

**City of West St. Paul
Open Council Work Session Minutes
January 28, 2019**

1. Roll Call

Mayor Napier called the meeting to order at 5:00 p.m.

Present: Mayor Dave Napier
Councilmembers Wendy Berry, Lisa Eng-Sarne, John Justen,
Bob Pace and Dick Vitelli

Absent: Anthony Fernandez (excused absence)

Also Present: City Manager Ryan Schroeder
City Attorney Kori Land
Police Chief Manila Shaver
Fire Chief Mike Pott
Finance Director Char Stark
Community Development Director Jim Hartshorn
City Clerk Shirley Buecksler

2. Review and Approve the OCWS Agenda

Council approved the OCWS agenda, as presented.

3. Review the Regular Meeting Consent Agenda

Council pulled Item 10A, Minutes of January 14, 2019, for editing and moved Item 10D, Resolution Memorializing the Rental License Revocation for 1064 Robert Street, for separate motion.

4. Agenda Item(s)

A. NDC4 Discussion on Renewal Process

Also in Attendance:

Jodie Miller, Executive Director, NDC4 Cable Commission
Brian Grogan, Esq., NDC4 Counsel
Amy Roberts, Government Affairs, Comcast – Twin Cities Region

Presentation Provided by NDC4:

Jodie Miller said that NDC4 is a Joint Powers Commission (Commission) consisting of seven member cities: Inver Grove Heights, Lilydale, Mendota, Mendota Heights, South St. Paul, Sunfish Lake and West St. Paul formed in 2000.

Ms. Miller said that the Commission created a formal needs assessment which describes needs for the next ten years. She said that Comcast had four months to respond and they forwarded their franchise ordinance to the Cities. The Commission is recommending that the City of West St. Paul not pass this ordinance. If there is an appeal, Ms. Miller said a final decision would be made by an Administrative Law Judge.

Attorney Grogan said the franchise was granted in 2000 for 15 years. He said we are now in year 19 of the 15 year franchise. He said they negotiated in good faith with Comcast but have been unable to come to agreeable terms. Attorney Grogan said that the Commission worked on the report starting in 2013. While waiting for Comcast to purchase Time Warner, CenturyLink came in and wanted to compete. As a result, he said that both Comcast and the Commission decided it wasn't appropriate to negotiate their renewal until they saw what CenturyLink's looked like. He said the needs assessment was used to support the CenturyLink franchise. Attorney Grogan said the most recent contract extension with the City will end in March 2019. In February 2018, the Commission formalized the needs assessment and the Commission approved it as the formal report. Comcast submitted their report in August of 2018.

Attorney Grogan said the Council needs to decide whether or not the proposal is sufficient for West St. Paul. He said the deadline was December 15 but they agreed with Comcast that the Commission would not make a decision on the City's behalf. He said that Comcast thought it was very important and the Commission agreed to bring it to each City, with a deadline of March 15 to make the decision. He added that West St. Paul is the fifth City they have appeared before and that the other four Cities have already approved non-renewal. Their next City will be Mendota Heights.

Attorney Grogan said what will happen next is that it will go to an Administrative Hearing Officer who will look it over and both Comcast and the Commission will be allowed to submit their position. He said the goal is to get a deal that meets their business objectives but also meets the Cities and the Commission's needs.

Attorney Grogan said the resolution before the Council mirrors the Commission's resolution from December 2018. He said the Commission is recommending that the City adopt this resolution tonight.

Attorney Grogan said the Council has two options:

1. Make a motion to recommend approval of Comcast's Formal Proposal and the Comcast Model Franchise; or
2. Adopt the resolution before the City Council, which will serve as the City's preliminary assessment that the Comcast Formal Proposal for franchise renewal should not be renewed.

Presentation Provided by Comcast:

Amy Roberts said the Twin Cities is served in most part by Comcast. She said both parties would have preferred this renewal be resolved informally but they all agree that they are close; however, there are a few key provisions where they have a significant difference of opinion.

