



MEMORANDUM

TO: Mayor Mary Katherine Greenlaw and members of City Council
FROM: Melissa A. Steiniger, IT Project Manager; and Kathleen Dooley, City Attorney
SUBJECT: Cable franchise renewals – appointments to steering committee
DATE: September 21, 2021 (for the September 28, 2021 Council Meeting)

ISSUE

Shall the City Council appoint an *ad hoc* steering committee to oversee the cable franchise renewal process for Verizon FIOS and Cox?

RECOMMENDATION

Yes. Two of the City’s three cable television franchises will expire in the near future – Verizon in June 2022 and Cox in January 2023. A steering committee could assist staff, the public, and the City Council with cable franchise renewal negotiations.

Staff recommends the creation and appointment of this ad hoc committee in lieu of re-populating the Cable Television Commission, as further discussed below.

DISCUSSION

• **Cable franchise renewals:**

Three cable television providers hold franchises and are authorized to offer service in the City – Verizon FIOS, Cox, and Comcast. Both Verizon FIOS and Cox have provided the City written notice that they wish to renew their cable franchises, which expire in the near future. The Comcast franchise does not expire until 2029.

Much of the work involved in developing the franchise renewals will be legal or technical in nature. However, the work will also benefit from review and guidance by a steering committee, especially with respect to the community’s “cable related needs and interests.” Cable franchise renewals are highly specialized with respect to the legal expertise required. The City Attorney has hired the law firm Hubacher Ames & Taylor, PLLC for this purpose. This law firm advised Stafford County in its recent cable franchise renewals and currently advises Spotsylvania County for the same purpose.

We wish to offer one caution – federal and state laws constrain local government negotiating authority in cable franchise renewals, in particular with respect to the distinction between “broadband” and “cable” services. The public tends to conflate “cable” service and broadband as one single purchase or experience, especially as these services are bundled for purchase from a single provider and they are actually delivered over a single facility. But they are treated differently by the law.

It may be necessary to grant Verizon a temporary extension of its cable franchise (expires June 2022), to permit an orderly conclusion to renewal negotiations. This should not be necessary with respect to the Cox franchise (expires January 2023). The third cable franchise, Comcast, does not expire until 2029.

- **Proposed steering committee:**

The City Code creates a Cable Television Commission¹ which has wide-ranging purposes and duties, including the administration of franchise renewals. However, this Commission has no members at this time. Appointments to the Commission are for three-year terms, and the Commission is required to meet at least six times per year with additional meetings as necessary. In the current federal and state regulatory climate, there is relatively little for the Commission to do, and it is likely to be dissolved through the course of the renewal process.

Staff’s proposal is that Council should create appoint a special purpose *ad hoc* steering committee, where volunteer members could commit to a shorter period of service with a more-defined task. The work of the committee would be performed as needed over the next nine months to one year. Ideally, members of the steering committee would combine the following traits:

- Familiarity with technology, conversant with this vocabulary
- Familiar with community needs, especially for PEG services
- Familiar with legal constraints that affect negotiations in a highly regulated environment
- Able to work in a FOIA public meeting/public records environment
- Able to consider public input
- Enjoy the trust and confidence of City Council and the community

¹ City Code Chapter 10, Division 6, §§10-131 *et seq.*

The proposal is for the committee to be composed of up to seven people, appointed by City Council. Staff plans to reach out to individuals identified by City management, public library and public schools with a request to serve on this committee, and to bring those nominees, and others identified by City Council, to City Council for appointment, likely in October.

FISCAL IMPACT

The members of the steering committee are proposed to work without compensation.



**September 28, 2021
Regular Meeting
Resolution 21-**

MOTION:

SECOND:

RE: Creating the Cable Franchise Renewal Steering Committee

ACTION: APPROVED: Ayes: 0; Nays: 0

Three cable television operators hold franchises to provide cable television service within the City of Fredericksburg – Verizon, Cox, and Comcast. The Verizon franchise expires in June 2022, and the Cox franchise expires in January 2023. The Comcast franchise does not expire until 2029. Both Verizon and Cox have notified the City that they wish to renew their franchises.

Cable television franchise negotiations are governed by federal and state laws and regulations. The public interest, and the effectiveness of the efforts of staff and the City Attorney will be greatly enhanced by the appointment of a steering committee.

The purpose of the steering committee is:

- to work with City staff and counsel to identify and examine the community's cable-related needs and interests;
- to review the performance of Verizon and Cox under their existing franchises; and
- to advise City staff and City Council throughout cable franchise renewal negotiations with Verizon and Cox.

The Cable Television Franchise Renewal Steering Committee will be a public body whose meetings and records are governed by the Virginia Freedom of Information Act.

Therefore, the City Council hereby resolves that:

- There is hereby established a Cable Television Franchise Renewal Steering Committee (the "Steering Committee");
- The Steering Committee shall have no more than seven members, each of whom shall be nominated by motion of a member of the City Council and appointed by a majority vote of the City Council;
- The Steering Committee shall assist City staff and counsel in assessing the cable-related needs and interests of the community, to include needs related to customer

service, extension of service to new subscribers, and the funding and operational requirements of the public, educational, and public access channels in the City, performing such specific tasks as may be requested by City staff and counsel;

- The Steering Committee shall assist City staff and counsel in reviewing the past performance of Verizon and Cox under their existing cable franchises, in coordination with and as requested by City staff and counsel;
- The Steering Committee shall advise City staff during the negotiation of the renewal franchise agreements by identifying issues to be addressed in the new franchise agreements in order to meet the cable-related needs and interests of the community and address concerns related to the past performance of the cable operators;
- The Steering Committee may, upon request of City staff, assist with obtaining input from members of the public regarding the cable-related needs and interests of the community and the past performance of the cable operators;
- The Steering Committee shall advise the City Council, in coordination with City staff and counsel, regarding cable-related needs and past performance issues identified during the renewal process; and
- The Steering Committee shall advise the City Council, in coordination with City staff and counsel, regarding the proposed terms of the renewal franchise agreements.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 21-, adopted at a meeting of the City Council held September 28, 2021, at which a quorum was present and voted.

***Tonya B. Lacey, MMC
Clerk of Council***