

**City of Lincoln
Telecommunications/Cable Television Advisory Board
Meeting Minutes – January 22, 2015**

Members Present: Paul Barnett, Andy Beecham, Steve Egglund, Ed Hoffman, Linda Jewson, Jim Johnson, John Neal, Laurie Thomas Lee

Members Absent (excused): Art Zygielbaum

City Staff: Steve Huggenberger, Diane Gonzolas, Jamie Wenz, David Young

Representatives of Time Warner Cable: Jarad Falk, Tyler Hedrick, Bill Austin (attorney appearing on behalf of TWC)

Representatives of Windstream: Brad Hedrick, Scott Barnett

Representatives of LES: Kevin Wailes, Shelley Sahling-Zart

Others Present: Brendan Evans

Call to Order

Meeting was called to order at 4:00 pm by chair Ed Hoffman. Hoffman made note of the copy of the Open Meetings Act at the back of the room. Board members and guests introduced themselves.

Minutes

Minutes from the October 23 meeting were presented. Lee moved approval, Paul Barnett seconded; motion passed 8-0.

Agenda

We had received a request to move the item on LES “dark” fiber under New Business to up near the beginning of the meeting because David Young was needed for that part but had to leave soon to catch a flight. John Neal moved the change to the agenda item order, Paul Barnett seconded; motion passed 8-0.

New Business, part 1

Lincoln Electric System “dark” fiber

David Young started the discussion of LES dark fiber. The City has recently announced our fifth conduit lease.

Young started by reviewing what other communities are doing. This is a hot topic right now; it was mentioned in the President’s State of the Union address. Communities in Nebraska are currently restricted by state law from providing wholesale or retail broadband services to our citizens. There is a move on the federal level to remove state restrictions. If that restriction were removed we would be allowed to provide broadband networks to businesses; for now we can only provide conduits. We can currently require conduits to be placed into businesses; Young distributed a copy of a municipal ordinance in Brentwood CA that would help provide services to residential addresses. Young says it is an exciting time to be in the Internet business. Without going to the level of suing the state, the Brentwood ordinance might be a way of getting conduits to new residential addresses. See paragraph C.1. of the statute.

Beecham asked if this covers future development; Young said yes.

Hoffman asked what’s progressing with regard to the free wi-fi that we have. Young said that we have public wireless in three places: Centennial Mall, Civic Plaza, and O Street to Q Street, Antelope Valley to 9th Street. Hoffman asked how the Haymarket test was received. Young said very well; 1600 users connected to the network with over 6500 sessions. In 2006 there had been a “Wi-Link” initiative which was not well received; however the iPhone 1 came out soon after that.

Hoffman asked Young to define “dark” fiber. Young said that it’s fiber which is not lit. In our system, we have fiber and we would make it available to any user who wants to light it. This is a competitively useful infrastructure. LES would be a possible broadband provider. Hoffman commented that he has visited his daughter, who has a Fulbright scholarship in South Korea; Hoffman says that it was amazing to see the strong connectivity there. He understands exactly what Young is saying. Japan is the same way. One of the things his daughter was studying is the improvement of the economy, and she thinks that connectivity was one of the driving forces.

Thomas Lee asked why in the ordinance they were suggesting two conduits rather than one. Young said that for a city to buy a linear foot of conduit, it costs 33 cents. To install that it's eight to ten dollars a foot. For instance one of the conduits could go bad; if you've installed two then you would have a backup at negligible cost. Second conduit provides redundancy, plus we know we'll need it for private partners so they can provide services at a lower cost to customers. Young said that we don't build a home anymore without water, sewer, heat; why would we build a home without this kind of infrastructure?

Eggland asked if that is a developer of bare land. Young said that in this ordinance that is what they are talking about. Eggland said that he lives in a partially developed area; asked if we would be able to use this kind of thing in that kind of area. Young said he thinks we could consider that.

Hoffman said that he wants to keep having this discussion; also wants to have discussions in the future about what we might be able to do with the legislature to get laws changed.

