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City of Cambridge

The Cable T.V. and Communications Committee held a public meeting on March 14, 1995, beginning at 6:00 p.m. in the Sullivan Chamber for the purpose of discussing recent developments in federal telecommunications law and their effect on Cambridge and to receive an update on Somerville's effort to increase competition among cable and telecommunications providers while retaining municipal franchise fees.

Present at the hearing were Councillor Anthony D. Galluccio, Chair of the Committee, Councillor Kathleen L. Born, Councillor Francis H. Duehay, Councillor Jonathan S. Myers, Councillor Michael A. Sullivan, Councillor Timothy J. Toomey, Jr., Councillor Katherine Triantafillou, and City Clerk D. Margaret Drury. Also present were Robert W. Healy, City Manager; Donald Drisdell, Deputy City Solicitor, Ellen Semonoff, Assistant to the City Manager; James Ares, Acting Director, Cable Office; Susan Fleischman, Executive Director, CCTV; Paul Trane, Director of the Executive Office of Communications for the City of Somerville.

Councillor Galluccio convened the hearing and explained the purpose. He introduced Paul Trane, Director of Communications, City of Somerville.

Councillor Galluccio stated that Somerville has played a significant role in attempting to bring competition to the local level in a way that protects municipal interests, and for this reason, he invited Mr. Trane to discuss this issue with the Committee.

Mr. Trane stated that NYNEX has filed to provide video dialtone services which means television. He sees competition as important. Somerville has done significant polling and has found that 80% of their residents support competition because rates will go down. He noted however that municipalities have several concerns that need to be addressed, ranging from rights of way to public access.

The 1995 proposed federal legislation gives municipalities the right to collect "competitively neutral fee". Mr. Trane stated that his experience in negotiating with NYNEX has been extremely positive. He believes that NYNEX will agree to pay something equivalent to a franchise fee. He noted that Somerville knows the significance of its actions for other communities. For this reason, Mayor Capuano has been instrumental in having the Massachusetts Municipal Association (MMA) set up a committee to bring the communities together. Somerville believes in competition but not at the expense of public access and municipal broadcast.

Susan Fleischman asked what power Somerville has to require the agreement. Paul Trane said that Somerville has various ordinances affecting rights-of-way in the streets, pole spacing, etc. In addition to this, NYNEX cannot afford a public relations disaster.

Councillor Sullivan asked whether fiber optic cable comes under the Pole and Conduit Commission. Mr. Trane said that municipalities can regulate fiber optics; they cannot regulate telephones.

Robert W. Healy, City Manager said that one problem in Cambridge is that much of the telephone line is underground, so all NYNEX has to do is replace existing cable.

Paul Trane said that in addition NYNEX needs power modes, boxes in the streets. In Somerville there will be 60. Somerville expects to take in \$10,000 per box for these power modes, and wants them put on public land, with trees around them.

Councillor Galluccio asked what the effect of federal legislation will be on an agreement with NYNEX.

Mr. Trane said that he believes that the agreement will be completed before the legislation.

Ms. Fleischman asked about the length of the term of the agreement.

Mr. Paul Trane said that Somerville would like a five year term. He also stated that he believes that with competition rates will go down 30%. He noted that Somerville is the only city that collects a 5% franchise fee.

Mr. Healy noted that it will be 5% of a smaller number of NYNEX takes a significant number of subscribers.

Mr. Trane said that Somerville is trying to negotiate a 5% fee from either NYNEX on any video provider over the NYNEX video dialtone service.

Councillor Galluccio asked the number of subscribers to cable in Cambridge.

Steve Marks of Continental Cablevision replied that there are 20,700 subscribers.

Mr. Trane stated that their cable provider is paying 5% of gross revenues or telephony revenues in Somerville. He stated that Somerville believes that as long as the City creates a level playing field vis-a-vis NYNEX and their cable provider, Time Warner, city revenues will not suffer. The problem will be if NYNEX does not reach an agreement and comes in without paying a fee. Mr. Trane noted the importance of cities working together to ensure that level playing fields can be provided.

