

Cable Advisory Board Minutes

July 26, 2007

Board Members:

Present: Jon Rehm, Stuart Long, Jim Johnson, Herb Friedman, Mary Herres, Laurie Thomas Lee, Scott Young, Art Zygielbaum

Absent: Donna Behlen (excused), Jerrod Jaeger (excused), Herb Schimek (excused)

City Staff: Mayor Chris Beutler, Diane Gonzolas, Steve Huggenberger, Bill Luxford, Beau Wolfe

Time Warner Cable: Ann Shrewsbury, Sean Kearney, Paul Burgeson

Others present: Nancy Larimer (Lincoln Public Schools, Media Dept)

Chair Jon Rehm called the meeting to order at 4:05 p.m. The Chair announced that a copy of the Nebraska Open Meetings Law was posted outside of the room. At a previous meeting the Board had invited Mayor Beutler to attend this meeting so we could see if he had direction for the Board; Rehm announced that the Mayor has accepted the invitation and would be joining us shortly.

Board members introduced themselves.

Approval of Minutes

Minutes from the special meeting of May 17, 2007 were read. Minutes from the previous regular board meeting, February 1, 2007, were also read. Laurie Thomas Lee moved approval of both sets of minutes, Art Zygielbaum seconded, motion passed 8-0.

Cable Competition Study (Part 1)

Pursuant to a decision made at the May 17 meeting to begin a comparison of Lincoln's cable market with others, some board members had investigated their assigned cable markets.

Long has contacted a market in Texas, was in the process of checking on another. Young couldn't figure out the phone answering system for the Des Moines cable franchise.

Lee had been assigned Tallahassee and Springfield; she said that a comparison of the low tier rates and services might be feasible if we decide whether low tier should mean Basic, Basic+Limited, or whatever, but that a comparison of high tier services and rates is almost certainly going to be comparing apples to oranges. There are too many different plans out there. Rehm agreed with Lee that it's hard to get a comparison of the high tier service. Lee said that it's also difficult to start with this group of communities; some are much smaller than Lincoln. Shrewsbury said that in Lincoln there are several tiers, including Family Tier, Limited Basic, and Basic. Long suggested that we agree on a definition of high tier and low tier for the survey. He assumes that we'd find more consistency if we have an idea what we're looking for. Long said that in some markets, local power companies get involved with lease of fiber optic cable. Lee said that this can be problematic.

At this point, Rick Hoppe from the Mayor's Office stopped in to notify us that the Mayor was ready to meet with us. (Board had extended him an invitation at one of our previous meetings.)

Discussion with Mayor Beutler

Mayor Beutler thanked the Board for all of our hard work on the Navigator-inspired performance review. He said that the City has begun negotiations with Time Warner; this past Tuesday he met with Beth Scarborough, along with a TWC attorney and a representative of the City Attorney's office. They chatted about the Cable Board recommendations,

kind of informally spent a good hour talking about the recommendations and exploring possibilities. He said that they plan to meet again in the not too distant future.

The Mayor said he wants to learn more about the letter we sent to his office regarding more competition in the marketplace. He invited us to give specifics about what the role of the City should be in bringing in competition. Long said that while we were doing the performance review, the big issue on the table was the lack of cable television competition in Lincoln. Many people have the impression that the City has given an exclusive franchise to TWC. Long said that we on the board know that this is not true, but we wanted to see if there is a way that the City could explore ways to encourage competitors to come in to the market. Long also said that we're curious to know whether the Mayor thinks this is a proper role for the Cable Board.

Zygielbaum said that there is a question of whether Lincoln is receiving service of a similar nature to other similarly sized cities.

Rehm said that a Council resolution helped direct us to conduct the Performance Evaluation; he said that we would like some direction from the Mayor's office on what we should be doing. The Mayor asked if that was a universal feeling; consensus was that we agreed.

The Mayor asked how we should frame the goal. Should a study of cable competition determine technical feasibility of competition? Should we consider subsidized cable franchises vs marketplace competitors? Friedman said that we haven't gotten that far. Lee said that at this point we're just trying to understand the nature of competition. She said that we don't even know if competition would necessarily be a good thing; sometimes overbuilt markets cause franchises to fail and that disrupts service. She said that many communities are looking into this, but there are a lot of issues to consider. Zygielbaum said that many people feel that if there had been competition in Lincoln, the Navigator fiasco wouldn't have happened.

The Mayor said that the powers of the Cable Advisory Board are fairly well restricted by the franchise agreement.

