

**COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS**

**October 6, 1998**

**6:00 PM**

Chairman Pariseau called the meeting to order.

The Clerk called the roll.

**Present:** Aldermen Pariseau, Rivard, Thibault, Girard, O'Neil

**Messrs:** G. Sullivan, Asst. Solicitor Arnold, M. Vadeboncoeur

**TABLED ITEM**

On motion of Alderman O'Neil, duly seconded by Alderman Rivard, it was voted to remove this item from the table.

Communication from Messrs. Arnold, Kane, Driscoll, and Clougherty relative to the ambulance contract renewal.

Alderman Thibault stated I want to give you my thoughts. At our last meeting, I was for holding off on this. I would like to say that I would like to personally thank the Committee for giving me the chance to meet with all of the ambulance companies and I have resolved my problems. I even met with the new CEO of CMC where I had some concerns. I would just like to have the staff review the stipend that these companies agree should be returned to the Fire Department for their involvement in these emergencies. Thank you.

Alderman O'Neil moved to approve the ambulance contract renewal as recommended by staff. Alderman Rivard duly seconded the motion.

Alderman O'Neil stated I want to thank the Chair for giving us the opportunity to sit down and meet with all three firms. I said so, I think to all three of them, that it was tough for me to draw a line but the one question that I threw out to all three firms and the answer from Rockingham was probably the one that I was most impressed with was what would you do to improve the level of service and they pointed out some items which I thought were very appropriate to this City, areas where we may have, not weak service, but we could improve the northwest part of the City and the southeast part of the City and I was impressed with their honesty about that. I do want to say that I think any one of the three firms could carry out

this contract and carry it out very high standards and I appreciate all three firms showing an interest in providing this service to the City. Again, I pretty much, I drew a line in the sand and it was hard for me to make a decision but I think it was based solely on that one answer that I will support Rockingham.

Chairman Pariseau called for a vote. There being none opposed, the motion carried.

Chairman Pariseau addressed Item 4 of the agenda:

Presentation by Dr. Grace Sullivan to review cable issues.

Dr. Sullivan stated I appreciate your giving me the time to go over some information that the staff at MCTV has been compiling since the Aldermanic hearings and the first piece of information, Alderman Thibault, had asked if we had some information that we could give him, just background information about cable negotiations and this is something that Miller & Van Eaton, who are cable consulting attorneys out of Washington, put together in terms of the renewal process, the issues that municipalities have to look at and the results of some recent cable renewal issues so that is just for you to look at especially in regards to cable contracts and Internet services and those kind of things. The information after that is information that I pulled out at the public hearing and that was just the initial report of some of the things that we had looked at in other municipalities. Some of the things are just talking to people in Manchester. The first part is probably a thing that we all...you know that people ask me about our operating budget and are we able to get one percent of the current cable franchise fee which is, out of that \$26 bill would be 26 cents per bill. This is where we are at now in terms of financing and how much money we get. This is pretty much in the current contract that PEG access is funded through its own contract at 1% of the cable bills. The other thing is that we have fiber optics and the rest are all just issues that are being brought up but I what I want to look at today is also the sheet that, you had been given a bigger sheet the last time, this is really looking at comparable sized cities and current contracts that other people have. For example, at the top you have Manchester which is the cable company is MediaOne. You can't guess for sure how many cable subscribers. When I talked with MediaOne...they change. It would be nice if we could get an accurate account. Again, we got our contract in 1990. We got a 16.4 mile fiber optic institutional networking where the computer system is run from the School District now.

Dr. Sullivan stated we have two channels. We are asking for a second channel to go on for next year because we just have so many programs. We want to separate public from educational/government.

Alderman Girard asked did you say that you already have two.

Dr. Sullivan answered in the current contract we can have two channels. At this point, because we have so much demand, as we grew and there became more public access producers. For probably the first couple of years we did just community programs, 300 hours. We produce over 600 now.

Alderman Girard asked so you already have the channel and you already have the ability to expand.