Councillor Sullivan asked whether there would be a decrease in public access. Mr. Trane said that Somerville does not believe there will be a decrease in public access. They just negotiated a contract with an increase for that area.

Councillor Galluccio noted that Channel 37 (the City Council telecast) is supported mainly by tax money as well as cable fees. He said that he hopes that the fee can be more than the 3% that it is currently set at.

Mr. Steve Marks, Continental Cablevision stated that as long as the competition is fair, Continental would rather run its business well than engage in legal battles. He said that 11% of Continental's bandwidth is spent on local channels, which are Channels 3, 19, 36, 37, 47, 54, 55 and channel 66. The maintenance of at least some local channels is higher than standard commercial. He said that it is probably good social policy but less good business policy.

Councillor Galluccio asked how public access can be streamlined to avoid two or three different entities filming the same school play.

Mr. Trane stated that Somerville Cable has three access channels and wants the same from NYNEX. He stated that there is a proposal for privatizing public access through something similar to C-Span, which he does not expect to go anywhere.

Councillor Galluccio asked Paul Trane to expand on this. Mr. Trane said that Somerville's expectation is that the city will stay in control, and both entities will pick up the program.

Councillor Sullivan asked about the cost factor in bandwidth.

Mr. Marks said there is both the capital cost of building and the opportunity cost because the channels provided to the city as access channels are not available for Continental's commercial use.

Mr. Trane noted that the consumers pay for all of this. Rates will go up no matter what. He believes citizens are willing to pay for public access. He noted that Time Warner makes eight million dollars each year.

Councillor Sullivan noted that the pass through of fees is governed by federal law. Mr. Marks said that the law allows cable companies to make an eleven and three quarter percent return on the investment.

Paul Trane urged Cambridge to join Somerville on the (MMA) Massachusetts Municipal Association committee because the cities are somewhat at risk. However, NYNEX is making a major investment, and wishes it to succeed.

Mr. Marks said that as long as the competition is fair, it is acceptable. This issue is that two companies are coming from very different positions so what is fair is somewhat complicated. For example, Continental built the facility at City Hall to enable broadcast of Council meetings. For NYNEX to just be able to take the signal out does not seem fair.

Mr. Trane noted that the same issue exists in telephones and noted the telephone industry and NYNEX disparity in the fee structure.

Councillor Galluccio pointed out that there is an advantage in being the provider who was there first and has the market now.

Mr. Marks said that there was both an advantage and disadvantage.

Councillor Galluccio posed the question of whether there could be beneficial competition in public access.

Mr. Don Drisdell noted that the cable providers' argument will be that it is not fair to require cable to carry public access and not require NYNEX to do the same.

Mr. Trane said that NYNEX had no dispute with this issue. He believes NYNEX is trying to build its business by having an agreement with Somerville that makes the city happy. Somerville has two goals: to create competition to lower rates, and to preserve public access.

Councillor Galluccio asked whether federal regulations will broaden competition in areas like senior citizen discounts. Mr. Trane said that senior discounts can be provided by the cable provider, even though it is a piece of rate regulation.

Steve Marks agreed that under the law, cable companies can cut their rates; but they cannot make it up in charges in other places. At the point where significant competition occurs, rate regulations may be lifted entirely, although the franchise agreement would still hold. He believes the number is 15% under present law.

Mr. Trane said that because of the threat of competition Time Warner upgraded even though it was not required. It went from 400 to 750 megahertz. He also said that part of the agreement with NYNEX, Somerville expects to get city access to Internet.

Steve Marks stated that the bandwidth from 550 to 750 megahertz is not good for analog, i.e. video broadcast; it is most likely digital for services like telephone and Internet.

Councillor Galluccio asked what competition could do for a situation like the RTPI issue. Mr. Trane said that the whole industry is going to an a la carte system. Under the federal law, RTPI cannot go on basic, the lowest level of services.

