

Date: June 14, 2010

Date Minutes Approved: July 12, 2010

BOARD OF SELECTMEN MINUTES

Present: Shawn Dahlen, Chair; Elizabeth H. Sullivan, Vice-Chair; and Christopher Donato, Clerk.

Absent: No members were absent.

Staff: Richard MacDonald, Town Manager and C. Anne Murray, Adm. Assistant.

The meeting was called to order at 7:00 PM.

OPEN FORUM – No items were brought forward for discussion

PUBLIC HEARING: VERIZON NEW ENGLAND, INC. / CABLE LICENSE APPLICATION

At 7:01 PM Mr. Dahlen opened the Public Hearing regarding the licensing of a cable television license to Verizon New England, Inc. as advertised in The Duxbury Clipper on May 26, 2010 and again on June 2, 2010.

Mr. MacDonald explained that after many months of negotiations and many calls to the Town Manager's office tonight's hearing is to discuss the licensing for Verizon FiOS. He acknowledged and thanked the Cable TV Advisory Committee for their dedication and their many hours of work to get to this point. Mr. MacDonald then introduced Mr. Bill Hewig, an attorney with the firm of Kopelman and Paige, who has been the Town's attorney thorough out the negotiation process.

Atty. Hewig began by stating he has been doing this work for over 20 years and has dealt with many cable advisory committees, but he was very impressed and pleased to work with the Duxbury Cable TV Advisory Committee and lauded them for their work.

Mr. Peter Bowman, Vice President-Public Affairs for Verizon, introduced the following: Atty. Eric Edgington, General Counsel for Verizon Communications, Ms. Mary Frere and Ms. Jill Reddish of the Verizon FiOS team, and Mr. Rick Colon, Verizon External Affairs. He made some brief opening remarks about the size and breadth of the Verizon business in Massachusetts and their commitment to service.

Mr. Hewig then touched on the Executive Summary he had prepared for the Selectman and responded to questions along the way. Some of the terms he highlighted were:

- Term of the agreement is for 10 years. Terms of up to 15 years are allowed but tendency is for 10 terms to be negotiated.
- Service Area: Entire town of Duxbury to be available and built out within 12 months. With 70% of the area, which are serviced by aerial plants, able to sign up for service within a week. Those areas serviced by underground conduits, such as multiple-dwelling units, will take longer as additional permitting is required to open trenches and lay the conduits.
- System design is 863 MHz, which is state of the art.
- QUESTION: Mr. Dahlen asked if there are distance limitations, as he had heard beyond certain footage from a street that providers could charge the resident? ANS. Yes, there is a 150' limit and beyond that technically service providers can charge but so far Verizon has not. This limitation parallels other providers.
- Financial Responsibility: Verizon will secure liability insurance in the amount of \$1 million.

- **Access Channels:** Verizon will provide for three public access channels.
- **Access Support / Capital Support:** Initially Verizon will pay 3.3% of its Gross Annual Revenues each year. The agreement includes an “escalator clause” so in the event that Comcast agrees to pay a higher percentage, then Verizon’s amount will increase to match the Comcast amount. Verizon will make capital support payments of \$90,000. advance payment with \$30,000 payable within 90 days of the executed agreement and \$60,000. payable within 30 days of Comcast signing a renewal license. The annual support payment will not go below 1.7% because it is likely that the Town will be arranging to PAC-TV to provide the Public or “P” channel and 1.7% is estimated as the cost for that.
- **Regarding Access Channels:** *[Note: This refers to the Public, Educational, and Government Channels or what are often called the “PEG” Channels.]* Verizon will provide a feed from its plant into the Duxbury High School and Duxbury Town Hall and auxiliary links from the Senior Center and the Fire Station. In addition, they will also direct connect to PAC-TV. So the Educational channel will come from the school, the Government channel from Town Hall and the Public channel from PAC-TV. Verizon’s connection to the Educational and Government channels is dependent upon an Agreement being reached with Comcast because the equipment currently is or may be Comcast equipment. So eventually residents will be able to receive all three PEG channels from Verizon.

With Comcast it is expected that they will also provide auxiliary links to the Performing Arts Center, Library, and Alden School RM 104 and with Comcast the E and G channels will be available, but the sticking point in negotiations with Comcast has been the provision of the P (Public) channel. There is hope that with the competition Comcast will eventually agree to the connection for the P channel.