Dr. Sullivan answered in our contract, we can have a channel. I have met with...in the contract it said that the cable access provider should...when I asked the cable franchise for the channel, I met with Tom O'Rourke and he said you need to have, as a cable access provider, he said no, there needs to be a letter in writing from the Mayor. I met with the Mayor and then Craig and I met to put the letter together but again those are things that I think you folks need to be aware of.

Alderman Girard asked so you are going to exercise that option under the contract.

Dr. Sullivan answered yes.

Alderman Girard asked and you can do that with the revenues that you are currently receiving. I am not saying you can do it well, but you can do it.

Dr. Sullivan answered we can do it, exactly.

Alderman Thibault stated didn't you tell me that the City of Lowell got a grant if you will from their cable company to, for instance, that put part of their, to relocate you into the downtown area which would be something very advantageous to you I believe. Didn't you tell me this before and why couldn't we go after MediaOne to do that same type of thing that the company did in Lowell?

Dr. Sullivan replied well what we have to do is put together a plan saying this is what we need, this is what it is going to cost and put that forth in cable negotiations and say this is doing a needs assessment. In fact, you told us about 1037 Elm Street and we went and looked at that building.

Alderman Thibault asked is that something that you could live with.

Dr. Sullivan answered I think the way 1037 Elm Street is right now, I think we could do an X-files movie there, but there is a lot of work that has to be done.

Alderman Thibault asked is there a method that we should follow here. Is there a way that we should follow with this? I am not sure where it should go from here.

Dr. Sullivan answered what I want to do is, and I talked to the Mayor and a couple of other people and I said there are two things that we need to do and it is on the recommendation sheet back here. We need to establish a committee from municipal and school departments to review the current cable contract. So we are looking at, we have people like department heads. I have spoken with John Brisbin from the Library and Chief Kane and I need to speak with the Planning Department and Fred Ruczek to get people together to see what direction we should be going in. The Mayor thought that was a good idea and that Craig and I could co-chair the Committee and we could really look at what we could be doing now and then look at the contract. I think we should look and see how the cable company is, if the cable company is in compliance right now with the contract. I think there are some areas where they are not.

Alderman Thibault stated these are things that I would like to find out so that at the time we can follow-through on that vein.

Alderman O'Neil asked at what time would be want to bring our outside counsel on board.

Dr. Sullivan answered that is something that I talked with Tom about and I think that we need to bring, personally, I think he or she should be brought in in early 1999 but I know that the cable company is not going to pay for it.

Asst. Solicitor Arnold stated we, of course, would like to see him brought on board as soon as possible because we need to get going with the renegotiation process for the renewal. The problem that presents itself is that MediaOne has indicated that it is not willing to pay for that consultant. The last time we renewed which was 10 years ago, we spent about \$30,000 for the consultant.

Alderman O'Neil stated every penny worth it.

Asst. Solicitor Arnold stated it was. We are probably looking in the area of \$50,000 to \$75,000 now and it becomes a problem of, since that expense wasn't put in anybody's budget last time around, finding where those funds are going to come from. I have spoken with Kevin Clougherty about attempting to identify where those funds could come from.

Alderman O'Neil stated but it all wouldn't be necessary in this fiscal year. Some of it would be, but it would be more heavy in fiscal year 2000.

Alderman Girard asked what about the incidentals account.

Asst. Solicitor Arnold answered the incidentals account, especially this term around, doesn't have that much in there. I think that the Board only put \$150,000 into that account so there has been some reluctance to tap that account for obvious reasons.

Alderman O'Neil asked is it a full RFP process or do we, I mean we had an outstanding individual last time.

Asst. Solicitor Arnold answered I would anticipate an RFP process being followed by obviously the experience of the individual being the major factor.

Alderman O'Neil asked would you need some direction from this Committee and then the full Board to start that process.

Asst. Solicitor Arnold answered that would certainly be helpful.

Alderman O'Neil stated I don't know if a motion would be in order now but can we at least recommend that we start the process and let Tom and Grace start putting together the packets because by the time we get ready to put out the RFP...

