

# Memo

**To:** Honorable Mayor and City Council  
**From:** Joe Kohlmann, City Administrator  
**Date:** March 12, 2013  
**Re:** LMCC Resolution Request

---

Last meeting the City Council heard a request from the LMCC to send them a resolution of support for franchise negotiations. Staff has written a draft resolution incorporating the City Council's comments from last meeting.

The resolution resembles the City of Greenwood's resolution. The two main differences are:

- 1) We request that member city votes are weighted by subscribers
- 2) We request that the LMCC distribute franchise fees similar to the arrangement with the City of Mound.

*Attached is the Resolution to consider sending to the LMCC  
Attached is Greenwood's Resolution  
Attached is the LMCC recommended Resolution*

**Council Action Requested:**

Motion to approve the attached Resolution and send it to the LMCC.

## RESOLUTION 13-

### A RESOLUTION IN SUPPORT OF EXCLUSIVE REPRESENTATION BY THE LAKE MINNETONKA COMMUNICATIONS COMMISSION IN CABLE TV FRANCHISE NEGOTIATIONS AND SUPPORT OF FRANCHISE FEE DISBURSEMENTS TO CITIES

WHEREAS, the Lake Minnetonka Communications Commission provides the following valued services to the member cities within its Joint Powers Association (JPA):

- 1) Expertise in franchise negotiations.
- 2) Expertise in the production of public cable TV programming.
- 3) Enforcing the terms of the negotiated contract with Mediacom.
- 4) Dealing with resident complaints about Mediacom.; and

WHEREAS, the City Council of the City of Tonka Bay, Minnesota finds the following to be true:

- 1) Some LMCC member cities have been approached by Mediacom to negotiate separate cable TV franchise agreements.
- 2) Cities cannot in good faith have two separate franchise negotiations proceeding at the same time.
- 3) The LMCC franchise renewal committee has asked for clarification as to what cities it is representing in their franchise negotiations.
- 4) The LMCC attorney and franchise committee will have better negotiating power if the majority of the cities stay in the JPA.
- 5) A disbursement of a portion of franchise fees to the respective cities may encourage cities to stay in the JPA.
- 6) Some current JPA cities have expressed a concern regarding LMCC spending.
- 7) Reduced franchise fees retained by the LMCC will encourage re-examination of programming, equipment, facility, and staffing priorities.
- 8) Some "underserved" member cities would like assurance that build-out of the cable TV system is an LMCC priority in franchise renewal negotiations. Some member cities have expressed interest in reorganizing the oversight structure of the LMCC and clarification regarding the procedure for withdrawal.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Tonka Bay:

- 1) Authorizes exclusive representation by Lake Minnetonka Communications Commission in 2013 cable TV franchise negotiations as long as a similar resolution is approved by 50% of the LMCC member cities.
- 2) Supports the franchise fee disbursement concept as shown on the attached exhibit A where each individual city shall spend their disbursement as they see fit.
- 3) Understands that there will need to be reductions in the LMCC spending on public and educational programming with the franchise fee disbursement concept.
- 4) Supports that a priority in the franchise negotiations is to build out the underserved cities.
- 5) Supports a franchise agreement that includes an option where underserved cities may subsidize, to the extent permitted by law, build-out consistent with the terms offered by Mediacom to the City of Medina in its proposed Letter of Intent dated December 13, 2012.
- 6) Requests that the LMCC Board consider recommending to the member cities that the LMCC Joint and Cooperative Agreement be amended to reduce the number of directors from two to one per member city (could be a council member, staff member, or resident), and have the votes per city be weighted based on the number of subscribers per city.
- 7) Requests that the LMCC Board investigate and make recommendations to the member cities regarding other potential amendments to the Joint and Cooperative Agreement

including clarification of the procedure for withdrawal from the LMCC by member cities.

PASSED at a regular meeting of the Tonka Bay City Council this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_

Motion introduced by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Roll Call Vote: Ayes –  
Nays –  
Absent –

\_\_\_\_\_  
Gerry De La Vega, Mayor

ATTEST:

\_\_\_\_\_  
Joseph Kohlmann, Clerk/Administrator

## **EXHIBIT A**

**CONCEPT:** The LMCC disburses franchise revenues to member cities consistent with the financial arrangement with the City of Mound.