Ms. Roberts said the world that Comcast competes in today is significantly competitive compared to what was available for customers in 2000. She said Comcast customers are who provide the franchise and PEG fees to the City. Comcast is asking that NDC4 take the same approach to reflect this different marketplace. Ms. Roberts said Federal law sets out how cable operates and, in order for Comcast to have cable in the right-of-way and in the streets they pay a franchise fee in exchange. She said a PEG fee is in addition to, or on top of, the franchise fee. She said Comcast is confident in their proposal that it satisfies all of the requirements in the needs assessment and does not put an excessive burden on Comcast customers. Ms. Roberts said NDC4 has requested seven channels, despite low PEG viewership. She said PEG viewership is significantly lower than channels on the cable system. She said the total number of locally produced first run programs wouldn't utilize all of the space available on just one channel.

Ms. Roberts said Comcast believes that Town Square TV is spending its PEG fees on administrative costs, not on capital costs. Based on historic spending, Ms. Roberts said Comcast believes that the \$1.39 PEG fee is adequate to cover costs. She said other areas of their proposal are similar to franchises they have in other Cities.

Ms. Roberts said it is important to note that CenturyLink is no longer offering its Prism TV product and that they will be solely recommending Direct TV.

Ms. Roberts said that they think their proposal is reasonable and fair and that a hearing officer would agree with them.

Councilmember Vitelli asked Ms. Roberts where the universal connectivity charge on his bill goes. Ms. Roberts said she cannot provide a breakdown of the bill, as she is not an expert on how the bill is structured, but that the broadcast fee allows them to obtain programming from other agencies.

Councilmember Pace asked how many subscribers Comcast has in West St. Paul. Ms. Roberts said they have approximately 18,000 subscribers for the NDC4 territory (all seven cities). Ms. Miller said about 22% of the 19,000 subscribers in the seven cities are in West St. Paul, which is about 5,000.

Councilmember Justen asked if internet subscriptions are higher than cable subscriptions. Ms. Roberts responded that internet subscriptions are significantly larger.

Attorney Grogan said the PEG fee proposed by Comcast represents a 30% decrease over PEG fees today, but the needs assessment notes an increase in the PEG fee. He said they believe the money is well spent to provide quality programming. He added that when people only subscribe to Netflix or other channels, it makes local programming all the more important.

Councilmember Vitelli suggested that Council follow NDC4's recommendation and allow it to go into mediation. Council agreed.

Council Discussion:

Councilmember Pace asked if there is another way to broadcast Council meetings to our residents other than NDC4. He also questioned if this is a good time to do further research before entering into a large contract.

Councilmember Justen said the trick is the cost to the City to do the filming and production side of it, as well as build a cable studio. He said the PEG fees pay for the cablecaster to be here, the number of cameras and everything needed. He said the fee comes back for production even if they are not watching on cable TV.

Schroeder said we assign our franchise fees over to NDC4 and they use them for their needs. He said the City can opt out of being a member, in which the City would receive 22%, or \$300,000, of PEG and franchise fees. Councilmember Justen said in order to use that money we would have to create studio space and hire people.

Schroeder said Dan Nowicki, Marketing and Communications Manager, is here at the meeting tonight and complimented him on his work.

Schroeder said the City will have further discussions with Ms. Miller on what else we can do and said that we see NDC4 as our communications arm. Schroeder offered a suggestion and described how another City holds summary shows of their Council meetings. He said the show is about five to 20 minutes of a summary hitting the high discussion points, instead of having people watch a two hour meeting. He said people seemed to like it.

Councilmember Pace asked if it is more cost prohibitive to do our own production. He said it wouldn't be as simple and that not everyone has Comcast cable.

Ms. Miller said that NDC4 enjoys having a Communications Manager at the City to work with. She said overall stats are that they have 1,300-1,500 new programs televised on their channels every year, with about 800 recorded in this area. She said most of their live channels are on Facebook Live and the Town Square TV website at www.townsquare.tv.

