

**City of Lincoln**  
**Telecommunications/Cable Television Advisory Board**  
**Meeting Minutes – October 21, 2015**  
**Special Meeting**

**Members Present:** Andy Beecham, Steve Egglan, Trent Fellers, Rebecca Henderson, Ed Hoffman, Jim Johnson, Laurie Thomas Lee, Helen Meeks, Art Zygielbaum

**Members Absent (excused):** Paul Barnett, John Neal

**City Staff:** Diane Gonzales, Steve Huggenberger

**Charter Communications:** Gary Underwood

**Time Warner Cable and authorized representatives:** Bill Austin, Jared Falk

**Other:** Nancy Hicks (Lincoln Journal Star)

**Call to Order**

A special meeting of the Telecommunications/Cable Television Advisory Board was held on October 21, 2015, to follow up on the October 14 discussion regarding action on the request by Time-Warner Cable to approve a franchise transfer to Charter Communications. 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 14 board meeting were presented. Meeks made a correction: the minutes had stated that Council meetings related to the proposed transfer would be in September; those need to be changed to October. Fellers moved approval of the minutes as corrected, Zygielbaum seconded; motion passed 9-0.

**Review of Agenda**

Agenda was presented; agenda accepted as presented.

**Old Business**

***Recommendation to City on Charter/TWC franchise transfer request***

- **Review of Charter responses to questions and issues from meeting of October 14, 2015**

The board reviewed Charter's response to second request for information, dated 10/21/2015.

Hoffman asked Gary Underwood from Charter and Bill Austin from TWC to comment on the statement.

Underwood thanked the board for their time. He went over the items in the document entitled "Re: FCC Form 304; Response to Second Request for Information for City of Lincoln, NE."

Underwood stated that this is the first time that he has ever been asked the question about the debt structure and whether it would impact the ability to provide services to local franchises; he is glad for the opportunity. He pointed out the section of the document which says that Charter has no current plans to raise customer rates, and that while the company reserves the right to make changes to pricing and packaging in the future, the transaction itself will not require an increase in the existing rate structure.

Underwood said that in any transaction there is "good debt" and there is "bad debt"; he believes that this is good debt.

He stated that a number of outside companies are excited about this deal.

Regarding the question of whether Charter would continue to offer the \$15 lower speed tier of broadband services, Underwood pointed out that the document says "existing customers will be permitted to remain in their packages and may choose to migrate to new Charter offerings at their discretion." Beecham asked for clarification that this would only be for people that are signed up for the package as of the sale; Underwood stated that the costs have not been determined yet for people that are not grandfathered in.

Huggenberger asked about the word "expected" referencing Moody and other rating systems (e.g. "Moody's is expected to increase the rating from Ba3 to Ba2.") Huggenberger asked how that expectation was determined. Underwood referenced the footnotes. Hoffman read from the Moody statement; he highlighted information that speculated service degradation in terms of having to meet debt.

Underwood asked us to think about why so many people are excited about this transaction. This is one of the best operating teams in the industry; Charter was completely turned around in 2012. The folks with the largest stake are the shareholders. He thinks those guys are reading these documents, but long term this is a very good deal.

Zygielbaum stated that as a board member, he decided to do some due diligence on the merger. He distributed some documents written by third party financial analysts. Zygielbaum stated that this board was established by the city in order to get the best possible service for the city of Lincoln. He likes the fact that they are looking at moving in to Lincoln; he does not like it when they use ambiguous words such as "intent" or "as is customary." He stated that he is not a financial expert himself, so he talked to some financial people that he trusts. One of these people stated that this amount of debt is concerning. Charter is viewed as high-risk by the company that Zygielbaum deals with. Charter has shown a profit in only five quarters of the last five years.

Zygielbaum stated that we are stuck with a benevolent monopoly. We have no say in the price. While Internet speed is not part of the television package, they are inexorably linked to the service. He believes that the proposed merger with Charter is higher risk than the current franchise with TWC.