**CITY OF GREENWOOD  
RESOLUTION NO. 07-13**

**RESOLUTION IN SUPPORT OF EXCLUSIVE REPRESENTATION BY THE  
LAKE MINNETONKA COMMUNICATIONS COMMISSION IN CABLE TV FRANCHISE NEGOTIATIONS  
AND SUPPORT OF FRANCHISE FEE DISBURSEMENTS TO CITIES**

**WHEREAS**, the Lake Minnetonka Communications Commission provides the following valued services to the member cities within its Joint Powers Association (JPA):

1. Expertise in franchise negotiations.
2. Expertise in the production of public cable TV programming.
3. Enforcing the terms of the negotiated contract with Mediacom.
4. Dealing with resident complaints about Mediacom.

**WHEREAS**, the city council of the city of Greenwood, Minnesota finds the following to be true:

1. Some LMCC member cities have been approached by Mediacom to negotiate separate cable TV franchise agreements.
2. Cities cannot in good faith have two separate franchise negotiations proceeding at the same time.
3. The LMCC franchise renewal committee has asked for clarification as to what cities it is representing in their franchise negotiations.
4. The LMCC attorney and franchise committee will have better negotiating power if the majority of the cities stay in the JPA.
5. A disbursement of a portion of franchise fees to the respective cities may encourage cities to stay in the JPA.
6. Some current JPA cities have expressed a concern regarding LMCC spending.
7. Reduced franchise fees retained by the LMCC will encourage re-examination of programming, equipment, facility, and staffing priorities.
8. Some "underserved" member cities would like assurance that build-out of the cable TV system is an LMCC priority in franchise renewal negotiations. Some member cities have expressed interest in reorganizing the oversight structure of the LMCC and clarification regarding the procedure for withdrawal.

**NOW THEREFORE, BE IT RESOLVED** that city council of the city of Greenwood, Minnesota:

1. Authorizes exclusive representation by Lake Minnetonka Communications Commission in 2013 cable TV franchise negotiations as long as a similar resolution is approved by 50% of the LMCC member cities.
2. Supports the franchise fee disbursement concept as shown on the attached exhibit A where each individual city shall spend their disbursement as they see fit.
3. Understands that there will need to be reductions in LMCC spending on public and educational programming with the franchise fee disbursement concept.
4. Supports that at priority in the franchise negotiations is to build out the underserved cities.
5. Supports a franchise agreement that includes an option where underserved cities may subsidize, to the extent permitted by law, build-out consistent with the terms offered by Mediacom to the city of Medina in it's proposed Letter of Intent dated December 13, 2012.
6. Requests that the LMCC board consider recommending to the member cities that the LMCC Joint and Cooperative Agreement be amended to reduce the number of directors from two to one per member city (could be a council member, staff member, or resident), and have the votes per city be weighted based on the number of dwelling units with no limit to the votes per city.
7. Requests that the LMCC board investigate and make recommendations to the member cities regarding other potential amendments to the Joint and Cooperative Agreement including clarification of the procedure for withdrawal from the LMCC by member cities.

**MAY IT BE FURTHER RESOLVED** that city council of the city of Greenwood, Minnesota directs the city clerk to email a copy of this resolution and exhibit A to the LMCC executive director for distribution to the LMCC board, and to the other LMCC JPA city administrators and mayors for consideration by their respective councils with the recommendation that this or a similar resolution be approved by March 31, 2013.

**ADOPTED** by the city council of the city of Greenwood, Minnesota this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_ AYES \_\_\_\_ NAYS

CITY OF GREENWOOD

By: \_\_\_\_\_  
Debra J. Kind, Mayor

Attest: \_\_\_\_\_  
Gus E. Karpas, City Clerk

## EXHIBIT A

CONCEPT: The LMCC disburses 50% of franchise revenues to member cities.

### HOW THE CONCEPT WOULD WORK:

The new franchise agreement would require Mediacom to provide quarterly reports to the LMCC showing the per-city franchise and PEG revenues. Based on the Mediacom report the LMCC would in turn disburse to each member city a percentage of the franchise fees that were paid by it's residents and businesses after the LMCC receives it's quarterly payment from Mediacom. For example, if Mediacom's report showed that the residents and businesses in Greenwood paid \$8000 in franchise fees in the fourth quarter of 2012, the LMCC would disburse \$4000 to the city of Greenwood in the first quarter of 2013.

