

**CITY COUNCIL MEETING**

**AGENDA ITEM VI**



**CITY OF FRANKLIN**  
**COUNCIL AGENDA REPORT**  
*City Council Meeting May 2014*

**From:** Elizabeth Dragon – City Manager

**Subject:** City Council to consider scheduling the proposed Metrocast franchise renewal agreement between the City of Franklin and Metrocast, the current cable operator.

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**Suggested Motions:**

1. Councilor moves:

“I move that the Franklin City Council approve the proposed Metrocast Franchise renewal agreement through December 31, 2023 between the City of Franklin and Metrocast.”

2. Mayor asks for a second, discussion, and calls the vote.

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**Discussion:** The process to negotiate a Metrocast Franchise renewal began on **August 1, 2011**- when the City Council approved an inter-municipal agreement as part the creation of the Lakes Region Cable Consortium (consisting of 12 communities including Franklin). In addition, special legal representation for the consortium was approved. At this meeting the Council also appointed the City Manager as the official representative for the City of Franklin on this consortium.

The Council then scheduled an ascertainment hearing on **June 21, 2011** and invited the public to comment on future cable related needs and interests of the community. The public hearing solicited comments from the public as part of an effort to evaluate how the cable franchise agreement has been over the last 9+ years and look at identifying technological issues to be considered during the renewal proceedings. At this time the current Metrocast agreement was made available on the City’s website. During this hearing, Ms. Campbell with Metrocast advised there is 83 miles of cable serving 4,500 dwelling units in Franklin. In addition, she stated there are 2,600 to 2,700 customers. It was clarified at this hearing, that the Metrocast agreement is non-exclusive; however, another company would have to build their own lines if they wanted to compete for the existing customer bases. It was also clarified that Metrocast cable rates are not part of the franchise negotiations.

Next the City Council held a public hearing on **December 5, 2011**, to officially begin the process for the renewal proceedings. This public hearing was held to help ascertain the future cable related needs and interests of the community. The information gathered was then used to help guide negotiations with Metro-cast. In preparation for the hearing letters were sent out to the various organizations throughout the City, including the school, health organizations and the various city departments. The record was held open for 30 additional days to allow members of the public to provide comments/suggestions to the City Manager’s Office. One of the questions for the City itself was whether or not it was thought job performance of government staff or

community social organizations would be enhanced by the ability to provide information to subscribers of cable. It was agreed the answer was absolutely yes. The more information that can be shared with the public, the better informed the public is about projects being done by the City. The City would also be able to engage people who may not have the time to come to a public meeting. Concerning economic development it would be helpful to be able to give advertisements in other communities. It was also noted at the hearing that the City was upgrading its website and looking in the future of possibly adding the option of live broadcasting on the website and archiving the video meetings. One of the issues that occurred with the Lakes Region Public Access Channel was often times the Franklin meetings would play at various times of the day or night and no one knew when that would be. The importance of grant funding through the franchise agreement was noted as key to helping get public information out to the public whether through public access.

At the **December 5, 2011** hearing-Mr. Mike O'Neill, Business Administrator for the School District stated the School District has a lot of the same issues the City does. He stated it would be nice to offer lectures and different things and be able to record them and store them. In addition, A member of the public commented that he feels putting meetings on the website is an awesome idea. However, it reaches a limited audience as there are people all over the country that don't use the computer. If it would be possible to also have a robust system on public access channels that would offer another avenue for people to listen to the public meetings. There are many reasons people are not able to attend meetings and if the accessibility to meetings could be broadened, it would serve the community in a good way. Choose Franklin also sent a letter in support of public access channels. In addition, one of the City Councilor's pointed out there is no paper in Franklin and people need to know what is going on. The better the City can communicate with everyone, the better off the City will be. Resident Leigh Webb of Ward III also commented that he feels this is an important step in the negotiations with Metrocast to make sure that the City does open up public access to the Franklin Citizens. Primary sources of information are most important; these sources would be live feeds or archived information where people get their information direct not filtered through reporters.

Throughout the negotiations-various updates were provided during the City manager's update. It was a lengthy and detailed process. In 2013, it was noted that the consortium was working towards a technology grant to help provide public access which was clearly important during Franklin's public hearing process but was equally important to other members of the consortium. The sticking point was always how much could be provided to each community. In the end a per subscriber fee of .75cents per year and a onetime credit of \$2,500 to each community was agreed upon. This is to be used for things like creating a new access programming origination point (such as Franklin City hall) and/or buy equipment for broadcasting (such as cameras). While, we certainly would have liked a larger contribution from Metrocast after many meetings it became clear this was the final offer. One of the greatest accomplishments, in my opinion, was the agreement from Metrocast to set up broadcasting from each community in a way that allows Franklin to not only create its own origination point (at Franklin City hall) but to also only broadcast to Franklin Subscribers. This is very important because it gives the city full control over content and timing of broadcasts as well as the ability to add live broadcasting at some point in the future if desired. (Attached is a comparison of the current franchise agreement to the proposed renewal)



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MEMORANDUM

TO: Lakes Region Cable Television Consortium Members  
From: Katherine B. Miller, Esquire  
Re: Comparison of Key Sections of Current Cable TV Franchise Agreements and MetroCast’s Proposal for Renewal  
Date: March 13, 2014

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**Introduction:**

Twelve municipalities in the Lakes Region formed a Consortium to negotiate a template cable TV franchise renewal agreement to replace the current cable TV franchises with MetroCast. Specific terms of the franchise agreements are customized to each municipality, depending on preferences for local access channels, franchise fees and an Institutional Network. This memo covers the key business terms common to all the communities in the Consortium in the template renewal franchise proposed by MetroCast (“MC”), and compares them to parallel provisions under the current cable TV franchises. Section references to existing franchises may not be the same for each community.