- **QUESTION:** Mr. Dahlen asked who will actually operate the PEG channels? **ANS.:** It is expected that eventually the equipment and service provided by Comcast will be turned over to the Town and it will be run by Town employees and /or volunteers.
- **QUESTION:** Ms. Sullivan asked about the aging equipment and whether it was worth accepting? **ANS.:** Yes, it will be functional. In order to have the two providers the equipment has to be owned by the Town. Plus the negotiated cash advances should be used to upgrade equipment as necessary.
- **QUESTION:** Mr. Dahlen and Ms. Sullivan asked about the financials to determine whether there would be funding to pay for staffing. **ANS.** Mr. Kearney indicated that based on the current Comcast subscribers 1% is approximately \$42,000.
- **QUESTION:** Mr. Donato asked whether a plant would need to be built in Duxbury? **ANS.** For the most part what Verizon needs is already in place, and Burlington MA is their central office. At most Verizon might need to build a hut.
- **Standard Protection Clauses:** A liquidated damages clause has been included but Verizon has capped it at \$10,000. Mr. Hewig stated he would have preferred the dollar amount to be higher, but ultimately is satisfied because at least it was included. The agreement also includes Consumer Protection which mirrors those of the FCC.

Mr. Hewig concluded his presentation by stating that he is endorsing that the Selectmen sign the Agreement.

Mr. Bill Kearney, Interim Chair of the Cable TV Advisory Committee, added that his committee, at a meeting on June 8th, did vote 6:0, with one person not present, to recommend acceptance of the Agreement.

Mr. MacDonald introduced the topic of the arrangement being worked out with the schools regarding the eventual operation of the system. Mr. Kearney and Ms. Sue Skeiber, Superintendent of Duxbury Schools, spoke about the Memorandum of Understanding that has been worked out with the schools, which is a framework of the expectations regarding the operations of the Educational and Government channels. Those discussions are continuing and it would be up to the Schools how to implement it.

Ms. Sullivan expressed some concerns about the staffing. While feeling it is a good learning opportunity for students, she felt there must be some dedicated staff to assure continuity of the programming so the system is not just relying on students and /or volunteers.

PUBLIC INPUTS:

Mr. John Martz, Temple ST, questioned why the Town was involved at all, since he can get internet and phone services without this process? ANS. Mr. Hewig explained that it is a matter of State and Federal law. The reason the Selectmen are involved is because the provision of cable services to go over public ways and therefore the Selectmen, as the authority for the Town, are involved in the licensing. Telephone and internet access come under a different set of requirements. Mr. Martz also questioned why during the Cable TV Advisory Committee meetings there was no discussion about getting the most channels for the least cost. ANS. Mr. Hewig explained that we are constricted by federal cable law as to what can and cannot be negotiated for with the cable operator. The mix of channels or tiers of channels cannot be negotiated with the providers as the feeling is that should be determined by the market.

Mr. Frank Mangione, Chair of Fiscal Advisory Service, questioned that in a situation of bundled service who decides what % of the cost is cable, internet, and telephone as far as the calculation of the Annual Gross Revenues? ANS. Mr. Bowman indicated a % of bundle service cost will be attributed to each category, but he was not sure of the breakout and whether it is or is not shown on the customer's bill. He did indicate a statement would be sent with the quarterly payment.

Joanne Kingsley, Lakeshore Drive, spoke about being victimized by Comcast as they have not received good service in her area. She mentioned that recently there were several days where they were without service, including phone service to make emergency calls. So she questioned whether Verizon was going to be more responsible and customer-friendly. ANS. Mr. Bowman mentioned that Verizon FiOS is fiber-based and therefore tends to be more reliable. He also suggested that with competition you will see improved customer service. He also offered to take her name and number and to check the network in that area of Town to assure service conditions. Mr. Hewig added that both Agreements with the providers have specific customer service requirements that are spelled out by the FCC. So if a provider is not meeting them then you need to be proactive in bring the specifics to someone's attention.

Ms. Ellen Corcoran, Duxbury resident and recent Verizon retiree, mentioned that she was the Sr. Vice President for Verizon New England and spoke of the fact that Verizon received the JD Power Award for the past two years which included their service.

Ms. Paula Allen, a current Verizon employee and Duxbury resident, spoke of how easy Verizon has made it for employees to report problems and take care of customer service.

Mr. Shawn Paul McCarthy, a Duxbury resident and a Verizon employee, spoke of Verizon FiOS as being a solid product. He stated the company monitors it 24/7, and Verizon will roll a truck for one customer. Verizon also takes care of finishing their work when conduits have to be placed by re-loaming and seeding the areas. They don't go through the driveways; they bore underneath it.

Mr. John Martz added that Verizon FiOS is a light signal, which he believes is more reliable.

Mr. Donato moved that the Board of Selectmen grant to Verizon New England, Inc. to provide cable television service to the Town of Duxbury. Second by Ms. Sullivan. VOTE: 3:0:0.

Ms. Sullivan moved that the Board of Selectmen close the Public Hearing. Second by Mr. Donato. VOTE: 3:0:0.

