

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 20, 2010

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER *J*

SUBJECT: RESOLUTION PROVIDING FOR A FOUR-MONTH EXTENSION OF THE CITY'S CABLE TELEVISION FRANCHISE AGREEMENT WITH COMCAST OF VIRGINIA, INC. FROM OCTOBER 30, 2010 TO MARCH 31, 2011

ISSUE: Request to extend the expiration dates, based on the same terms and conditions, of the City's cable television franchise agreement with Comcast for four additional months so staff can complete the negotiations and franchise renewal.

RECOMMENDATION: That City Council:

- (1) approve the request and adopt the attached resolution (Attachment 1) which extends the expiration date of the cable television franchise agreement with Comcast of Virginia, Inc. from October 30, 2010 to March 31, 2011; and
- (2) temporarily waive the requirement for a minimum of 10 hours of local origination programming that is produced by Comcast and intended for use in the City and is of specific local interest to the residents of the City as of December 1 until the Comcast move to Shirlington is completed. City Staff has asked Comcast to make a strong effort to make up for the lost programming time once the move is completed and the new office is fully functional.

DISCUSSION: The City Council approved the terms and conditions of the cable television franchise between the City of Alexandria and Comcast of Virginia, Inc. on June 18, 1994. The 15-year franchise was scheduled to expire on June 17, 2009. On June 9, 2009, Council granted an initial six-month extension and an additional 10-month extension on December 9, 2009 because of the major issues in the negotiations. Since the second extension, negotiations have been fast-tracked, per Council's request, and substantive progress has been made. However, there are a few remaining issues to be resolved. Staff anticipates that the negotiations and renewal process will be completed before March 31, 2011.

On October 8, Comcast officials notified staff that the company would be relocating its offices from Alexandria to Shirlington Road in Arlington (near the Village at Shirlington). Because of the move, Comcast has requested a waiver of the requirement for 10 hours of original programming per week that is of interest to local residents and intended for use in the City. The franchise agreement requires that Comcast provide 30 or more hours per week of Local Origination Programming on the Alexandria Community Channel, and at least 10 of those hours must consist of programming produced locally and of interest to City residents. This waiver is needed because Comcast's move is scheduled for December 1, and the modifications required in the new space will not be completed by that time. Until its new office is fully functional, Comcast will be unable to comply with the 10-hour programming requirement. Locally produced show such as A Taste of Heaven, Reggae on the Move, and Psychiatry Today may be affected. Staff has requested that they make up the hours when they are fully operational at the new location.

The basis for denying a cable franchise renewal is set by Federal statute. Since the franchise was awarded to Comcast in 1994, there have been changes in Virginia communications law. Only the following four factors may be considered to deny a request for renewal:

1. Whether the operator has failed to substantially comply with the material terms of the existing franchise and applicable law;
2. Whether the quality of the operator's service has been reasonable in light of community needs;
3. Whether the operator has the financial, legal and technical ability to comply with the proposed terms of the franchise; and
4. Whether the proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting those needs and interests.

Comcast officials have reviewed the attached resolution and by letter (Attachment 2) consent to the extension of the franchise agreement to March 31, 2011 with the same terms and conditions, without waiving any of its rights under Federal or Virginia law. I recommend that Council approve the proposed resolution extending the expiration date of the Comcast cable television franchise to March 31, 2011 and temporarily waive the requirement for 10 hours of original locally produced programming that is for the use of, and of interest to, City residents as of December 1.

The City Attorney will provide Council with a separate update on the remaining issues to be negotiated with Comcast. Staff continues to work with Comcast to resolve complaints about Comcast service.

FISCAL IMPACT: There is no fiscal impact at this time.

ATTACHMENTS:

Attachment 1: Proposed Resolution

Attachment 2: Letter from Comcast Vice President Robert Jacobs to Rose Williams Boyd

STAFF:

Rose Williams Boyd, Special Assistant to the City Manager

Karen Snow, Assistant City Attorney

RESOLUTION NO. _____

Resolution to extend the term of the cable television franchise held by Comcast of Virginia, Inc., until March 31, 2011, for the purpose of permitting the City of Alexandria and the Franchisee to complete renewal discussions

WHEREAS, on June 18, 1994, the City of Alexandria, Virginia (the "City"), granted a cable television franchise (the "Franchise") to Jones Intercable of Alexandria, Inc.; and

WHEREAS, in or about December 1999, Jones Intercable of Alexandria, transferred the Franchise to Comcast of Virginia, Inc., (the "Franchisee") who currently holds the Franchise; and

WHEREAS, the Franchise expired on June 17, 2009; and

WHEREAS, on June 9, 2009, by Resolution 2346, City Council approved the joint request of the City and Comcast to extend the franchise until December 31, 2009; and

WHEREAS, on December 9, 2009, by Resolution 2374, City Council approved the joint request of the City and Comcast to extend the Franchise until October 30, 2010; and

WHEREAS, the City and the Franchisee are continuing to be engaged in active discussions concerning the renewal of the Franchise and those discussions have not been completed; and

WHEREAS, the Franchise Agreement requires that Comcast provide thirty (30) or more hours per week of Local Origination Programming on the Alexandria Community Channel and the Franchise further requires that at least ten (10) of those hours shall consist of Local Origination Programming produced by Comcast and intended for use in the City and such programming shall be of specific local interest to residents of the City; and