Neal asked what Young's take is regarding getting infrastructure into some of the older neighborhoods. Young said that he can think of several scenarios. As a concept, if the water department and LES wanted to put smart meters up and wanted to be able to do load balancing on those through existing infrastructure, conduits could be installed, fiber could be installed, it could go into homes. We could shut down water at the water department. There are a lot of ways that we can look at making this model successful. We want to protect our large users such as TWC and Windstream but also be open to the small user.

Hoffman asked what we have now. Young said that users can get 3 megabits per second from one provider. Young has 15 megabits per second; members of NextCentury Cities are advocating for 1000 megabits per second. Hoffman asked Young to describe the difference between 3-15 megabits per second vs 1000 megabits per second. Young said that as an analogy 1 gallon of water per second is enough to make dinner or take a shower; 1000 megabits per second would be an obvious difference. We need to start providing fiber to users because everyone has lots of devices that need it. Hoffman asked if this has had a positive effect on businesses in the NextCentury cities. Young said yes; look at Chattanooga TN and Austin TX. If there are choices then the prices are competitive. Hoffman asked if there are communities that Google wouldn't go into because they didn't have the infrastructure. Young said that there are a lot of things that go into any such decision. But obviously and most importantly, the number of users that you can reach in an area is a major consideration. If your business depends on your network and if your network is down you're losing money.

Hoffman told Young that if there is anything we can do with the free wifi initiative to let us know.

Hoffman said that LES representatives are here to discuss the fiber issue; Shelley Sahling-Zart and Kevin Wailes. Sahling-Zart has a lot of history with respect to the legislation; Wailes can talk about the technology and the business perspective. There is a security issue, related to communications.

Sahling-Zart said that in 2001 the current prohibitions went into place. Gallup had been considering its decision whether to stay in Lincoln or move to Omaha. They were at the 66th & O location at that time. That site wasn't going to have the infrastructure, so they looked at a site in southeast Lincoln versus a location in Omaha. Redundancy was an issue. We had an ordinance that would allow the city to provide telecomm services. Legislation was put in place to restrict what cities could do. (LB 827, in 2001.) The legislation addressed two items: Lit fiber and actual services. The legislation allows us to lease dark fiber, but we cannot lease it at a level less than what an existing telecom provider is providing. In addition, if we make any profit we have to share half of any margin with an organization that is trying to provide infrastructure to rural communities. Hoffman asked what was the intent of the restriction on leasing level. Sahling-Zart said that she thinks the telecom companies were a big voice on that. Sahling-Zart said that we also wanted to light fiber. LES filed an application to the PSC to become an access provider; ultimately that was denied. LES was never wanting to be a primary provider but wanted to be a backup provider.

Sahling-Zart said that in talking to Internet Service Providers, they wanted diversity of the Point of Presence which at that time there was only the company then at 14th and M. The legislature shut down that move. There is a wholesale prohibition that was in place originally, but in 2007 that portion expired. It would be a whole new body in the legislature; it can't happen this session anyway.

Hoffman asked why the Public Service Commission denied the application of LES. Sahling-Zart said that she cannot speak for them; we would have to ask them. Sahling-Zart said that when David was talking about connectivity or smart meters, they can provide whatever they want internally for themselves; we cannot offer it to anyone else for a fee. Wailes said that the system is constructed philosophically to meet their needs. He worked in a community in Florida; they were allowed to put in dark or lit fiber, but they did it only on a limited basis. In today's environment there is a security issue with having the infrastructure out in public. There was recently an attack on a substation in California, where the first thing they did was to cut the fiber. Wailes said that due to the security issues, it's now the case that people cannot go directly into the control center without being checked in.

Regarding smart meters, Wailes said that he could not at this time come up with justification to do meter reading online. They can do drive-by metering. He said that on average our outage time is about 20 minutes per customer per year. It's hard to justify smart metering. They believe that in some point in the future they will be able to justify it from a business model. We have a lot of fiber and we have excess fiber but it wasn't intended to be on an enterprise basis. LES thinks that we should make sure that someone has a strategy to take that forward.