Friedman brought up the research that we're beginning on other markets. Long said that at this point our research isn't accurate enough to tell what the status is. Lee said that she doesn't think we can only consider rates; there are other important issues. Herres thinks quality of the service is a

big part of the problem. Zygielbaum pointed out that we do tend to hear from a skewed portion of the market; those with complaints are more likely to contact the board than those who don't have complaints. Shrewsbury agreed, she also said that on some occasions, TWC finds that complaints are filed by people who have been referred to Collections and may have reasons for their grievances; in such instances she is not allowed to inform us that they're in Collections. Long said that we don't doubt that many or most people who have gotten attention from Shrewsbury have gotten help, but that many people who haven't been able to get through to a high enough level have found the service is deficient.

Getting back to competition in general, Young said that it seems to not make competitive since for a new company to come into the market. The Mayor asked if there is a lot of competition in various markets. Lee said that there's not a lot of cable television competition; many communities are looking at other types of service such as use of phone, Internet, or other methods. Shrewsbury said that TWC is seeing a lot of competition from incumbent phone companies who have begun supplying service. Lee said that Verizon is coming out soon with its new FIOS service.

The Mayor asked if the Board would need someone's approval to conduct a study. Johnson said that we would at least like to know that we're not working at cross purposes with the Mayor's office.

The Mayor asked what the result would be if we found that there is a need for more competition. Long said that there's not a lot we can do, due to federal regulations. Lee thinks that there could be consequences. Zygielbaum said that the starting point should be to figure out where we are now in relation to other markets; this will give us a baseline to start from. Long said that he thinks the eleven members of the board would have at least eleven different opinions.

Lee said that we could let the market work it out. Zygielbaum said that this is good when there is a level market, but the cable television market is not level. Lee said that if competition comes in, they'll want to "cherry pick," i.e. go in to some neighborhoods and avoid others based on where they think the greatest potential for earnings would be.

Zygielbaum said that we are looking for guidance as to what the Mayor sees as our role. The Mayor said that he wants to follow up on the work that we've done, get educated on what we think, and he invites us to give him a call if we have further thoughts.

Long asked about LB635, which would allow LES and other municipal power companies to lease dark fiber. He thinks that the legislature voted about 2-1 against it; many believe that it would be unfair to pass it because public utilities have advantages that cable companies do not. They Mayor said that the Unicameral has changed since he was there; he thinks in fact that today it would probably be impossible to get public power through at all. Lee asked about the possibility of leasing lines from the government. The Mayor said that might be a closer vote.

The Mayor thanked us again for our time; he will stay attuned to what we're doing.

Tour of the 5 CityTV truck

Bill Luxford led us on a tour of the City's upgraded TV remote truck. The old gear was moved to the Channel 21 studio at UNL's School of Journalism.

Cable Competition Study (Part 2)

Following the truck tour, the board reconvened in the Mayor's conference room. Huggenberger said that if we are doing a survey we need to standardize what we're doing, so the results will be meaningful. Zygielbaum thinks that we can go ahead with what we're doing, as long as we state what our assumptions are. Lee handed out a list of cable systems and clusters. Shrewsbury said that channel lineups are different in almost every market. Lee agreed; she said that she thinks Basic service is as close as we can get to a measure of consistency. Zygielbaum said it would be nice to know how many subscribers there are in each market. Shrewsbury said that there is a "big book" which has facts about market size.

Long moved to table the discussion; Lee seconded, motion to table passed unanimously.

Customer Bill of Rights

Long said that we need to finalize the consumer bill of rights which we had recommended as part of the PER. Long moved that Zygielbaum and Lee be assigned to work on an updated draft; Herres seconded. Motion passed unanimously.

Discussion of Board's Role

This was an agenda item, but consensus was that it was pretty well covered by the discussion with the Mayor. Shrewsbury did remind us that one part of the board's role is to be a liaison for the access channels. She said that if we plan to continue that role, we could invite the Community Access Programmer from TWC to join us at a future meeting. Huggenberger said that the City would also like input from the board on access issues.

We informally agreed that we would like to take time sometime to tour the access studio. Rehm will contact Shrewsbury to set up a tour.

Report from the City: None.

Report from Time Warner Cable: None.

Public Comments: None.

Adjournment

Zygielbaum moved to adjourn, Lee seconded, motion passed unanimously. Meeting adjourned at 5:30 p.m.

Next meeting Thursday, October 25, 4:00-6:00 p.m., location to be announced.

Respectfully submitted,

Jim Johnson, Secretary