in Section 626 of the Cable Act, 47 U.S.C. § 546; and

WHEREAS, the City is desirous of commencing the formal renewal proceedings specified in Section 626(a)(1) of the Cable Act, 47 U.S.C. § 546(a)(1) and, at the same time, of pursuing the informal renewal process with Comcast pursuant to Section 626(h) of the Cable Act, 47 U.S.C. § 546(h); and

WHEREAS, the City wishes that the formal proceedings under Section 626(a) of the Cable Act and the informal renewal process under Section 626(h) be managed and conducted by the Commission, or its designee(s); and

WHEREAS, the City intends to confirm the Commission’s pre-existing authority to take any and all steps required or desired to comply with the franchise renewal and

related requirements of the Cable Act, Minnesota law and the Franchise in accordance with the broad powers granted to the Commission by the Amended North Suburban Cable Commission Joint and Cooperative Agreement for the Administration of a Cable Communications System, dated June 1990 (the "Joint Powers Agreement"); and

WHEREAS, the Commission is empowered by Joint Powers Agreement to conduct the Section 626(a) proceedings on the City's behalf and to take such other steps and actions as are needed or required to carry out the formal and informal franchise renewal processes; and

WHEREAS, the Commission, on behalf of the City, must provide the public with notice of, and an opportunity to participate in, formal renewal proceedings under Section 626(a) of the Cable Act; and

WHEREAS, formal Section 626(a) proceedings and the informal franchise renewal process may involve the collection and analysis of information from Comcast (and its affiliates and subsidiaries), City agencies and departments, the Commission, the North Suburbs Access Corporation, the public and other interested parties, and may require one or more public hearings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FALCON HEIGHTS, MINNESOTA, THAT:

Section 1. The City authorizes the Commission and its staff to commence formal franchise renewal ascertainment and past performance proceedings under Section 626(a)(1) of the Cable Act, 47 U.S.C. § 546(a)(1), concerning Comcast and the Franchise, on the City's behalf, pursuant to the powers granted to the Commission in the Joint Powers Agreement. These proceedings, and all applicable procedures, timelines and deadlines set forth in Section 626(a)-(g) of the Cable Act, 47 U.S.C. § 546(a)-(g), may be tolled if Comcast and the Commission enter into a lawful and binding tolling agreement ("Standstill Agreement").

Section 2. The Commission, Commission staff and/or their designee(s) are authorized to manage and conduct those formal franchise renewal proceedings specified in 626(a)(1) of the Cable Act, 47 U.S.C. § 546(a)(1), and to take all steps and actions necessary or desired to conduct such proceedings and to comply with applicable laws, regulations, orders and decisions.

Section 3. The Commission, Commission staff and/or their designee(s), may explore with Comcast the possibility of pursuing the informal renewal process under Section 626(h) of the Cable Act, 47 U.S.C. § 546(h). If the Commission and Comcast decide to utilize the informal renewal process, the Commission, Commission staff and/or their designee(s) are authorized to enter into a Standstill Agreement, if appropriate or desired, to perform past performance and needs assessment reviews, to negotiate and communicate with Comcast concerning matters relating to the renewal and/or extension of the Franchise, and to take all other steps and actions necessary or desired to engage in the informal renewal process and/or to comply with applicable laws, regulations, orders and decisions.

Section 4. The Commission, Commission staff and/or their designee(s) shall provide the public with notice of, and an opportunity to participate in, proceedings conducted under Section 626(a)(1) of the Cable Act, 47 U.S.C. § 546(a)(1), unless those proceedings are tolled pursuant to a Standstill Agreement, in which case such notice and an opportunity to participate will only be required if the Standstill Agreement ceases to

be effective or if the Cable Act's formal renewal process is re-activated in accordance with the Standstill Agreement.

Section 5. The Commission, Commission staff and/or their designee(s) may establish procedures and dates for the conduct of any hearings related to the Section 626(a) proceedings or the informal franchise renewal process and may establish procedures and dates for the submission of testimony and other information in connection with such proceedings and the informal franchise renewal process.

Section 6. The Commission, Commission staff and/or their designee(s) are authorized to request and require Comcast and its affiliates and subsidiaries to submit such information as may be deemed appropriate in connection with the Section 626(a) proceedings or the informal renewal process under Section 626(h), to the maximum extent permitted by the Franchise and applicable laws and regulations, to gather such other information from other persons or sources as may be deemed appropriate, and to take such further steps as may be needed or desired to ensure the City's, the Commission's, the North Suburbs Access Corporation's and the public's cable-related needs and interests are satisfied and fully protected consistent with applicable law.

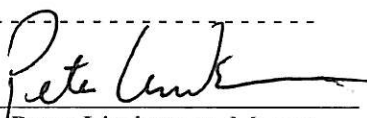
Section 7. The City reserves all of its rights, remedies and defenses with respect to determining whether or not to renew the Franchise, to the full extent permitted by law. The Mayor, City Council members and City employees shall not take a stated position on the renewal of the Franchise or any Franchise renewal-related issues until the Commission makes a formal written recommendation to the City concerning whether renewal of the Franchise should be approved or denied under the formal and/or informal renewal processes.

Section 8. Nothing in this Resolution shall be construed to limit the powers of the Commission under the Joint Powers Agreement or to otherwise waive or limit the Commission's authority, rights, remedies and defenses under applicable agreements, laws, regulations, orders and decisions.


Section 9. The Commission shall keep the City fully apprised of the status and progress of the formal and informal renewal processes, as appropriate.

Section 10. This Resolution shall become effective immediately upon adoption.

Moved by: Long

Approved by: 
Peter Lindstrom, Mayor
February 9, 2011

LINDSTROM 4 In Favor
GOSLINE
HARRIS 0 Against
LONG
MERCER-TAYLOR - *Absent*

Attested by: 
Justin Miller
City Administrator
February 9, 2011