

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: **January 3, 2005**

SUBJECT: **Cable Franchise Renewal Process**

ATTACHMENTS: **Yes**

SUMMARY OF REQUEST:

Attached is the Charter that the Board recently approved establishing a Cable Franchise Renewal Advisory Committee. This issue of the County's role in assisting the cities in their franchise renegotiations continues to arise. Staff requests that the Board clarify the relationship between your cable franchise renegotiation process and that of the city's cable franchises. Also attached is a description of the informal renegotiation process and a consulting proposal from John Howell with Telecommunications Consulting Associates.

HENDERSON COUNTY CABLE FRANCHISE RENEWAL ADVISORY COMMITTEE CHARTER

What is the Committee's purpose? The primary purpose of the Committee is to assist Henderson County with the renewal of its current franchise with Mediacom. The Committee will also offer assistance to any municipality requesting it to gather information concerning the needs of the stakeholders within the jurisdiction of the municipality.

The Committee will be responsible for:

- Gathering information on an informal basis concerning needs of key stakeholder groups as related to cable, including citizens, the Henderson County Public School System, Blue Ridge Community College, Henderson County Government, and the municipalities within Henderson County which request the assistance of the Committee.
- Compiling information for use by a private consultant in preparing the first draft of a new franchise.
- Reviewing and revising draft of franchise prepared by consultant for presentation to public for public input.
- Reviewing and revising draft based on public input received for presentation to the Board of Commissioners
- Conducting public education campaigns related to the powers and authorities of local government as related to cable television providers.
- Reviewing performance under the current franchise requirements (except as to payment of fees and reporting requirements).
- Conducting formal needs assessment pursuant to 47 USC 546 if requested to do so by the Board of Commissioners.

Who will the Committee report to?

The Henderson County Board of Commissioners

Who will be staff to the Committee?

The County Manager and the County Attorney

What is the duration of the Committee's existence?

Until franchise renewal is complete.

January 3, 2005

**HENDERSON COUNTY
CABLE FRANCHISE RENEWAL ADVISORY COMMITTEE CHARTER**

How will the future tasks or projects of the Committee be determined?

By the Board of Commissioners

What parameters must the Committee work within?

North Carolina Open Meetings and Public Records Laws
Minutes to be provided to the Board of Commissioners

Will the Committee give reports on its activities?

The Committee shall report when public comment has been received and the first draft of a new franchise is completed. Then, if requested by the Board of Commissioners.

What is the make-up of the Committee?

Board of Commissioners will appoint 5 members that will serve until franchise renewal process is completed. The Board of Commissioners will select the Committee's leaders.

**HENDERSON COUNTY
CABLE FRANCHISE RENEWAL ADVISORY COMMITTEE CHARTER**

Informal Process:

1. Committee Formed
2. Committee:
 - a. Reviews work of ad hoc Committee
 - b. Receives needs of key stakeholder groups: Schools, County Government, Blue Ridge Community College, Municipalities requesting to be involved.
 - c. Summarizes information to formulate issues to be addressed in the first draft of the franchise.
3. Preparation of First Draft by County Manager, Consultant, and County Attorney.
4. Committee reviews and comments on draft.
5. Draft revised per Committee's comments.
6. Committee educates public
7. Committee holds public input session on draft.
8. Committee recommends any further changes to draft based on input.
9. Draft revised per Committee direction.
10. Draft presented to Board of Commissioners for review and comments.
11. Draft revised per Board of Commissioners direction and given to Mediacom as a proposed franchise.
12. Board of Commissioners authorizes County Manager, County Attorney and Consultant to proceed with negotiations with Mediacom.
13. Negotiated revisions brought back to Board of Commissioners for comment and/or approval.

January 3, 2005

The Howell Group, LLC dba



TELECOMMUNICATIONS CONSULTING ASSOCIATES

101 Flat Rock Gap Road

Waynesville, NC 28785

john@munihelp.com www.munihelp.com

828-627-8415(O) 828-627-8505(F)

November 27, 2004

David Nicholson, County Manager
Henderson County
100 N. King Street
Hendersonville, NC 28792

Dear David,

I enjoyed visiting with you last week and discussing how I might be of service to Henderson County regarding the pending cable television franchise renewal with Mediacom. As you know, I currently represent over 100 cities and counties across a four state area regulating cable operators. In North Carolina I represent the Counties of Alexander, Avery, Buncombe, Haywood, Cherokee, Caldwell, Mitchell, McDowell, Polk, Wayne, Franklin and Stanly. I also have represented the Cities of Asheville, West Jefferson, Sylva, Spruce Pine, Carolina Beach, Bakersville, Waynesville, Winston-Salem, Belmont, Mount Holly and Fletcher.

I am currently negotiating cable franchise renewals with Mediacom in West Jefferson, NC and Sumter County, Georgia and adding Henderson County would give us additional leverage as well as hold down the costs since many of the terms and conditions will be the same. Since we conducted a successful franchise fee audit on Mediacom last year this work would simply be billed at my hourly rate of \$125. It is impossible to predict how much a franchise renewal will cost in the total simply due to the many areas that a consultant can be utilized. However I will be happy to give you some examples of fees charged to other cities and counties in similar situations.

Below is a partial list of phases or areas generally performed in a franchise renewal. I will be available to Henderson County to assist with any of the following areas relating to the renewal.

- Meet with the Board as a unit to outline the renewal process, or;
- Meet with the individual commissioners to determine what issues are important to them.
- Meet with other key stakeholders in the community such as the library, public schools, community college and county staff involved in the negotiation of the government channel.
- Assist in the needs assessment portion of a renewal should Mediacom decide

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- to enter the formal renewal rather than the informal phase.
- Chair or participate in public forum meetings to gain public input for items to be discussed in the renewal talks.
- Prepare, tabulate and interpret any community surveys for additional input.
- Assist the County in identifying equipment and estimating any capital costs needed to upgrade and operate the government channel.
- Outline for the County what other communities in Western North Carolina and the Upstate of South Carolina have negotiated in their cable franchises.
- Draft a franchise agreement incorporating all of the best terms and conditions contained in the County's current enabling ordinance and the existing cable franchise agreement.
- Negotiate the final document through the various stages, including apprising county official all along the way to gain feedback.
- Present the final version at a Board of Commissioners meeting and public hearing.

The items listed above outline the renewal process. Many counties utilize only portions of this list and I work at the complete pleasure of the county manager. I can assist in any or all of these phases or work simply in the background and let county staff take the lead. I am comfortable in either role.

I look forward to once again working with Henderson County and will be available to you or any commissioners should they have questions regarding this matter.

Sincerely,

John C. Howell