

Cable Advisory Board Minutes

October 25, 2007

Board Members:

Present: Jon Rehm, Stuart Long, Jim Johnson, Donna Behlen, Herb Friedman, Mary Herres, Jerrod Jaeger, Laurie Lee, Herb Schimek, Scott Young, Art Zygielbaum

Others Present:

Time Warner Cable (TWC) Representatives: Dave Norris, Ann Shrewsbury, Jamie Wenz
City Staff & Others: Connie Guillaume, Steve Huggenberger

As Chair Jon Rehm was arriving late to the meeting, Vice Chair Stuart Long called the meeting to order at 4:01 p.m. Board members introduced themselves. Friedman moved, Herres seconded, that the minutes from the previous meeting be approved; motion passed 10-0. (Rehm was not yet present for the vote.)

REVIEW OF NAVIGATOR NEGOTIATIONS

Huggenberger has scheduled a meeting with representatives from TWC for November 15. This follows on a previous meeting with Jon, Stuart, Art, and others. At the previous meeting, they discussed areas where progress might be made, versus areas in which there is not much chance for resolution. Huggenberger reads the franchise agreement as requiring that TWC negotiate in good faith.

Huggenberger was asked what kinds of outcomes might come out of the negotiation. Huggenberger said that there are a host of possibilities. In the most extreme case, the City Council might be asked to lead a class action lawsuit, or ask for a declaratory judgment stating that TWC is in breach of their franchise.

Young asked why the City negotiated such a big franchise. Huggenberger said that he thinks there is a chance that at some point, cities will be losing their ability to franchise. Friedman asked whether, if cities would lose their ability to franchise, that would mean less money for the city. Huggenberger said that the current model would guarantee 5%. Young asked what kinds of things we would lose. Huggenberger said that we could lose PEG benefits under a national model.

Huggenberger said that the City and TWC have 90 days to reach agreement under FCC regulations. Friedman asked how long the process might take. Huggenberger said that he thinks it will take two or three months to figure out which areas TWC might be willing to go.

REVIEW OF COMPETITIVENESS STUDY

Chairman Rehm had arrived during the previous discussion; he took over the meeting from the Vice Chair. Rehm asked for a review of where we are with the competitiveness study that had been tabled from our last meeting.

Zygielbaum said that one thing we could do now is to ask Lee to put together information on some cable markets and try to determine how different markets could be usefully compared. Friedman said that working with the different franchises to determine comparisons is kind of a "smoke and mirrors game." Zygielbaum agreed.

Young asked how we would do this. Zygielbaum said that we could try to get a baseline for comparison. Shrewsbury said that we should remember to consider different pricing strategies such as bundling.

Zygielbaum moved that we ask Lee to head a small committee that would come up with metrics to do a comparison. Friedman seconded.

Jaeger had two comments. First he wanted to make sure that Lee is OK with this motion, second he thinks that such a study, if it brings in a conclusion, would perhaps be used to convince others that competition is needed, but if so we would need credibility and we have no budget.

Huggenberger asked if we were considering a "study" or a "survey"; Zygielbaum said that it would be just a simple study.

Young asked what the value of this would be. If the outcome indicates that we're not getting good value in comparison to other markets, what is accomplished?

Behlen commented that consideration of bundling is problematic, because a lot of things are involved. Shrewsbury agreed; she said that in her position with TWC she used to try to track comparisons with other markets, but she has had to stop doing it because the work is too complex.

Lee said that she doesn't know of any academic studies that do this type of thing. Zygielbaum said that we have heard that there is no competitiveness, and that rates are too high; he said that we would need to find a way to verify that if we want to act on it.

Herres said that we're looking at just cable TV, not phone service or Road Runner. She thinks we just need to stick to basic service.

Long offered a friendly amendment that we ask Lee to report back to us on whether a study is feasible. Zygielbaum said that he thinks this kind of information would be just as hard as actually doing the study, so he didn't accept the amendment as friendly.

Schimek asked what good it would be if we get results but then hear back from TWC that they don't care.

Zygielbaum said that he doesn't think that TWC treats us all that badly. He said that there is currently no basis for deciding how Lincoln's market compares to others; he said that if it turns out to not be feasible to compare markets, then let's just don't compare them.

Jaeger repeated his question about whether Lee is OK with looking into the feasibility of a study; she said yes. Jaeger said that in that case, if she comes across any previous studies on this issue, we would like to see those results too.

Shrewsbury said that we should also look at what other cities get in benefits, such as PEG channels. Lee said that the hard part is figuring out what's being done in other markets. Shrewsbury said that when TWC is looking at other markets, they look at price vs service. Jaeger said that it would be nice if TWC gave us that type of information if they have any.

Zygielbaum accepted a friendly amendment by Jaeger to add a phrase at the end of his amendment: new wording is "The board asks Lee to head a small committee that would come up with metrics to do a comparison, or to determine the feasibility of such a study." Motion passed 9-0. (Schimek and Friedman had left the meeting by this time.)