Councillor Galluccio asked what Cambridge can do to speed competition along.

Mr. Trane said that Cambridge can join with Somerville and other communities on the MMA committee. Cambridge should also look at the local ordinance that protect rights of way, and consider a telecommunication ordinance.

Mr. Trane emphasized the importance of vigorous negotiations and pointed out that such negotiations had increased the franchise fees collected by Somerville. The state standard is fifty cents per subscriber for a municipal fee. If Somerville got that it would get \$9,000 instead of the \$400,000 that it now gets.

Ms. Fleischmann said that she is concerned about what kind of control Cambridge can have after the new legislation. Five years does not sound very long to her.

Mr. Trane said that the standard franchise agreement now is 10 years. He again urged the necessity of the cities sticking together both on the federal lobbying and on setting standards for agreements with NYNEX.

Councillor Galluccio urged expanding the community involvement and community reporting aspect of local television because the more people who are involved, the more will care.

Ellen Semonoff stated that after the Federal Communications Commission (FCC) has granted approval for the local video dialtone, the City may be able to set requirements but ultimately the City cannot keep NYNEX out.

Mr. Trane agreed but said the cities' rights to control rights of way are very important, and provide very significant leverage; for example, they need local approval for their sixty power nodes.

Councillor Galluccio asked about the status of the federal legislation now. Mr. Trane said that it is important, but it will take a while, and municipalities are in better shape under the 1995 version than they were last year. The longer it takes to pass the federal law, the better the local communities will be. Massachusetts is not very well positioned on that committee. Senator John Kerry is there but the committee is comprised of mostly representatives from rural areas, where issues are very different.

Councillor Galuccio asked about RTPI.

Councillor Toomey asked Steve Marks why it is not on basic when it is a channel on basic in some other communities. Steve Marks said that he thought it must have been put on basic in those communities before the change in the federal regulations which prohibits putting such programing on basic cable.

Paul Trane added that since the new federal regulations, RTPI has been removed from basic in some areas.

Mr. Trane said RTPI cannot go on a public access channel now because there is advertising. He noted that there are other ethnic stations available now, Celtic, Russian, etc.

Steve Marks noted that ethnicity is only one variety of the diversity of special interests that could claim equal treatment.

Councillor Galluccio asked about the elderly discount.

Steve Marks said that it was unlikely that Continental will provide an expanded elderly discount.

Councillor Galluccio asked what Somerville has for an elderly discount.

Paul Trane said that there is a discount for the truly needy; not for all seniors.

Steve Marks noted that there is a discount to residents of the Cambridge Housing Authority.

Ms. Fleischman suggested that Cambridge needs to continue to deal on the federal level and look at local ordinances. Paul Trane said that the MMA committee is also important.

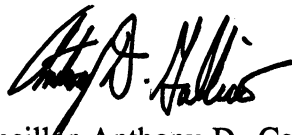
Councillor Galluccio thanked Paul Trane for coming to talk to the Committee. He requested that the legal staff convey to the City Manager the need to get ready through looking at ordinances.

Susan Fleischman suggested that all the partners get together to talk about what they want, so that the partners set the agenda not NYNEX.

Councillor Galluccio noted that the MMA Committee will be very important in setting a framework for such agreements.

Councillor Galluccio thanked those present for their attendance. The meeting was adjourned at 7:36 p.m.

For the Committee

A handwritten signature in black ink, appearing to read "Anthony D. Galluccio".

Councillor Anthony D. Galluccio, Chair

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Committee Report #2

Communication received from D. Margaret Drury, City Clerk transmitting a report from Councillor Anthony Galluccio regarding a public Hearing held on March 14, 1995 regarding the developments in federal telecommunications law AND THEIR EFFECT ON Cambridge and to received an update from Somerville's efforts to increase competition among cable and telecommunication providers while retaining municipal franchise fees.

In City Council March 27, 1995

*Report accepted
Placed on file*