Asst. Solicitor Arnold replied we haven't sat down to attempt to do that at this point.

On motion of Alderman O'Neil, duly seconded by Alderman Girard, it was voted to move forward with the RFP process for a cable contract consultant.

Alderman Girard asked are we at a point now where we are presuming negotiating renewal with this franchise, with MediaOne, or are we moving to a point where we are looking to issue an RFP for services to see what cable providers are interested in bringing their services to the City of Manchester. It seems to be that there are two very different tracks here and I am not sure which one would be in our best interest.

Dr. Sullivan answered they are and they are not because if you are approving what you want through the cable franchise renewal, what the municipality wants, if RCN, which is competing in the Boston market comes into NH, you know six months after, we have the requirements that the City has for MediaOne. In the current contract, MediaOne has the first...

Asst. Solicitor Arnold stated the current contract is not an exclusive contract.

Dr. Sullivan replied right. Anybody could be doing business. If RCN is ready to come in here tomorrow, we would still have to have a plan, a municipal cable plan, to present to them to.

Chairman Pariseau asked so the current contract that we have now doesn't eliminate competition.

Dr. Sullivan answered no because what the cable companies did with the 1996 Cable Act was instead of creating competition, what they did was they all got together and they did concentration and they said okay you folks are going to take that part of the country, we will take this part of the country. I mean literally, five or six different companies did that.

Alderman Girard asked if we wanted to have two different companies franchise then we can but industry practice would make that not practical, not possible, it wouldn't happen.

Dr. Sullivan answered well not right now. What is happening in Massachusetts is that RCN started to compete in the Boston market. They joined with Boston Edison and they started to offer cable services to compete with Boston Cablevision so what Cablevision has done, and there is some kind of legal maneuvering going on by Cablevision to stop that happening. So you know the telecommunications industry, people are very smart. They don't want that competition so what I see and what the industry people see, at least in New England, is RCN will probably be in NH next year to compete.

Alderman Girard asked so should we continue to negotiate with MediaOne knowing that we can franchise others or do we issue an RFP and try to invite the competition. I mean if competition is ultimately what we decide we want to see.

Dr. Sullivan answered RCN could come in tomorrow if they want to because it is non-exclusive.

Asst. Solicitor Arnold stated it is non-exclusive if someone were to apply to the City for a franchise.

Alderman Girard asked but they do need a franchise to operate within the City.

Asst. Solicitor Arnold answered yes, they need a franchise. I think that basically the primary problem which they are finding out with the electric deregulation is the infrastructure. The cost within that infrastructure. You know putting cable into the homes that have it in Manchester now is certainly not an inexpensive proposition. I think that it is something that is spreading. There have been areas where there is competition, like Boston, but I don't think we will see it here unfortunately for awhile.

Dr. Sullivan stated and you can see what is happening in Boston is that RCN, which is the first competitor in New England, is in partnership with Boston Edison because there were holes so that probably would happen here. I think the thing that we need to be doing in all of this is putting municipal and school departments together to come up with a plan, especially for buying that building because that is going to take a long time so that when we do get together to have the document ready to negotiate with MediaOne, that document, if it is a good document, whether it is MediaOne...because MediaOne could be sold tomorrow. That is also very real. I wouldn't be surprised if MediaOne got sold. It is just such a changing industry.

Chairman Pariseau asked, Tom, that denial to assist the City in financial support from MediaOne, is that cast in concrete or is there room for negotiation.

Asst. Solicitor Arnold answered their answer, as I read it, was a simple no. Could we go back, yes, but would I anticipate a different response, I really don't think so because quite frankly I think MediaOne sees it in their best interest if we didn't have a consultant.

Dr. Sullivan stated if you look at this and you see that in 1990 we got an initial \$250,000 and then MediaOne, which is Continental Cablevision, we had Atlantic Cable at the time and in Newton Highlands, a year later MediaOne gave \$725,000.

