

# Memo

**To:** Honorable Mayor and City Council  
**From:** Joe Kohlmann, City Administrator  
**Date:** July 9, 2013  
**Re:** LMCC – Resolution Requests

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Staff has received a number of communications regarding LMCC Resolutions. Victoria has passed along their Resolution (reviewed last meeting). Deephaven has passed along the Resolution that they passed. Also included is an email thread with comments from Shorewood Mayor Zerby, Greenwood Mayor Kind and Sally Koenecke. Finally, attached is an updated per-city revenue estimation of PEG and Franchise fees collected by the LMCC. Staff has attached a Resolution formatted for Tonka Bay that mirrors the Victoria Resolution.

#### Deephaven Resolution Summary:

- 1) Board representatives follow state statute: no limit on qualifications for 2<sup>nd</sup> representative.
- 2) Requests one representative can cast two votes in second members absence.
- 3) City can leave JPA with 2 years notice
- 4) Disband executive committee and meet quarterly.
- 5) JPA can be amended with 4/5ths of LMCC member city councils.

#### Victoria Resolution Summary:

1. Top priority: Full build-out of Orono by 12-31-14, and full build-out of all other cities by 12-31-16.
2. Designate 25% of franchise fees to stay with the LMCC to cover administration, franchise management, and franchise audits.
3. Designate 75% of franchise fees be sent to the cities to be used for technology updates or whatever each individual city deems appropriate. Cities can elect on a city-by-city basis to have reduced franchise fees for their residents / businesses.
4. 100% of PEG fees stay with the LMCC with a priority for the money to be spent on council meeting programming. Any additional PEG fees may be

- used for general programming if funds are available.
5. Cities pay \$250 per meeting first from PEG fees collected from each city's subscribers, then the balance from the franchise fees collected from that city's subscribers. For example, Greenwood has 1 meeting per month, which equals a \$3,000 annual meeting cost. Greenwood's PEG fees are estimated to be \$2,146, so Greenwood would pay the \$854 difference from the 75% of franchise revenues that they would otherwise receive.
  6. Pay a member city to provide LMCC administrative services (to be determined via a bid process of interested cities).
  7. Change rules for appointing each city's 2 board representatives to reflect state statute (no limitations on qualifications for the 2nd city representative).
  8. Change voting rules so that 1 representative may cast the votes of an absent representative from the same city.  
If no representative is present at the meeting, the city has no votes.
  9. Clarify rules so that a city may leave the JPA by giving 2-plus year's notice prior to December 31. For example, if a city gives notice on September 30, 2014, the city will stay a member of the JPA through December 31, 2016.
  10. Disband executive committee and have board meetings 4 times per year.
  11. Change rules so the JPA may be changed in the future with approval of 4/5ths of the LMCC member city councils.

*Attached is the Deephaven Resolution*

*Attached is the Victoria Resolution*

*Attached are email comments on the Resolutions*

*Attached are the updated estimates of PEG and Franchise Fees*

*Attached is a Resolution formatted for Tonka Bay that mirrors the Victoria Resolution*

**Council Action Requested:**

Consider adopting Resolution #13-14 in support of the long-term viability of the Lake Minnetonka Communications Commission.

## Joe Kohlmann

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**From:** Sally Koenecke [sally@lmcc-tv.org]  
**Sent:** Tuesday, July 02, 2013 1:08 PM  
**To:** paulskrede@mchsi.com; Dana Young; MGaylord@ci.Excelsior.mn.us; Kristi Luger; Debra Kind; Gus Karpas; marvdjohnson@gmail.com; Toni Hirsch; thultmann@longlakemn.gov; tpost@longlakemn.gov; kkoch@ci.loretto.mn.us; Travis Rosin; Roger Hackbarth; Jason Ziemer; Elizabeth.Weir@ci.medina.mn.us; Scott Johnson; info@ci.minnetonka-beach.mn.us; Susanne Griffin; cfischer@ci.minnetrista.mn.us; Michael Funk; Lili McMillan; Jessica Loftus; St. Bonifacius ; Scott Zerby; bjoynes@ci.shorewood.mn.us; sreinhart@ci.spring-park.mn.us; dtolsma@ci.spring-park.mn.us; gerryd@terradek.com; Joe Kohlmann; toconnor@ci.victoria.mn.us; 'Doak, Jim'; Shelley Souers  
**Cc:** Don Uram  
**Subject:** FW: LMCC Resolution