Beecham thanked LES for showing up to answer our questions. He asked, hypothetically, if state laws restricting cities from retail fiber were lifted, how would LES see that going forward. Wailes said that it would have to be planned carefully. Sahling-Zart said that security standards are getting tighter all the time. Wailes said that when he was in Tallahassee, Memphis had been doing some progressive work at that time but it didn't go well because they didn't get the commercial customers they wanted. In many cases the services that were provided weren't what businesses thought they needed. Wailes was trying to think how Chattanooga would deal with the security issues. It occurred to him that Chattanooga probably doesn't have to meet the same standards because they're a Tennessee Valley Authority city so they probably wouldn't be under the same restrictions. Sahling-Zart said that she is not sure that LES would want to do fiber into the home.

Thomas Lee asked, hypothetically, that if the retail prohibition were lifted but the dark fiber were still there, would that be workable. Sahling-Zart said that there would still be a security issue.

Sahling-Zart and Wailes said that the board can contact either one if we have questions.

Hoffman asked if there is anyone else in the room that would want to talk about this topic. Representatives of both Time Warner Cable and Windstream said that they may be interested in talking about it at a future date but would want the right people here; they have no comments for today.

Brendan Evans spoke, representing himself as a citizen of Lincoln. He thinks it's incredibly important that Lincoln try to move ahead into the technology movement. There are a number of companies here that depend on millennials; millennials in turn demand technology. It's an essential piece to living in the modern world. This is an interesting conversation to have now. 2015 will mark a radical change in demographics; there will be more millennials than boomers. If Lincoln wants to be competitive we need to figure out a path forward to provide gigabit access. The young people of today wear three or four devices, and they expect to be able to use them wherever they go. Communities that are prepared for that change are positioned to be a strong force in the marketplace, but those which aren't will be losers in the marketplace.

Hoffman appointed a subcommittee to work on the fiber issue: Ed Hoffman, Art Zygielbaum, Paul Barnett, and Andy Beecham.

Election of Officers

We held our annual election of officers.

Johnson moved Ed Hoffman as chair; Egglund seconded. There were no other nominations; motion passed 7-0 with Hoffman abstaining.

Hoffman moved Art Zygielbaum as vice-chair; Johnson seconded. Hoffman stated that he has contacted Zygielbaum to ensure that the position would be accepted if we vote that way, and Zygielbaum said yes. There were no other nominations; motion passed 8-0.

Hoffman moved Jim Johnson as secretary; Neal seconded. There were no other nominations; motion passed 7-0 with Johnson abstaining.

Old Business

Update on Windstream's cable franchise agreement

Huggenberger said that some minor amendments made at council; most were in the area of trying to equalize some of the provisions between the Time Warner Cable franchise and the Windstream franchise which had not been caught. The City Council passed the amended version, unanimously. Hoffman asked where we are with that process. Huggenberger said that Windstream and Time Warner Cable are discussing what the two companies want, they will discuss and get back to the city at some point.

Review of Time Warner Memorandum of Understanding related to performance review

Steve Huggenberger passed out copies of the Memorandum of Understanding, and asked questions or comments.

Under Item (1), the agreement on Video On Demand, Falk said that on local channel 411, the City is allowed to put anything on there, up to 10 hours of programming. Hoffman asked if there is a plan in place for what to select. Gonzolas and Wenz said that there is no specific plan but we would consider City Council, County Board, or other items.

Under Item (3), Rate Cards, Hoffman commented that we should put the rate cards on the board's website. Huggenberger asked why. Hoffman said because it's public information. Huggenberger said that we're not an advertiser for any particular service. Beecham said he doesn't know if the rate cards from different services would be comparable. Huggenberger said that to the extent that we did that, we would want to provide opportunities for all cable TV providers.

Under Item (7), Channel Spots, Lee asked when these would run. Falk said that typically such ads would run where there is available space.

After going through the main points, Huggenberger said that he is not anticipating that the board would have to approve this agreement, but will take any concerns to the Mayor.

Hoffman said that transparency of customer complaints beyond written complaints is a key issue; we want to see problem trends. Huggenberger said that the Mayor is keenly aware of that desire.

New Business, Part 2

Time Warner Cable rate increases

Jarad Falk from Time Warner Cable said that he is happy to answer questions. When they do a price change they send out a notification to local government entities. Hoffman asked what the impetus was for the rate increase. Falk said that TWC is seeing big jumps in prices broadcast channels. About 75% of customers nationwide will see these. A big one is that there is a Sports Programming Fee that wasn't there before but is \$2.75 now.

