



STAFF REPORT

AGENDA ITEM #: 20-50
COUNCIL MTG. OF: May 5, 2020
FROM: Dave Caron, Town Administrator
OFFERED BY: Administration
PREPARED BY: Administration
SUBJECT: Renewal of Cable Franchise Agreement

INTRODUCTION:

To request approval of a ten-year renewal to the current Franchise Agreement with Comcast Maine/New Hampshire, Inc and to authorize an Agreement regulating Cable TV drops to public buildings.

TOWN ADMINISTRATOR COMMENTS

Please see comments within this staff report.

BACKGROUND

The Town and Comcast agreed to a Franchise Agreement in 2009; the Town insisted upon a ten-year term to ensure that the Town could take advantage of any technological enhancements which were developed prior to the franchise renewal process in 2019. The Council subsequently approved a six-month extension to the Agreement, which expired on April 5, 2020. The parties have reached agreement to a ten-year renewal of the existing franchise, until April 5, 2030.

Contemporaneously, the Federal Communications Commission ruled that cable television providers need to be compensated for the longstanding practice to provide free basic service to public buildings. This ruling is under appeal, and both parties have agreed to memorialize this process in a separate Agreement to provide flexibility in the event of a court reversal.

DISCUSSION

The parties have successfully negotiated a successor agreement, with the following changes:

1. Franchise Fee increase from the current 3% to 4.5% in year one, and 5% in years 2-10; this adjustment will result in gross revenues increasing approximately \$175K in year one and \$234K annually in years 2-10, presuming subscribership remains stable. This provision is critical to maintain financial sustainability into the future;
2. Comcast has agreed to a \$250K capital grant, transmitted annually at \$25K;
3. An offset to the revenue stream is a credit to Comcast for cable television service

to public buildings; the Federal Communications Commission recently ruled that communities can no longer receive this service free of charge. Currently, there are 14 connections to various educational buildings in Derry, 2 to Libraries and 9 to municipal facilities.

FISCAL IMPACT

Operating revenues to the Cable Division will increase by approximately \$175K in Year One and \$234K annually thereafter, less the cost of cable service to municipal buildings. Additionally, the Cable Division will receive an annual equipment grant of \$25K.

On the side Agreement, the Town receives basic service to 25 public or educational buildings throughout Derry. Although Comcast does not plan to implement the FCC ordered changed in the near future, the financial impact is estimated at \$1,750/month.

RECOMMENDED ACTION BY COUNCIL

Support Resolution #2020-024 after the June 2, 2020 public hearing. (Please see Resolution #2020-024).

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RESOLUTION

Number 2020-024

To Approve a Renewal of the Cable Franchise Agreement with Comcast

WHEREAS, Section 5.1 of the Town Charter vests in the Town Council the powers of the legislative and governing bodies; and

WHEREAS, both federal and state law designate the Governing Body as the Franchising Authority for the Cable Television Franchise; and

WHEREAS, the Town's current agreement with Comcast of Maine/New Hampshire, Inc. expired on April 5, 2020; and

WHEREAS, both the Town and Comcast had agreed to a Renewal Franchise Agreement which, if approved by the Council as Franchising Authority, shall expire on April 5, 2030; and

WHEREAS, the parties agree to resolve the issue of eliminating free service to public buildings as currently determined by the Federal Communications Commission by adopting the terms and conditions of the Agreement regulation courtesy service;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby approves the attached Renewal of the Cable Television Franchise Agreement between the Town of Derry and Comcast of Maine/New Hampshire, Inc. until midnight on April 5, 2030 and further, approves the attached Agreement regulating courtesy service.

This Resolution shall take effect retroactively to April 6, 2020.

Adopted: June 2, 2020

Attest:

X _____

Charles Foote, Council Chair

Date: _____

X _____

Daniel Healey, Town Clerk

Date: _____