WHEREAS, Comcast has requested a temporary waiver of the ten hours of programming specific to the interests of the City's residents because as of December 1, 2010, it is relocating its local office from Alexandria to Arlington and until its new local office is established Comcast will not have ability to fully comply with the weekly ten (10) hour local origination programming requirement; and

WHEREAS, Comcast has agreed to the best of its abilities to accommodate the City to comply with the ten hour weekly local origination programming; and

WHEREAS, the City wishes to extend the term of the Franchise to allow time for the parties to complete negotiations; and

WHEREAS, the Franchisee has provided its consent to the proposed extension of the Franchise, in the form of the attached letter; and

WHEREAS, the City and the Franchisee both desire to reserve their respective rights under state and federal law, including, without limitation, 47 U.S.C. § 546.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Alexandria, Virginia:

1. That the term of the Franchise is hereby extended until March 31, 2011; and
2. That this Resolution shall be effective immediately upon passage.

ADOPTED: _____

WILLIAM D. EUILLE, MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk

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Comcast Cable
1301 McCormick Drive
Largo, MD 20774

October 11, 2010

Ms. Rose Boyd
Director of Citizen Assistance
City of Alexandria
301 King Street, Room 1900
Alexandria, VA 22314

CITY MANAGER'S OFFICE
ALEXANDRIA, VA
200 OCT 12 P 12:15

RE: City of Alexandria, VA – Franchise Extension

Dear Ms. Boyd:

I am writing in regard to the City's proposal to extend through March 31, 2011 the franchise agreement held by Comcast of Virginia, Inc. that is currently scheduled to expire on October 30, 2010, in order to accommodate further renewal discussions between Comcast and the City, which are ongoing and active. Assuming that the extension resolution would be substantially in the form of the previous extension resolution adopted by the City Council, Comcast by this letter consents to extending the expiration date of the franchise agreement to March 31, 2011, without waiving any of its rights under federal or Virginia state law.

Additionally, as we discussed with you and your colleagues at our meeting on October 8, 2010, Comcast is planning on moving its office currently located at 508-D S. Van Dorn Street in Alexandria to a new office location at 2501 S. Shirlington Road in Arlington, VA, on approximately December 1, 2010. In view of that move, Comcast respectfully requests that the City include in the extension resolution a waiver of the requirement in Section 6(b) of the franchise agreement that the Franchisee provide at least ten (10) hours of Local Origination Programming per week that has been produced by the Franchisee and not previously carried on the cable system. Comcast intends to continue to provide a total of thirty (30) hours per week of Local Origination programming during the waiver period.

Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

COMCAST OF VIRGINIA, INC.

By:

A handwritten signature in black ink, appearing to read "Robert S. Jacobs". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Robert S. Jacobs
Vice President, Franchising and Government Affairs
Beltway Region

cc: Matthew C. Ames, Esq.
Donna Rattley-Washington
Marie Schuler

RESOLUTION NO. 2421

Resolution to extend the term of the cable television franchise held by Comcast of Virginia, Inc., until March 31, 2011, for the purpose of permitting the City of Alexandria and the Franchisee to complete renewal discussions

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WHEREAS, the Franchise Agreement requires that Comcast provide thirty (30) or more hours per week of Local Origination Programming on the Alexandria Community Channel and the Franchise further requires that at least ten (10) of those hours shall consist of Local Origination Programming produced by Comcast and intended for use in the City and such programming shall be of specific local interest to residents of the City; and

WHEREAS, Comcast has requested a temporary waiver of the ten hours of programming specific to the interests of the City's residents because as of December 1, 2010, it is relocating its local office from Alexandria to Arlington and until its new local office is established Comcast will not have the ability to fully comply with the weekly ten (10) hour local origination programming requirement; and

WHEREAS, Comcast has agreed to the best of its abilities to accommodate the City to comply with the ten hour weekly local origination programming; and

WHEREAS, the City wishes to extend the term of the Franchise to allow time for the parties to complete negotiations; and

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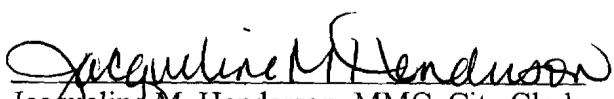
NOW, THEREFORE, BE IT RESOLVED by the City Council of Alexandria, Virginia:

1. That the term of the Franchise is hereby extended until March 31, 2011; and
2. That this Resolution shall be effective immediately upon passage.

Adopted: October 26, 2010


WILLIAM D. EULLE MAYOR

ATTEST:


Jacqueline M. Henderson, MMC, City Clerk



Comcast Cable
1301 McCormick Drive
Largo, MD 20774

October 11, 2010

Ms. Rose Boyd
Director of Citizen Assistance
City of Alexandria
301 King Street, Room 1900
Alexandria, VA 22314

RE: City of Alexandria, VA – Franchise Extension

CITY MANAGER'S OFFICE
ALEXANDRIA, VA
2010 OCT 12 P 12: 15

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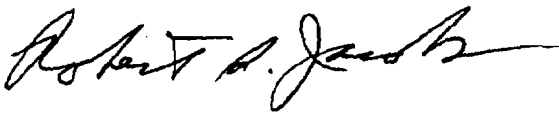
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