BUSINESS

TOWN MANAGER'S BRIEF

1. **DUXBURY STUDENT UNION (DSU): TWO EVENT PERMIT REQUESTS:** Mr. MacDonald mentioned that at the last meeting the Board approved event permits for two upcoming DSU events contingent upon approval by the Town Manager. He reported back to the Board that all the details have been worked out and reviewed with public safety officials so he has granted his approval for the events.
2. **MASSACHUSETTS CLEAN ENERGY GRANT:** The town manager reported that Mr. Frank Duggan, Chair of the Alternative Energy Committee, advised him the Town has received a \$65,000. grant for a feasibility study for wind. Mr. MacDonald said he will provide more information as he receives it.
3. **AMATEUR "HAM" RADIO OPERATORS FIELD DAY:** Mr. MacDonald announced that the Amateur Radio Operators will be holding demonstrations at the Plymouth Airport during the weekend of June 26-27, 2010 and the public is invited
4. **NEXT SELECTMEN'S MEETING:** Mr. MacDonald mentioned that next week there will be no Selectmen's meeting. The next Selectmen's meeting is scheduled for June 28, 2010.
5. **RIBBON-CUTTING AT THE PERCY WALKER POOL:** Mr. MacDonald thanked the Selectmen for attending the ribbon-cutting ceremony at the pool this evening. He spoke about the renovations that have been done and thanked the community for their support.

ANNOUNCEMENTS

Ms. Sullivan mentioned that the Duxbury Affordable Housing Trust (DAHT) has held two informational sessions for the buy down program for first-time homebuyers, but there is still time to apply. The applications are available on the home page of the Town of Duxbury website (www.town.duxbury.ma.us), on the DAHT web page, and at the Board of Selectmen office.

Mr. Donato apologized for missing the Memorial Service held by the Firefighters yesterday. He just wanted to assure them that the Board does appreciate what the firefighters do, and he was sorry to have missed it.

MINUTES

The Board reviewed an amended version of the Minutes of June 7, 2010 and Mr. Donato briefly explained the amendments, which had to do with the proper recording of the votes.

Mr. Donato moved that the Board approve the Minutes of June 7, 2010 as amended as discussed. Second by Ms. Sullivan. Vote: 3:0:0.

Ms. Sullivan moved that the Board approve the Executive Session Minutes of June 7, 2010 both A and B as presented to be held until the need for confidentiality has passed. Second by Mr. Donato. Vote: 3:0:0.

COMMITTEE APPOINTMENTS/RE-APPOINTMENTS

The following committee appointments were made. All votes were unanimous:

<u>Board</u>	<u>Name</u>	<u>Appt or Re-appt.</u>	<u>Term Expiration</u>	<u>Motion</u>	<u>Second</u>	<u>VOTE</u>
Local Housing Partnership	Brendan Keohan	Re-Appt	6/30/13	Mr. Dahlen	Ms. Sullivan	3:0:0
Local Housing Partnership	George Wadsworth (Planning Board Rep.)	Re-Appt	6/30/13	Mr. Dahlen	Ms. Sullivan	3:0:0
Local Housing Partnership	Matthew Walsh (COA Rep.)	Re-Appt	6/30/13	Mr. Dahlen	Ms. Sullivan	3:0:0
Local Housing Partnership	Shawn Dahlen (BOS Rep.); replaces Andre Martecchini	Appt.	To fill an unexpired term to 6/30/12	Mr. Dahlen	Ms. Sullivan	3:0:0
Agricultural Commission	Gregory D. Morris	Re-Appt	6/30/13	Mr. Donato	Ms. Sullivan	3:0:0
Agricultural Commission	Orie Fontaine	Re-Appt	6/30/13	Mr. Donato	Ms. Sullivan	3:0:0
Duxbury Cultural Council	Marcy Bravo	Re-Appt	6/30/13 (T-2)	Ms. Sullivan	Mr. Donato	3:0:0
Duxbury Cultural Council	Anthony Pilla	Re-Appt	6/30/13 (T-2)	Ms. Sullivan	Mr. Donato	3:0:0
Duxbury Cultural Council	Larry Smith	Re-Appt	6/30/13 (T-2)	Ms. Sullivan	Mr. Donato	3:0:0
King Caesar Advisory Committee	Diane Barker	Re-Appt	6/30/13	Ms. Sullivan	Mr. Donato	3:0:0

OPEN SEATS:

Local Housing Partnership: One open seat for At-Large Representative.

Duxbury Cultural Council: One open seat.

Interested parties were encouraged to fill out a Talent Bank which is found on the Board and Committee page of the Town website or to contact the Selectmen's office for a form.

NEW BUSINESS

Ms. Sullivan suggested to either put on the Agenda or to instruct the Town Manager to draft a policy for Boards and Committees to structure what can or cannot go out as far as correspondence, esp. in situations of litigation. Mr. Donato suggested that the Town Manager check with Town Counsel as perhaps Mr. Troy might know of existing documents from other towns, which could be used as the basis for a policy. There was general agreement among the Board that such a policy should be prepared.

OLD BUSINESS -Nothing was brought forward for discussion.

AJOURNMENT

Ms. Sullivan moved for adjournment at 8:10 PM. Second by Mr. Donato. Vote: 3:0:0.