The current LMCC Joint and Cooperative Agreement does not need to be amended to implement this concept. This concept could be implemented by a majority weighted vote of the LMCC directors who are appointed by member cities.

The LMCC 2013 balanced budget for 2013 includes estimated total revenues of \$696,413. Franchise Fees account for \$485,311 or 70% of the total revenues. Since most of the LMCC's operating and capital expenses are related to programming, there would need to be significant reductions in this area as well as in administrative expenses. The most likely areas for programming reduction are public access and events along with some educational programming. The internet and YouTube provide alternatives for this programming that was not available 15 years ago. It is unlikely that the LMCC will continue to produce programming such as "The Safety Expert," cover community concerts, etc. in this scenario.

The LMCC owns it's building and does not have any debt associated with it. Thus, the best strategy is probably to maintain the building for the time being. The public access studio could be maintained on a scaled down basis with no plans for future capital investment. The LMCC's production van may need to be sidelined unless users are willing to fund ongoing operation and future capital expenses.

To reduce expenses the LMCC likely will need to consider contracting with a member city for administrative and accounting support. A successful example of this option is the Excelsior Fire District, which contracts with the city of Deephaven for it's financial and accounting support.

With the above changes the LMCC should be able to continue to manage the Mediacom franchise and provide coverage of local government activities. Note: According to the CBG Communications December 2012 presentation, the LMCC government channels had 18% weekly viewership as compared to 5 to 8% for the LMCC's public and educational channels.

CITY OF \_\_\_\_\_  
RESOLUTION NO. \_\_\_\_\_

RESOLUTION IN SUPPORT OF EXCLUSIVE REPRESENTATION BY THE  
LAKE MINNETONKA COMMUNICATIONS COMMISSION IN CABLE TV FRANCHISE NEGOTIATIONS

WHEREAS, the Lake Minnetonka Communications Commission provides the following valued services to the member cities within its Joint Powers Association (JPA):

1. Expertise in franchise negotiations.
2. Expertise in the production of public cable TV programming.
3. Enforcing the terms of the negotiated contract with Mediacom.
4. Dealing with resident complaints about Mediacom.

WHEREAS, the city council of the city of \_\_\_\_\_, Minnesota finds the following to be true:

1. Some LMCC member cities have been approached by Mediacom to negotiate separate cable TV franchise agreements.
2. Cities cannot in good faith have two separate franchise negotiations proceeding at the same time.
3. The LMCC franchise renewal committee has asked for clarification as to what cities it is representing in their franchise negotiations.
4. The LMCC attorney and franchise committee will have better negotiating power if the majority of the cities stay in the JPA.
5. Some "underserved" member cities would like assurance that build-out of the cable TV system is an LMCC priority in franchise renewal negotiations. Some member cities have expressed interest in reorganizing the oversight structure of the LMCC and clarification regarding the procedure for withdrawal.

NOW THEREFORE, BE IT RESOLVED that city council of the city of \_\_\_\_\_, Minnesota:

1. Authorizes exclusive representation by Lake Minnetonka Communications Commission in 2013 cable TV franchise negotiations as long as a similar resolution is approved by 50% of the LMCC member cities.
2. Supports that a priority in the franchise negotiations is to build out the underserved cities.
3. Requests that the LMCC board investigate and make recommendations to the member cities regarding other potential amendments to the Joint and Cooperative Agreement including clarification of the procedure for withdrawal from the LMCC by member cities.

MAY IT BE FURTHER RESOLVED that city council of the city of \_\_\_\_\_, Minnesota directs the city clerk to email a copy of this resolution to the LMCC executive director for distribution to the LMCC board, and to the other LMCC JPA city administrators and mayors for consideration by their respective councils with the recommendation that this or a similar resolution be approved by March 31, 2013.

ADOPTED by the city council of the city of \_\_\_\_\_, Minnesota this \_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_ AYES \_\_\_ NAYS

CITY OF \_\_\_\_\_

By: Mayor \_\_\_\_\_

Attest: City Clerk \_\_\_\_\_