Egglund commented that his rate went up; he talked to someone at TWC and was able to get his rate talked down. He asked what is up with that. Falk said that if the representative thinks a customer might leave then they are authorized to make deals that would help keep the customer with TWC.

Hoffman said he thinks that someone may ask if they were getting sports before, why would there be a new bill for sports now? Falk said that the Sports Programming surcharge is nationwide.

Beecham asked if any of the increases were associated with broadband. Falk said that there was a modem lease fee. Neal asked if customers can use their own modem. Falk said yes, they can.

Neal said that since part of the price going up is a modem lease fee, if a customer chooses to not upgrade then would they get to keep the old price. Falk said no.

Falk said that there was an increase on the DTAs. People that got the DTAs as part of the initial agreement will still have the 99 cents fee rather than the higher amount.

Time Warner Cable Report

Hoffman said that one of the questions that's going to come out is with public & private input on the Dark Fiber issue. We invite comment on that. Falk said that the company would be happy to talk with us at any time; however he is not personally knowledgeable enough on the issue to represent TWC in that discussion. He said that he could find someone who is.

Falk said he knows nothing more about the ComCast transfer than we all know. They think it will go through but the details are being worked on. They think the timeline is probably the end of March or early April.

Falk said that TWC has an initial template of what they want to do to work out the public access studio; they will meet with Windstream soon to come up with a proposal.

Hoffman asked Neal if there are any issues with LPS relative to Time Warner Cable. Neal said that there are none that he knows about.

Tyler Hedrick distributed the Public Access Coordinator's report.

Windstream Report

Brad Hedrick and Brian Brooks were available to address the board. Brad Hedrick said that they have no formal report; he invited questions. Hoffman asked how things are going with setting up the new service. Brooks said that things are going well. Programming agreements are in place. Hoffman asked if they could give us an approximate service date. Brooks said that the first customers should be receiving service early in the second quarter, possibly early April. There will be a rampup strategy.

Hoffman asked with regard to LPS and the broadcast of their games, will people on the Windstream service be able to watch the games? Brooks said that there will be opportunities for additional programming; they will figure out how to do that.

Lee asked how TWC and WS plan to do the cost sharing of the public access studio. Brooks said that there will be some kind of cost sharing; it's still being negotiated.

Beecham asked how is the coverage map measured. Huggenberger added that he has similar questions; he gets asked all the time about whether Windstream is in the area of the person who's asking the question. Brooks said that he has no good answer for today; they are working on putting the system together and we don't have that information today. Hoffman said that the good news is that they're not limiting to certain parts of the city. Brooks agreed; if they can eventually reach everyone they want to try to do that.

Hoffman asked about the Dark Fiber/Lit Fiber question. Does Windstream want to be in on this conversation at some point? Brad Hedrick said yes, Windstream certainly has some opinions, and would be willing to discuss.

Lee asked if there are any snags with the discussion about programming. Brooks said nothing of note. He agrees with Falk that the rates are increasing.

Beecham asked what is the customer commitment for those who sign up for the service. Brooks said that the service will probably be month to month, with discounts for those who commit to longer terms.

City Report

Gonzolas said that she is adding the following to the board's Website: board meeting minutes and the Windstream Cable Franchise.

Wenz distributed his report. He commented that the asterisked phrase "LPS not included" only applies to their studio and equipment; the programming hours are included in the report.

Wenz said that the City has relaunched their social networking. They send out a blast on Twitter and post on their Facebook page when there are updates.

Hoffman said that LPS sports, is currently on TWC. Is there a way that it could be moved to Public Access? Wenz said that it's something we are capable of doing but it's costly. Neal said that LPS and the City could have that conversation. Huggenberger said that the prohibition on advertising is a rule that came from the Cable Board. Hoffman said that it's a taxpayer funded entity. Neal said that it's worth discussing but he would worry about the advertising aspect.

Public Comments

None.

Adjournment

Meeting was adjourned at 6:15 p.m.

Respectfully submitted,
Jim Johnson, secretary