



REPORT/RECOMMENDATION

To: MAYOR AND COUNCIL	Agenda Item <u>Item No. IV. H.</u>
From: Scott Neal City Manager	<input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion <input type="checkbox"/> Information
Date: April 17, 2012	
Subject: Resolution No. 2012-63 Cable TV Franchise Extension	

Action Requested:

Adopted Resolution 2012-63

Info/Background:

The City Council has been requested by the Board of the Southwest Suburban Cable Commission to adopt this temporary cable franchise extension. The extension will continue the current cable television franchise until July 31, 2012.

Attachment:

Resolution 2012-63

MEMORANDUM

To: Scott Neal, City Manager, City of Edina

From: Brian T. Grogan, Esq. Client: 40092.19

Date: March 20, 2011

Re: Cable Television Franchise Agreement Extension Resolution – City of Edina

In 1997 the City of Edina (“City”) granted a Cable Television Franchise (“Franchise”) that is currently held by Comcast. The Franchise initially extended for a period of fifteen years through January 1, 2012. Comcast has requested renewal of the Franchise and the City (via the Southwest Suburban Cable Commission) has been engaged in informal renewal negotiations with Comcast in an effort to reach a mutually acceptable provisions for a new franchise.

In November 2011 the City, in an effort to provide additional time to the negotiating teams, extended the term of the Franchise through April 17, 2012. The attached Extension Resolution is needed to provide additional time to complete drafting a new cable franchise.

The City is one of five member cities of the Southwest Suburban Cable Commission (“Commission”) – Eden Prairie, Hopkins, Minnetonka and Richfield are the others. In 2010 the Commission drafted a Needs Assessment report that outlined the future cable-related needs and interests of each member city for the next franchise term. The Commission also drafted a model franchise which incorporated those needs. These documents were sent to Comcast for review and comment.

Throughout 2011 the Comcast negotiation team (Lance Leupold, Emmett Coleman and Steve Holmes, Esq.) and the Commission negotiation team (Patty Latham, Minnetonka; Steve Devich, Richfield and Brian Grogan, Esq.) have been engaged in good faith negotiations to reach agreement on a new franchise. While the general provisions of the model franchise have been discussed, the focus of the negotiations have been on public, educational and governmental (“PEG”) issues. The PEG issues include: 1) channel capacity; 2) connectivity between schools and City facilities; 3) equipment/studio needs; and 4) PEG capital funding.

Since November 2011 Comcast’s local government relations team has undergone changes. Lance Leupold is no longer with Comcast and new employees have now been hired to take over local government relations. In addition, in late 2011 Comcast backtracked on certain commitments for PEG capital funding which resulted in delays in the negotiations as the Commission maintained its position regarding required funding. The parties most recently exchanged written proposals and agreement appears to be close on the key financial provisions. While a number of open issues must still be resolved, the Commission now anticipates that franchise renewal negotiations may be complete in May 2012. If negotiations break down the Commission will update the City and present alternative options for consideration.

The Commission’s negotiating Team recommends that each member city adopt the attached Extension Resolution granting Comcast the right to continue operating the cable system pursuant to the existing Franchise through July 31, 2012. The Commission is hopeful that this additional time will allow the parties time to complete renewal negotiations. Among the tasks to be completed during this extension are: 1) finalize the drafting of a new franchise; 2) present the franchise to the Commission for a recommendation; 3) allow each member city time to review and comment on the new franchise; and 4) present the final franchise document to each member city for review and adoption.

RESOLUTION NO. 2012-63

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDINA, MINNESOTA GRANTING COMCAST OF ARKANSAS / FLORIDA / LOUISIANA / MINNESOTA / MISSISSIPPI / TENNESSEE, INC.

A FRANCHISE EXTENSION TO JULY 31, 2012

WHEREAS, effective January 1, 1997, the City of Edina, Minnesota (“City”) granted a Cable Television Franchise Agreement (“Franchise”) to Time Warner Cable, Inc.; and

WHEREAS, the Franchise is currently held by Comcast of Arkansas / Florida / Louisiana / Minnesota / Mississippi / Tennessee, Inc. (“Comcast”); and

WHEREAS, the City adopted Resolution No. 2011-117 on November 15, 2011 extending the term of the Franchise, as amended by the Resolution; and

WHEREAS, Comcast executed said Resolution No. 2011-117 and agreed to continue complying with the Franchise, as amended by the Resolution; and

WHEREAS, the City and Comcast, pursuant to 47 U.S.C. §546(h), are currently conducting informal franchise renewal negotiations in an attempt to reach a mutually acceptable terms for franchise renewal; and

WHEREAS, the City and Comcast are interested in continuing informal renewal negotiations and desire to extend the current Franchise term from April 17, 2012 to July 31, 2012; and

WHEREAS, both the City and Comcast desire to expressly reserve all of their respective rights under state and federal law; and

WHEREAS, the City and Comcast continue to be governed by the formal renewal process pursuant to 47 U.S.C. §546(a-g) and nothing contained herein shall in anyway diminish either party’s rights under the formal renewal process.

NOW, THEREFORE, the City Council of the City of Edina, Minnesota hereby resolves as follows:

1. The Franchise is hereby amended by extending the term of the Franchise from April 17, 2012 through and including July 31, 2012.
2. Except as specifically modified hereby, the Franchise shall remain in full force and effect.
3. The City and Comcast hereby agree that neither waives any rights either may have under the Franchise or applicable law.

4. This Resolution shall become effective upon the occurrence of both of the following conditions:
(1) The Resolution being passed and adopted by the City Council of the City of Edina; and (2) Comcast's acceptance of this Resolution.

Adopted by the City Council of Edina, Minnesota, this 17th day of April, 2012.

CITY OF EDINA, MINNESOTA

By: _____

Its: _____

ATTEST:

City Clerk

ACCEPTANCE

Comcast of Arkansas / Florida / Louisiana / Minnesota / Mississippi / Tennessee, Inc. hereby acknowledges the City of Edina, Minnesota Resolution No. ___ and hereby accepts the terms, provisions and recitals of the Resolution and agrees to be bound by the Franchise to the extent consistent with applicable laws.

DATED: _____, _____, _____
**COMCAST OF ARKANSAS/FLORIDA/
LOUISIANA/MINNESOTA/
MISSISSIPPI / TENNESSEE, INC.**

By: _____

Its: _____

Sworn to before me this _____
day of _____, _____.

Notary Public