**Key Terms:**

Topic	Current Franchise	Proposed Renewal Franchise
Length of Term	§2.2: 13 ½ years	§2.3: 10 years
Institutional Network	§5.3: MC to provide I-Net at its expense, up to \$10,000 to connect municipal facilities	§3.5: [Customized terms for each community.]
Internet Service	[Some Consortium communities had received discounted internet service.]	§3.5(b): Discounted rate for internet bandwidth for municipal use, at a rate not to exceed \$75 per megabit per month, with annual rate adjustments no greater than 5%.
Taxes for Use of Public ROW	[No provision.]	§2.1(e): Requires payment of all properly assessed property taxes.
Extensions of Cable System	§4.1: 10, full-time, new Subscribers per mile required for extension of plant without cost; <u>pro rata</u> sharing of cost between MC and Subscribers for fewer than 10/mile.	§3.1(c): 5 Subscribers per half-mile who agree to pay for a year's subscription in advance, if MC determines technically feasible and will not adversely affect System.
Local Access Channels	§8.1: Two local access channels provided, and a third once re-build of cable system complete;	§3.7(a-i): Up to 3 local access channels; no connection to LRPA as Access Provider (municipalities will establish own contracts with LRPA or another Access Provider); Municipality must pay for any new Origination Locations for programming, other than those listed in Exhibit; Public Access programming to originate from Huot Tech Center at Laconia HS; New Channel Designations: Governmental Programs: 26, Educational Programs: 24.
Financial Support for Local Access	§8.2: Payment to Access Provider (LRPA): \$30,000 per year for years 1-2, \$15,000 per year for years 3-6 and \$30,000	§3.7(j): PEG Access Support Grant: annual payment of \$0.75 per Subscriber, plus reimbursement of up to \$2500

	per year for years 7-end of agreement.	for capital costs for equipment or facilities used for local access, including new live origination locations. The payments will not be externalized or passed through to subscribers in any way.
Free Cable Drops and Cable Service to Governmental Buildings	§7.7: Free drops and service at Basic and Expanded Basic tiers to public buildings located on cable routes.	§3.11: Same; the cost for this shall not be passed through to Subscribers.
Remedies for Breach of Agreement	§13.2: Liquidated damages (specific payments), and/or §13.3: Revocation of Franchise.	§7.5: Revocation only.
Customer Service Requirements	Article 14	Article 5: incorporation of FCC's standard regulations, which are uniform and generally easier to enforce.
Performance Bond	§12.2: \$50,000	§7.3: \$25,000, due to less construction expected during this term.
Annual Reports Required	§15.2; annual financial reports with revenue and MC's board members and officers.	§8.5: annual reports on rates and charges and report on system (in Exhibits).

**Conclusion:**

By negotiating together, the members of the Consortium were able to obtain more favorable terms than most communities in New Hampshire are able to negotiate with their cable operators, including securing MetroCast's agreement to honor earlier commitments to I-Nets, to provide grants to support local access, funds for new live origination locations, and discounted internet access rates for municipal use.

April 11, 2014

City Council  
City of Franklin

Dear City Council:

MetroCast Cablevision of New Hampshire, LLC (“MetroCast”) hereby commits to provide the City of Franklin, New Hampshire (the “City”) with access to its municipal internet service at the school and municipal government locations set forth on Exhibit A attached hereto at no charge during the term of the Franchise Agreement between the City and MetroCast that is effective as of the same date of this letter (the “Franchise Agreement”). MetroCast’s obligation to provide such service will terminate if MetroCast discontinues offering residential internet service throughout the City or if MetroCast discontinues operating under the Franchise Agreement. As part of this commitment, MetroCast will also provide, at no charge, up to five (5) email accounts and customary technical support for each location. Service to each location will include one drop, one modem and monthly service as otherwise set forth herein. MetroCast’s municipal internet service currently offers speeds of up to 10.0 Mbps x 512Kbps. The City may also subscribe to faster internet speeds and ancillary broadband services (to the extent offered by MetroCast to its other customers in the City) for some or all of the locations set forth on Exhibit A at the then current rate for such services with the cost for such services offset and reduced by \$50 in recognition of the cost that would have otherwise been charged for the free municipal internet service.

Please do not hesitate to contact me with any questions regarding this matter.

Sincerely,



Steven Murdough

Senior Vice President of Operations

## EXHIBIT A

<b>Location</b>	<b>Street #</b>	<b>Street Name</b>
City Hall	316	Central St
Library	310	Central St
High School	115	Central St
Middle School	200	Sanborn St
Paul Smith School	41	Daniel Webster Drive
SAU	119	Central St
Fire Department	59	West Bow St
Police Department	5	Hancock Terrace
Proulx <del>Recreation</del> Center	124	Memorial St
Water-Municipal Building (MSD)	43	West Bow St
Bessie Rowell Community Center	12	Rowell Drive Water
Department Storage Building	45	Tannery St
Water Treatment Plant	79	Hill Rd #A
Municipal Garage	39	West Bow St
Transfer Station	75	Punch Brook Rd