

REQUEST FOR COUNCIL ACTION

Date: August 12, 2013
Item No.: 13.b

Department Approval

City Manager Approval



Item Description: Consider Extending the Term of Cable Television Franchise Ordinance and Agreement Held by Comcast of Minnesota, Inc

BACKGROUND

The current cable franchise agreement that began in 1998 and is held by Comcast of Minnesota Inc. is set to expire on November 23, 2013. Since 2011, the North Suburban Communications Commission (NSCC) has been negotiating with Comcast for the renewal of the franchise agreement. While negotiations are moving forward, it does not appear that a full agreement can be reached by November 2013. Therefore, the NSCC is asking that every member City to extend the franchise one additional year, to November 23, 2014 to allow for additional time for negotiating. It is hoped that an acceptable agreement can be approved much sooner than November of 2014.

Once a new franchise is negotiated, it will be brought forward for City Council consideration and approval.

POLICY OBJECTIVE

Entering into a franchise agreement with Comcast will allow for the continuation of cable TV services to Roseville residents and provide the City with revenue for allowing the cable company to construct facilities within the City of Roseville's right-of-way.

FINANCIAL IMPACTS

There are no direct financial impacts to extending the current franchise agreement. Under the extension, the City will continue to receive the existing franchise fee. The City receives approximately \$420,000 annually from Comcast in franchise fees. The funds are deposited into the Communications Fund.

STAFF RECOMMENDATION

Staff recommends approval of a resolution extending the term of the cable franchise agreement ordinance and agreement.

REQUESTED COUNCIL ACTION

Motion to **APPROVE** a resolution extending the term of the cable television franchise ordinance and agreement held by Comcast of Minnesota, Inc.

Prepared by: Patrick Trudgeon, Interim City Manager (651) 792-7021

Attachments: A: Resolution extending the term of the cable television franchise ordinance and agreement.

**EXTRACT OF MINUTES OF MEETING
OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE**

* * * * *

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota was duly held on the ____ day of ____ 2013 at 6:00 p.m.

The following members were present: _____

and the following were absent: None.

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION No.

**A RESOLUTION EXTENDING THE TERM OF THE CABLE TELEVISION
FRANCHISE ORDINANCE AND AGREEMENT HELD BY COMCAST OF
MINNESOTA, INC.**

WHEREAS, the City of Roseville (“City”) enacted an ordinance and entered into a cable television franchise agreement (collectively, the “Franchise”) with MediaOne North Central Communications Corp. (“MediaOne”), which became effective November 23, 1998, to provide cable television service within the territorial limits of the City; and

WHEREAS, as a result of several transfers of the Franchise, Comcast of Minnesota, Inc. (“Comcast”) currently holds the Franchise; and

WHEREAS, Section 626(a)(1) of the Cable Communications Policy Act of 1984, as amended (the “Cable Act”), 47 U.S.C. § 546(a)(1), provides that if a written renewal request is submitted by a cable operator during the 6-month period which begins with the 36th month before franchise expiration and ends with the 30th month prior to franchise expiration, a franchising authority shall, within six months of the request, commence formal renewal proceedings to identify the future cable-related community needs and interests, and to review the performance of the cable operator under its franchise during the then current franchise term; and

WHEREAS, the Franchise is scheduled to expire on November 23, 2013 unless sooner terminated or extended; and

WHEREAS, by letter dated November 23, 2010 from Comcast to the City, Comcast invoked the formal renewal procedures set forth in Section 626 of the Cable Act, 47 U.S.C. § 546; and

WHEREAS, the City has delegated to the North Suburban Communications Commission (the “NSCC”) the powers necessary and appropriate to manage and conduct the formal franchise renewal process under 47 U.S.C. § 546(a)-(g); and

WHEREAS, pursuant to its Resolution No. 2011-02, the NSCC, on behalf of the City, officially commenced formal franchise renewal and ascertainment proceedings on April 7, 2011; and

WHEREAS, Comcast and the NSCC have not been able to agree on the terms a renewal franchise for the City under the informal franchise renewal process described in 47 U.S.C. § 546(h); and

WHEREAS, Comcast and the NSCC are currently following the formal franchise renewal process set forth in 47 U.S.C. § 546(a)-(g); and

WHEREAS, to enable the NSCC and Comcast to conduct and complete the formal renewal process, as necessary, in a fair and efficient manner that comports with applicable law, while eliminating any uncertainty that could possibly arise if the Franchise were to expire during the pendency of formal renewal proceedings, the parties believe it is reasonable, appropriate and in the public interest to extend the term of the Franchise; and

WHEREAS, the NSCC and Comcast believe that a Franchise extension to November 23, 2014, will initially be sufficient to provide the time needed to complete the formal franchise renewal process, or to conclude that additional time will be needed.

NOW, THEREFORE, BE IT RESOLVED, THAT:

1. The term of the Franchise held by Comcast of Minnesota, Inc. is hereby extended until November 23, 2014, unless sooner revoked or terminated. All obligations, conditions, commitments, warranties and requirements set forth in the Franchise and in the July 15, 2002, Memorandum of Understanding, the June 5, 2009, Settlement Agreement, and the March 1, 2012, Settlement Agreement shall continue and remain in full force and effect during the term of the extension; and
2. This extension shall not constitute a waiver of any rights, remedies or defenses the City, Comcast and the NSCC may have under applicable laws and regulations. The parties specifically reserve all rights remedies and defenses they have under the renewal procedures set forth in 47 U.S.C. § 546; and
3. Nothing in this Resolution precludes Comcast, the City and the NSCC from agreeing to additional Franchise extensions; and
4. This Resolution shall not be interpreted to prevent Comcast, the City and the NSCC from utilizing the informal franchise renewal process specified in 47 U.S.C.

§ 546(h), and/or conducting informal franchise renewal negotiations simultaneously with the formal franchise renewal process; and

5. Comcast and the NSCC, on the City's behalf, will jointly determine the process for selecting an administrative law judge, if necessary; and

6. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED on this _____ day of _____, 2013.

[COMMUNITY], MINNESOTA

By: _____

ATTEST:

COMCAST OF MINNESOTA, INC.