



City of Grand Island

Tuesday, April 24, 2007

Council Session

Item G16

**#2007-99 - Approving Informal and Formal Negotiations with
Charter Communications Relative to the Cable Franchise
Agreement**

Staff Contact: Dale Shotkoski

Council Agenda Memo

From: Dale M. Shotkoski, City Attorney

Meeting: April 24, 2007

Subject: Cable Franchise Renewal – Charter Communications

Item #'s: G-16

Presenter(s): Dale M. Shotkoski, City Attorney

Background

The cities of Grand Island and Kearney, Nebraska, have jointly been working on the cable television franchise renewals with Charter Communications as Charter Communications is the company providing cable television service to both communities. The cities in their cooperative efforts have completed various reviews and surveys. Both cities initiated the process of identifying the cable related needs and interests and evaluated existing cable systems in their communities operated by Charter.

In March of 2006, the cities contracted with Moss & Barnett to conduct a review of the financial history and financial qualifications of Charter Communications, a review of the company's financial projections and a review of past franchise fees paid by the company to the cities. The Franchise Fee Payment Desk Review was completed and the results have been turned in to the city.

A Community Needs Assessment was completed for both communities, by contracting with Ms. Susan Bisno Massel to determine the public's future cable related needs and interests as they relate to public, education and governmental programming and facilities, including interviews and site visits with community representatives, focus groups and public meetings. In June of 2006, Ms. Massel completed on site visits to both communities and has issued her report and findings to both cities. Also, the cities conducted a residential needs assessment, which included a telephone survey of randomly selected Charter cable subscribers and non-subscribers. The cities contracted with Dr. Constance Ledoux Book to prepare the telephone survey instrument. Dr. Book reviewed and analyzed the results of this survey and prepared the reports for the cities.

After conducting the above mentioned surveys and reviews, both the cities of Kearney and Grand Island submitted to Charter Communications draft cable television franchise agreements. In March of 2007, Charter responded to the drafts that were submitted to it by the cities back in December, 2006. Charter's response included numerous revisions to the draft franchise agreements that had been submitted, essentially taking out most meaningful items from the draft franchise agreements.

Discussion

The Cable Act, the Federal Law that controls cable franchise agreements, allows for two different ways to renew cable franchise agreements. The first is the informal renewal process, which the cities of Kearney and Grand Island have been pursuing with Charter Communications. The second way is the formal process which includes definite time lines and deadlines. At the current time, the city would still wish to make one more effort to pursue the franchise renewal in an informal fashion but should that effort fail, staff is recommending that council authorize the commencement of the formal process.

Should the cities choose to request a formal proposal from Charter, the Federal Law would permit the cities to establish a deadline for submission of Charter's formal proposal and thereafter the cities would have four months in which to accept or reject Charter's proposal.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve the resolution to proceed informally and formally.
2. Table the matter.

Recommendation

It is the recommendation that council authorize staff to submit to Charter a letter serving as a last attempt to reach a mutually acceptable franchise agreement, which, if it is unsuccessful resulting in reaching an agreement by the informal method by the established deadline of May 15, 2007, that the city is then authorized to pursue formal negotiations pursuant to 47 U.S.C., §546(A-G).

Sample Motion

Motion to proceed informally and formally with Charter Communications.

RESOLUTION 2007-99

WHEREAS, on March 7, 2006, by Resolution No. 2006-77, the Grand Island City Council approved an Interlocal Agreement between the cities of Grand Island, Nebraska and Kearney, Nebraska, for joint services of consultant fees for cable franchise renewal; and

WHEREAS, on March 7, 2006, by Resolution No. 2006-78, the Grand Island City Council approved a proposal from Moss & Barnett of Minneapolis, Minnesota, for cable television franchise review and consulting services; and

WHEREAS, a Community Needs Assessment was completed for both the communities of Grand Island, Nebraska, and Kearney, Nebraska, to determine the public's future cable related needs and interests; and

WHEREAS, after completion of the Community Needs Assessment, a proposed cable television franchise agreement was submitted to Charter Communications by both the cities of Kearney and Grand Island; and

WHEREAS, after receipt of the proposed franchise agreement, Charter Communications' response included numerous revisions; and

WHEREAS, under Federal Law, the Cable Act allows renewal of a cable franchise agreement either formally or informally; and

WHEREAS, it is in the best interests of the City of Grand Island that the City Council of authorize the commencement of both the informal and formal processes.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that city staff is hereby authorized to proceed informally and formally, if required, in the renewal of the cable franchise agreement with Charter Communications.

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Adopted by the City Council of the City of Grand Island, Nebraska, April 24, 2007.

Margaret Hornady, Mayor

Attest:

Approved as to Form	☐ _____
April 19, 2007	☐ City Attorney

RaNae Edwards, City Clerk