Zygielbaum moved that:

- The Telecommunications/Cable Television Advisory Board finds:
  - That is not in the City of Lincoln's interest to enter into a franchise agreement with a company in a precarious financial position
  - That the reputation of the City of Lincoln as a franchise partner could be damaged by a hurtful increase in cable and Internet rates
  - That, due to federal preemption on price and quality matters, our ability to address those issues is extremely limited
- Therefore we recommend denial of the proposed change in franchisee.

Johnson seconded the motion.

Beecham asked Huggenberger what our options are today.

Huggenberger: Starting from the motion, the board has to be convinced that the City is worse off post-merger than pre-mergers. The company may argue that the financial elements may not be considered; Huggenberger believes that it is.

At Council, we can either approve or deny or approve with conditions. If denial, then there is a possibility that Charter could negotiate some more, or they could just proceed at the FCC level without City approval and then try to negotiate further with the City, or there is a possibility of court.

Zygielbaum stated that he believes that the City is potentially damaged by the transfer, based on consultation with his financial experts because of the fiscal uncertainty.

Meeks stated that when she looks at it from the standpoint of whether we would be better off pre-merger or post-merger, that is speculative. TWC's financial status could change. She believes that large conglomerates are taking over. There's nothing that says that TWC couldn't pull out of Lincoln. She believes that the business side of those companies would be planning to make money on this deal if they weren't thinking it would make money. She says that this issue of debt is a little high-level.

Hoffman said that we need to decide what is best for this community. Look at the Washington Post article, there are a number of groups that have lined up against this merger. But he is most concerned about the Forbes article. We need a reasonable response.

Fellers stated that he has relayed the concerns of the last meeting to the Council. He wanted to discuss the articles that are out there. What he knows about financial transactions is that new service articles about mergers are not reliable because people have ideas about what it will look like. He thinks that we need to look more at the Moody's article rather than the Forbes article. This deal won't close if it doesn't have a pro forma that works. It won't close from a financial standpoint if it has this debt. He thinks that the viability of this deal is yet to be seen; it's unfortunate that we have to make a decision now, but he thinks that if the debt is too big then that will work itself out on a higher level. He believes that this is a deal that could close.

Lee stated that she believes that the shareholders for TWC have approved this deal; (Falk confirmed that); and since the shareholders have approved she doesn't think we are qualified to doubt that. She believes that this will be a stronger company. Hence, she doesn't have a problem with the financial concern.

Hoffman asked if the agreement by Charter to grandfather in lowest-rate subscribers is something that could be written into the agreement. Huggenberger said that there is no guarantee. Meeks agreed, but stated that there isn't a guarantee for TWC under the current ownership either.

Zygielbaum said that he feels bad either way; if the decision goes against the merger he feels bad because TWC is a good partner. But if the decision goes in favor of the merger he also feels bad because we think there's a chance that things would go downhill. This is our opportunity to say that we believe there is too much risk.

Beecham asked if the Council ultimately agreed with Art's recommendation, what would be the consequence. Zygielbaum wondered whether it would strengthen our position if we were to advise denial. Lee stated that that is the question.

Bill Austin asked to make a few comments. He said he doesn't want to dig too deeply into the financial comments. Austin stated that this is a non-exclusive franchise. If this company made too many mistakes, they cannot afford to change rates dramatically because they have Kinetic looking over their shoulder. He is going off their word that this is a fully funded deal. He believes that there are aspects of this deal that are exciting. He believes that the stockholders, and Moodys and Forbes are looking at this deal with an interest in the company making money.

Hoffman: Are the stockholders making money if this deal goes through. Austin and Underwood said possibly, but they are at risk if it doesn't make money.

Egglund stated that consumer interest and shareholder interest are not always the same.

Egglund called the question.

Motion of the vote to deny transfer of the franchise failed 3-6: Voting in favor were Zygielbaum, Hoffman, and Egglund; voting against were Meeks, Henderson, Beecham, Fellers, Johnson, and Lee.

#### **Public Comments**

None

#### **Adjournment**

Meeting adjourned at 5:45 p.m.

Respectfully submitted,  
Jim Johnson, secretary