17,000 subscribers. Much less than what we had in Manchester plus they got \$300,000 more in revenues. Now that was in 1991. I think that, you know, we are talking about millions of dollars here and I think we need to look at, I mean I would like to look and see where they are getting that \$110,000 figure that we get now for PEG access with \$330 that goes into the general fund. I think that, you know, we have been looking at the figures and I don't know that we are really getting as much as they are supposed to be giving us but I am not sure.

Chairman Pariseau asked is this all grant money from the cable television or is it from franchise fees.

Dr. Sullivan answered that is from franchise fees so if you look in here, I mean, and when I dropped it off to Tom O'Rourke I said there are 17,000 people in Newton Highlands and we have 38,000 and they got an initial \$725,000 and Manchester got \$250,000. He said well Newton Highlands has a different kind of people then Manchester does.

Chairman Pariseau stated so it is really not a grant.

Alderman O'Neil replied the first, that \$725,000 is a grant. It is not the annual revenues from franchise fees.

Chairman Pariseau stated Manchester got a \$250,000 grant in 1990.

Dr. Sullivan replied for equipment, yes and MediaOne, or Continental Cablevision at the time, gave Newton Highlands \$750,000. We didn't do real well.

Alderman Girard stated I thought you said that we had a good consultant.

Dr. Sullivan replied well I thought we should get more and I thought we should have a bigger percentage which was what we were supposed to get.

Chairman Pariseau stated the rules are that we can't get more than 5% of revenues from the franchise fees so in giving cable television that 1%, the City realizes 4% for general revenue.

Alderman O'Neil replied but we only get 4%. That is all we asked for.

Dr. Sullivan stated the consultant wanted us to get 5%. At the time, the attorney from the cable company was Joe Nolette and they listened to Joe and said that if you get that 5% this will keep your cable rates down. It is called a pass through.

So they believed Joe and that is \$1 million that the City didn't get because of that extra 1%.

Alderman Girard asked didn't the Mayor propose that the Board adopt upping that franchise fee to 5% for the current fiscal year.

Chairman Pariseau answered that is correct as part of the negotiation process.

Alderman Girard stated that doesn't happen automatically. That has to be negotiated with the cable company.

Chairman Pariseau replied that is what we want to go to. After we are done all this negotiating, I would suspect that the City would be generating a 5% license fee on cable television. So much goes to...

Dr. Sullivan interjected it is not just cable television. It is cable because that can mean Internet service because that is where you are going to make a lot of money. I think we do need to look at whether or not we are getting...back in 1990 they audited the books and they found that they weren't paying what they were supposed to and we have been trying to figure out the numbers of how many people have cable. If this Committee could ask how many people have cable in Manchester, what is the basic amount, if it is \$26, I mean they are also making a lot of money on pay-per-view and the premium channels and I just don't understand where all the money goes.

Alderman Girard asked does the contract that we have with MediaOne allow us a general audit of their books and if so, what do we need to do to exercise that provision.

Asst. Solicitor Arnold answered I am relying on my memory but my recollection is that the contract does provide that we can audit their books. I am not sure if it is unannounced or upon notice. In order to do that, you not only have to tell them that we want to audit their books but I guess we need personnel who have expertise in auditing those books that can do a good job.

Alderman Girard asked can we recommend to the Board of Mayor and Alderman that it request an audit of MediaOne's books dated back to the last time we did it.

Asst. Solicitor Arnold stated I don't think it needs to be a Board request if I remember correctly. The main thing at this point is do we have personnel with adequate expertise in auditing. Not only auditing, but hopefully auditing cable companies to provide a meaningful result.

Alderman O'Neil stated I think it might be wise if we move forward that we bring the consultant in and let them sit down with Mark and Grace and Tom and Leo and Joe or whoever he wants to sit down with and let him...he is going to know who the people are. I mean this guy, that is all he does, if we chose the same person. I think we need to get to that step. I agree that we should audit them.

Alderman Girard asked does the Finance Department have the ability to do the audit.

City Clerk Bernier stated let me follow-up on that because I was part of that in 1988 and Kevin did do some work on that and the numbers did change.