Councilmember Vitelli asked if internet would still be needed for residents who don't subscribe to cable. Ms. Miller said yes. She said customers don't pay PEG or franchise fees if they are internet subscribers only. She said they are working to expand their revenue streams and that in the last few years, they had a goal of 20% but they were only able to get between 15 to 18%. She said they need one good strong franchise in place for ten to 15 years. Ms. Miller said the trend is to continue partnering with other organizations, such as cities, counties and other non-profits, rather than trying to do it individually. She said the JPA created in 1982 was a good foundation.

Mayor Napier said he thinks we are underutilizing Town Square and that other cities may be capitalizing on it more. He said it is there and we should use it.

Ms. Miller said a strong idea is cross-pollinating between social media and cable. She said if a Councilmember mentions a topic at a meeting that has been discussed on social media over the past two weeks, NCD4 can put a small clip of that part of the meeting out on social media.

Councilmember Eng-Sarne said she thinks people are looking for more places to interact, not less. She said people want more opportunities to ask the City questions. If we can incorporate more programming, she said that would help.

Ms. Miller said we could look at whatever the new virtual is for town hall meetings.

Councilmember Justen asked if it's possible to film OCWS meetings. Mayor Napier said it could be discussed if we want to look into doing that. Ms. Miller said the City of Inver Grove Heights is already doing it.

Councilmember Vitelli asked Ms. Roberts to let Comcast know that people his age don't want to go to Hulu or other channels and that it would be nice if Comcast could do better pricing in the future.

Mayor Napier suggested filming the neighborhood meetings.

Mayor Napier thanked Jodie Miller, Attorney Brian Grogan and Amy Roberts for coming to the meeting and said their presentations were significant.

B. Livingston Avenue Parking Changes

With the Robert Street reconstruction project, a resolution was passed on March 28, 2016 which added temporary *No Parking* on portions of Livingston Avenue to help with overall congestion and sight distance at the driveway and roadway intersections. While the Robert Street project is complete, the temporary *No Parking* remains in place today.

With the reconstruction of Livingston Avenue in 2019, in order to install *No Parking* signs in the State Aid portion of the roadway (Mendota Road to Marie Avenue) a resolution is required. In addition, since the in-place corridor signage is temporary, a formal resolution should be adopted.

The only change from the temporary signage is at the northwest corner of Marie Avenue and Livingston Avenue. Residents along that stretch have asked that only 100 feet be posted from the intersection (instead of 200 feet). This change would still maintain the effectiveness of keeping the intersection and approach clear.

There is an 80-foot stretch of *No Parking* on the west side of Livingston Avenue at the crosswalk/bus stop in front of Loney Manor Apartments. It is intended to leave this stretch as *No Parking*.

Beckwith said that State aid requires a resolution for anything south of Marie Avenue. Since the March 2016 resolution went through, he said the only complaint is regarding plowing at the northwest corner of Marie Avenue.

Mayor Napier asked if Livingston would narrow or stay the same. Beckwith said it would remain the same.

Mayor Napier asked if there have been any complaints on parking. Beckwith said just one but not by the apartment building.

Mayor Napier said he supports this. Council agreed.

Council discussed the recent snow emergency:

Chief Shaver said we need a list of confidential numbers for Staff to contact Council when necessary, such as in snow emergencies. He will contact Council for this information, which will then be shared with each of them.

Schroeder said quite a few cars were towed during this snowstorm and he has been receiving calls. He said it has been over a year since the City declared a snow emergency.

Chief Shaver said people are parking on side streets. The Police Department has posted flyers in apartment lobbies in multiples languages on how residents can sign up for snow emergency alerts. He said they even knock on doors to let them know they're clearing the streets and do everything they can not to tow cars. He added that snow emergencies extend for a couple of days until the roads are cleared.

Mayor Napier said he will give a reminder at the Council meeting.

5. Adjourn

Motion was made by Councilmember Vitelli and seconded by Councilmember Justen to adjourn the meeting at 6:01 p.m.

All members present voted aye. Motion carried.

Dave Napier
Mayor
City of West St. Paul