SUBSCRIBER BILL OF RIGHTS

Zygielbaum walked us through changes that his committee had discussed to bring the Subscriber Bill of Rights in line with what would be required by the franchise or by law. The

committee scratched Item 9, "you have the right to an accurate monthly bill containing all pertinent information including: payment due date, an itemized listing of all charges and fees." Friedman asked why this was removed. Zygielbaum said that there is nothing that says that's required, either in the franchise or under federal law.

Rehm asked how we would distribute the bill of rights. Zygielbaum said that we could put it on the City's Web site. Long said that this is also a subject in the ongoing negotiations with TWC.

Jaeger asked if we're adopting the bill of rights as a bylaw, and what would we do with it. Long said that it's not a bylaw; we need to develop the bill of rights so that the public will know what their rights are. Jaeger said that he thinks we should make it clear that we are directing the City's Citizen Information Center to post it on their site.

Huggenberger said that he has taken the Customer Bill of Rights to his negotiations with TWC. He suggests we don't go forward with posting them until after the negotiations. Long said that he would like to put the document into a form where the public will be able to read it. Jaeger asked Huggenberger if he would prefer the recommended wording now or would rather hold off until January. Huggenberger said that he would like to hear from us regarding what changes we would like to make. Long said he thought we could go ahead and leave the document as it is after committee consideration, until after we hear back from TWC. Young said that he would like to see the document placed on TV so viewers can access it directly.

Rehm said that if Board members have any action items that should be part of the discussion between TWC and the City, they should be forwarded to Steve.

STANDARDS FOR PUBLIC ANNOUNCEMENTS

Long had prepared a handout with the following amendment: "The Citizen Information Center will manage the channel so as to give messages approximately equal air time." The handout also indicated results of his informal survey of a day's worth of messages, which seem to show that due to software resets and other issues this doesn't happen; messages nearer to the masthead tend to get more air time. Long feels that the fairness issue should trump everything.

Guillaume said that she has talked to TWC about this. They are working on the problems. Guillaume said that she has tried everything she can think of on her end to address the problems. Young asked how long Guillaume spends on this during an average week. Guillaume estimated that she could spend 20 hours per week if she had time.

Jaeger asked if the City has anyone responsible for working on the software problems. Guillaume said no; it's at TWC and their engineers are working on it. Zygielbaum asked who owns the server; Guillaume said TWC.

Wenz said that he has just purchased similar software for use on the LCC channel and the public access channel. The company that he bought it from has a scheduler which cuts down on this type of problem. Zygielbaum asked if this purchase could also be used for channel 10; Wenz said that a new server would be needed. Zygielbaum asked how much it would cost for a server. Wenz said that his most recent purchase was about \$20,000 for 4 servers. He thinks a single new server would cost about \$7,000.

Zygielbaum moved that we recommend to the City Council that they find money to purchase a new server for use by Channel 10. Long seconded; motion passed 9-0. (Schimek and Friedman had left the meeting.)

OTHER NEW BUSINESS

Mary Herres remarked that she was very offended earlier in the year when Ann Shrewsbury called Herres' employer to discuss whether the employer thought her service on the Cable Advisory Board was a conflict of interest. Herres thinks that Shrewsbury owes her an apology.

Zygielbaum said that when he applies for boards, he has to report all of his outside interests.

Herres said that she doesn't think her job (with NET) is a conflict of interest; she also thought that if this is viewed as a conflict, one might also view Lee's job with UN-L as a potential conflict.

Jaeger said that he doesn't think there's a conflict. Our job is mostly public relations; the fact that Herres works at NET has nothing to do with her votes on cable service issues.

Rehm said that he doesn't think a whole lot is served by having this discussion in this meeting.

Young said that he doesn't think this board presents much opportunity for a conflict of interest. And if there were a potential problem, it would have been better to discuss with the board member and the City rather than contacting the member's employer and possibly putting her job in jeopardy.

REPORTS FROM THE CITY

Report from the City was distributed. Long asked Huggenberger and Bill Luxford to provide a report on the expenditure of funds for the PEG channels.

REPORTS FROM TIME WARNER CABLE

Wenz distributed the LCC schedule, and notes from the last Community Access Advisory Board (CAAB) meeting. Shrewsbury said that TWC will take interested board members on a tour of the studio sometime. Long had a question about the CAAB. He wanted to know if in Shrewsbury's opinion, members of the Cable Advisory Board (CAB) should not be invited to attend meetings of the CAAB. Shrewsbury said yes. Long wished to challenge this.

Jaeger asked Huggenberger what he thinks on that. Huggenberger said that the CAB still has the power to write access rules, but the CAAB is a separate entity.

Rehm asked what Long's purpose was in asking this. Long said that he thinks we should be part of the CAAB, so that we can represent the people who use the studio.

Zygielbaum asked what would be TWC's objection to having CAB members attend. Shrewsbury said that the people on the CAAB are working together and already include a lot of access users.

Jaeger wished to express the comment to Huggenberger that we don't feel we can carry out our duty to review access channels unless we have a representative on the CAAB.

PUBLIC COMMENTS. None.

Adjournment

Donna Behlen moved, Stuart Long seconded that we adjourn. Motion passed 11-0.

Next meeting will be our annual meeting, January 24, 2008.

Respectfully submitted,

Jim Johnson, Secretary