Alderman Thibault stated I would also like to know what this is going to cost to have an audit of their books. What is it going to cost us?

City Clerk Bernier replied they have the capability and they have done it in the past.

Alderman O'Neil stated I think we have to go outside to be honest with you.

Alderman Girard stated Finance has an auditing line item in their budget so if they can't handle it in house, they should have some funds.

On motion of Alderman Girard, duly seconded by Alderman O'Neil, it was voted to have the Finance Department look into auditing MediaOne's books and come back to the Committee with a recommendation.

Alderman O'Neil stated I think it is important that the technical staff have a, and again I go back to bringing the consultant on board. We can't just pick any auditing firm to do this. There must be somebody out there that knows this business and I think that is extremely important in this. In Lowell, and I encourage those that didn't make the trip to make the trip because they have a fantastic system down there and it really is worth it. Wasn't Lowell getting the full 5%? They put 3% directly to the station itself, 1% to the School Department and 1% to what they called general city government.

Mr. Vadeboncoeur replied right. They keep 1% but they also have two full-time government access staff.

Dr. Sullivan stated they have nine staff members.

Alderman O'Neil stated and I guess there is a philosophical decision we have to make. In Lowell, they put all the revenues back into the system. Here we take 3% and put it in the general fund. That is why I think if you haven't made the trip you really should because it is a pretty interesting set-up down there. Very similar city to Manchester.

Dr. Sullivan stated the other thing is that on December 10 we are going to have MCTV future planning session on the future of MCTV and we need to put together a really good document and we are inviting 60 or 70 people. We will be getting the invitations out in the early part of November. The meeting will be from 9 a.m. until 12 p.m. and it is going to bring together different constituencies from throughout the City, public, non-profit, business people, municipal people, school people and talk about what we need in Manchester Community Television and that would be, I think, it would give us a lot of valid information. The other thing is that what we are trying to do some kind of survey on election day asking people if they watch MCTV, what they watch and what they would like to be watching. The reason we are going to do a survey is that MediaOne is going to do a survey. They are going to survey 2,000 people, probably at dinner time. It is going to be an independent survey done by the Kelly Meyers Group and because I had spoke with Tom about religious programming and you know, I know that if somebody calls me up at 6 p.m. at night and tries to survey me I will probably say no leave me alone, I don't care about cable and they are going to base a lot of their negotiations on that 2,000 people study and we thought that it would be a good idea if we could survey people at the polls.

Alderman Girard stated I have spoken at length with Mr. O'Rourke about this survey and I don't know if there is anyway that we can work to make sure that it is demographically representative of the population in the City because my concern and just today and I meant to bring it and to introduce it under new business but I left it on my desk. Just today I had another 1,000 petition signatures mailed to me asking for EWTN to be reinstated 24 hours and I am going to bring that to the Board and put it through the process but my concern with that is that they are not calling the nursing homes and the elderly housing where a majority of these folks really depend on that.

Dr. Sullivan stated in terms of statistics, I don't know if they are putting certain demographics or calling certain people so they could sway their study in a way that they want it to be. I don't understand why they have Speed Vision. I mean who watches Speed Vision. Lets see something real cheap versus programming that people in the community want. It doesn't make sense to me.

Alderman Girard asked do we have the ability, through these negotiations, to specify which channels we want to see. For example, if this Committee decided that it wanted to see EWTN 24 hours a day as a dedicated channel, would we be in a position to dictate that?

Dr. Sullivan answered yes, I think we can say that. That is part of the..I am still in the dark about the whole thing but remember Tom is working for a company out of Denver and Denver has this package that they want to give to everybody in the U.S. and to me it doesn't make sense.

Alderman Girard stated just for the Committee's information, MediaOne has received over 3,000 postcards on EWTN in addition to all of the petitions that we have received.

Alderman Thibault asked are you talking about the religious channel. I have had about seven or eight calls on that. The only calls I have had are on that.

On motion of Alderman O'Neil, duly seconded by Alderman Girard, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee