



CITY OF PORTSMOUTH, NEW HAMPSHIRE

CABLE COMMISSION MEETING

City Manager's Conference Room

Thursday, April 08, 2004

The Portsmouth Cable Commission met on Thursday, April 08, 2004 at 3:00 p.m.

The following were present: Gene Fisk, Chairman
Gerald Howe, Ex-Officio
John P. Bohenko, City Manager
Louis Vinciguerra, Commissioner
John Gregg, Commissioner
Jarrett Celli, Commissioner

Also present were Alan Brady, City of Portsmouth Webmaster and Attorney Robert Ciandella of the firm of Donahue, Tucker & Ciandella, legal counsel to the City. Also present were Elizabeth Graham and Brian Christenson of Comcast.

Gene Fisk Chairman called the meeting to order at approximately 3:10 p.m.

MOTION made by Louis Vinciguerra to accept the minutes of the January 8, 2004 meeting. Seconded by John Gregg. Motion passed.

Gene Fisk stated that he didn't think we necessarily needed to spend time as a committee going over definitions and franchise, this is something you and Rob are here to negotiate and asked Liz Graham to get right to the first phase at Page 9. Liz stated that as she understood the counter-proposal from the City, the term was connected to the support that had been requested under the franchise. A \$100,00 grant for equipment support, \$20,000 per year for access operating support and construction of a video origination points to be determined. The term correlated to the company's absorbing or not passing through to customers some portion of those costs. A couple of concerns she has about the way it was presented one is the costs that were identified by the City in the Franchise are all legitimately franchise related costs under the Cable Act. All these costs would be subject to pass through the customers, so the company would not be willing to make a trade off in terms of waiving our right to pass through to customers and by so doing get an additional amount of time for the term of the Franchise. The reason she left the term open is to have the opportunity to have more discussion with the City about the costs that

have been identified, the \$100,000 for video equipment. Around \$72,000 for a studio set up.

Alan Brady stated studio located at the high school and additional \$20,000 - \$24,000 was for a mobile unit for outside meetings, football, etc. Liz asked if the equipment would be placed in the high school.

Alan responded there is a video curriculum at the school and actually built a section at the new high school to accommodate this. Liz stated that it would not be a public access. Alan responded for purposes only for use by school, students, for educational purposes only.

Louie Vinciguerra asked what would and what would not be passed through and what would you do to get the franchise?

Liz stated that they would pass any costs that are related franchise costs through, and that Comcast will not agree to waive their right to pass through costs. The frame work of the Cable Act provides that the City can ascertain its cable related needs and request funding for facilities and equipment from the cable operator taking into consideration the costs of meeting those needs and interests. Liz stated she received a counter proposal with identifying funding of \$100,000 for capital, received an equipment list that was the genesis of the funding request and also a term that in the City's proposal was contingent upon the company's willingness or not to pass costs through. What she is trying to understand is what is driving these needs, how the equipment is to be used, who is using it, reasonable amount of money to support it. It will be passed through.

City Manager suggested ending this because it sounds different than we had talked about earlier. Thought this was negotiations to determine what would not be passed through but what would be the value to extending the agreement and the value, if it was extended for 1 year, 3 years, 5 years, 7 years, 10 years. What his understanding is that all this will be passed through. Liz confirmed

City Manager stated he thought the negotiations should be ended.

John Gregg asked if we were receiving money currently based upon any part of their advertising. Liz Graham answered "no". We did for a period of time. The decision was such that if the City wants to collect payments on advertising revenues then those non-subscriber revenues result in an incremental charge on the 5% franchise fee so that it would be 5.38.

Louis Vinciguerra stated that what you're technically telling us is that if we want that a person watching TV will be paying to watch an ad that you're putting on. Yes. Then why can't you bill the advertiser? Can the City of Portsmouth put in a clause saying that we want you to charge the advertiser 5% toward the franchise fee?

Liz Graham and Brian Christenson left the meeting.

City Manager stated we will be going into a non-public consultation.

MOTION made by Louis Vinciguerra to recess public meeting for consultation with counsel. Seconded by Gerry Howe.

MOTION made by Louis Vinciguerra to go back into public session. Seconded by John Gregg.

Gene Fisk stated that the Renewal of Comcast Franchise Agreement has been distributed to members.

Gene Fisk referred to the letter from Kathy Pearce and Nancy Beach talking about the needs for a public access channel. City Manager suggested a letter back from Gene saying that we are in the process of negotiating and legally we have to keep the government channel separate and are working to negotiate an access channel.

John Gregg questioned whether or not they had to be separate legally. City Manager stated if we allow it to be public access we basically lose control of how we manage it as a governmental channel. The terminology would be different. Attorney Ciandella stated that with public access you have no editorial control, governmental you have it. What was expressed by the City Attorney and the City Manager, if you put access and governmental on the same channel the distinction between the two is lost. City Manager stated he is not against public access channel. The governmental channel has been very worthwhile for this community for people who can't get out of their homes. We now have School Board, City Council, Planning Board, Board of Adjustment and Historic District. City Manager stated he does not want to mix the two.

John Gregg suggested saying we are negotiating for public access and our priority at the moment is on education and do not know if we can go beyond that.

There being no other items to come before the meeting, Gene Fisk asked for a motion to adjourn.

MOTION made by Jarrett Celli to adjourn. Seconded by Louis Vinciguerra.

Adjourned at approximately 4:50 p.m.

Respectfully submitted,

Gene Fisk, Chair