

TELECOMMUNICATIONS ADVISORY BOARD

Meeting Minutes

September 10, 2012

In Attendance: Kurt Krause, Chairman; Ed Ebenbach and Joe Salvati, Committee Members; E. Thomas Scarborough, Board of Supervisors Liaison

Minutes: On a motion made by Mr. Salvati, seconded by Mr. Krause the minutes from August 6, 2012 were approved.

There were no Verizon or Comcast updates.

Mr. Krause presented some preliminary count down timer options. The board reviewed the options and confirmed key requirements to be a pre-set countdown timer capability, remote push button located at the supervisor's desk to start the timer, and a master clock and 2nd slave clock. Mr. Krause will request additional information and a more detailed configuration from the vendors to support the review of solution options.

Mr. Ebenbach reviewed the 2012 budget and confirmed that the TAB is on plan.

Mr. Salvati requested an additional outlet connection to the overhead projector be installed on the mural wall below the mural in an existing non-destructive area. All members agreed and Mr. Ebenbach stated that an additional connection is available and can be dropped down behind that wall and installed. Mr. Ebenbach agreed to determine the costs and advise.

Mr. Salvati reminded the board of its interest to install a master control of the meeting room lights inside the DTV studio area so the meeting room lights can be controlled without leaving the DTV studio. The group agreed to study the approach/costs for inclusion in the 2013 budget.

Mr. Salvati discussed his interesting in having a key to the equipment cabinet. All agreed to postpone further discussion to a later meeting.

Mr. Ebenbach provided an update on the Franchise renewal:

- Doylestown ONT Visit – Comcast hosted an inspection visit to their local ONT (Swamp Rd near Fred Beans Nissan) on 8/30. Mr. Ebenbach was impressed with the facility – the HVAC and power redundancies, the security, and the site's professionalism. He learned that
 - the Township's fiber transport has 5 spare, dark fibers
 - there are only four active devices between our signal and the cable plant - the transport modulator (at the Township building) and demodulator, an encoder and a multiplexing device
 - All ONT devices have a hot standby unit
- Agreement discussion – while at the ONT Mr. Ebenbach discussed the following five items with Brian Jeter:
 - Said we would comment in more detail on his agreement draft after our 9/10 meeting and discussion.
 - Noted that no dollar value given for grant and that we expected to see a table of values vs. term length. Brian promised to provide by e-mail.

- Accepted no change to Township Business class internet service but requested complimentary Residential class service for TAB. Brian seemed positive on this item.
- Acknowledged understanding of Comcast's need to add the Competitive Equity section, but indicated some TAB unrest on the section's implications. Brian opined that he didn't think the section was enforceable.
- Expressed continuing concern about the lack of provisions in the Agreement to support the technical transition from Standard to High Definition service, especially over the term of the proposed agreement. Repeated that we think a second channel is needed to make this happen, and that we need language to handle.
- Comparison of Agreement Draft to Current Agreement – Mr. Ebenbach outlined the two agreements and analyzed how they track one another:
 - The “form” of the Draft differs dramatically with the “form” of the current agreement, which will necessitate a fairly detailed legal review on our side to be sure that the Township's interests are adequately protected.
 - On the positive side, the Draft is entirely focused on Doylestown Township whereas the current Agreement covers both the Consortium and the Township.
 - New Competitive equity section which requires that the Township treat all providers “equally”. Comcast's remedy if we don't renegotiate in such a situation is proposed as their unilateral termination.
 - Many provisions based on National standards/codes (lots of Cable Act, USC, and FCC references). Current provisions include standards embodied in the agreement (although many are subjective/not quantifiable – “high quality”).
 - Little or no reference to the requests we made in our 6/4 letter to Brian, or discussed directly with him at our 7/9 meeting.
- Proposed next steps
 - Arrange legal review of Draft by Solicitor
 - Mr. Ebenbach will draft a reply letter to Brian Jeter for TAB approval
 - Review and compare Draft to Verizon agreement
 - Review recent Comcast renewals from other municipalities

Mr. Salvati shared some research he did on active Comcast Franchise Agreements in other municipalities. Other than the existing Franchise Fees, he identified another fee that is being charged by municipalities and is passed on to cable subscribers through Comcast and ultimately paid to the Franchisee on a scheduled basis. The line item in these agreements is called a PEG Fee. These PEG fees must only be used for capital expenses (typically equipment) and may not be used for operational support (such as staff). The PEG Fee appears to range from as little as \$.12 through \$.50 per subscriber per month up to 1% of gross revenues payable with monthly Franchise Fees. Mr. Salvati suggested that this PEG Fee can help the Township with the cost to upgrade needed equipment for DTV. He passed along this research to Mr. Ebenbach for follow up.

Mr. Salvati also expressed serious concerns with Section 12 – Competitive Equity, which is included in the newly proposed Comcast Franchise agreement. He feels that the language is too broad as presently written and ultimately leaves the Township negatively exposed to lose Franchise Fees sometime in the future should other emerging technologies gain access to the Township's right-of-way without being legally bound to enter into a franchise agreement thereby giving Comcast the right to renegotiate its contract with the Township and at worst case, greatly reduce or stop paying Franchise Fees to the Township.

Mr. Salvati also suggested that the Township look at 1.13 "Public Way" in Section 1 – Definition of Terms of the proposed Franchise Agreement. Comcast pays the Township for its use of the Township's Right-of-way through Franchise fees. Therefore, the definition of what Comcast is now calling "Public Way" is very important to the Township in retaining control of its Franchise Fees and as it additionally relates to and goes hand-and-hand with Section 12- Competitive Equity in the proposed Comcast Franchise agreement. Mr. Salvati feels that these two sections of the Comcast Franchise agreement "Public Way" and "Competitive Equity" are paramount in securing Franchise Fees for the Township well into the future and presently as written do not favor the Township.

The TAB committee adjourned at 8:50pm.