**Follow Up Flag:** Follow up  
**Flag Status:** Red

**Attachments:** scanner@ci.victoria.mn.us\_20130702\_110149.pdf



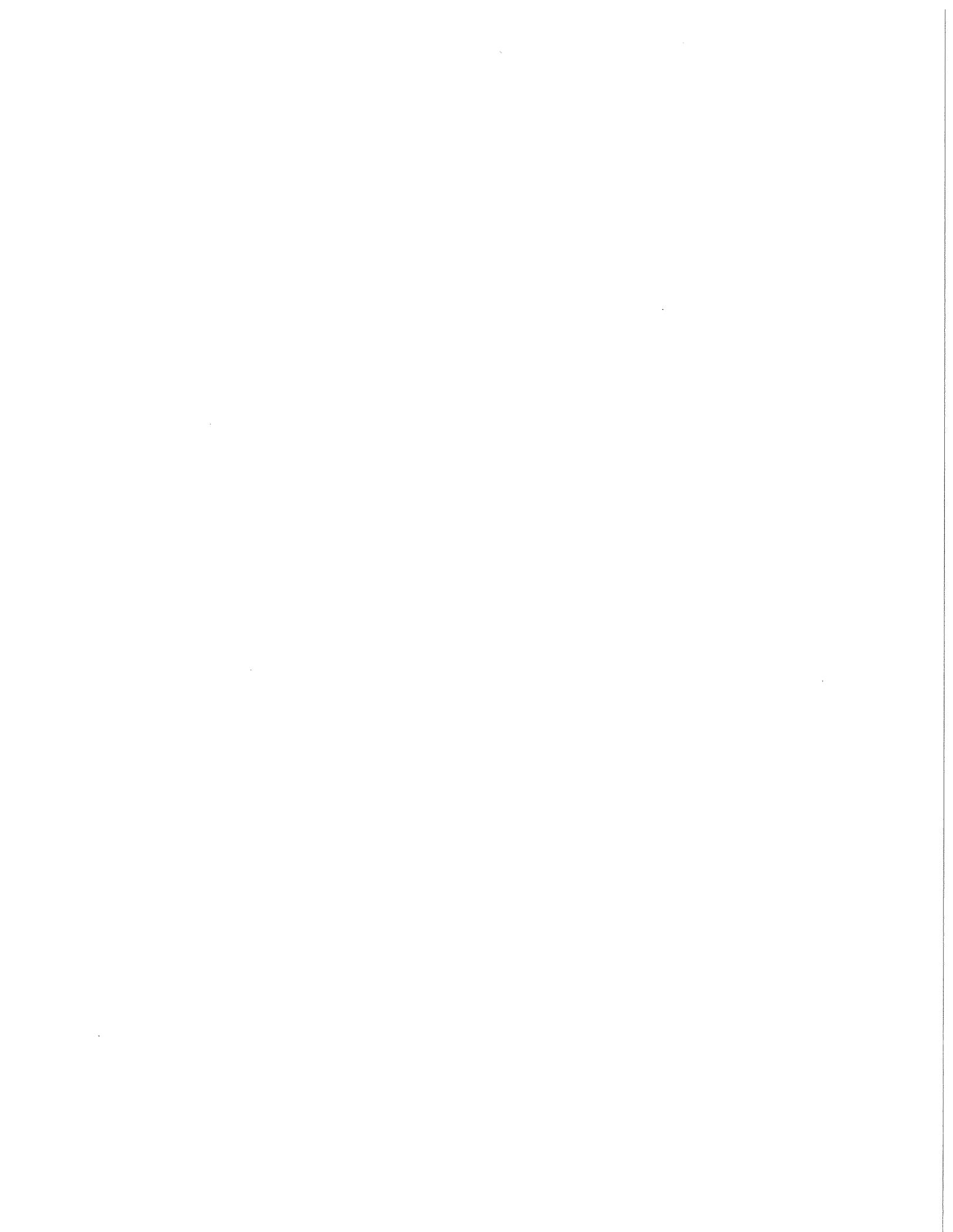
scanner@ci.victoria.mn.us\_2013...

LMCC Member City Mayors and Administrators,

Don Uram from the City of Victoria asked that I distribute Victoria's adopted resolution to the member cities. Some member city administrators have been confused by the various resolutions circulated. If your city already submitted a resolution some months ago you can stay with that if you wish. Please call me if you have questions regarding the various resolutions as some of you already have.

Thank you,  
Sally

Sally Koenecke  
Executive Director  
Lake Minnetonka Communications Commission  
952-471-7125



**CITY OF VICTORIA  
RESOLUTION NO. 13-49**

**RESOLUTION IN SUPPORT OF LONG-TERM VIABILITY OF  
THE LAKE MINNETONKA COMMUNICATIONS COMMISSION**

**WHEREAS**, the Lake Minnetonka Communications Commission (LMCC) 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 above is better accomplished by keeping a majority of the current LMCC cities in the LMCC JPA.

**NOW THEREFORE, BE IT RESOLVED** that city council of the city of Victoria, Minnesota supports the that following items be established with a majority vote of the current weighted votes by those present at a meeting of the full LMCC board:

1. Top priority: Full build-out of Orono by 12-31-14, and full build-out of all other cities by 12-31-16.
2. Designate 25% of franchise fees to stay with the LMCC to cover administration, franchise management, and franchise audits.
3. Designate 75% of franchise fees be sent to the cities to be used for technology updates or whatever each individual city deems appropriate. Cities can elect on a city-by-city basis to have reduced franchise fees for their residents / businesses.
4. 100% of PEG fees stay with the LMCC with a priority for the money to be spent on council meeting programming. Any additional PEG fees may be used for general programming if funds are available.
5. Cities pay \$250 per meeting first from PEG fees collected from each city's subscribers, then the balance from the franchise fees collected from that city's subscribers. For example, Greenwood has 1 meeting per month, which equals a \$3,000 annual meeting cost. Greenwood's PEG fees are estimated to be \$2,146, so Greenwood would pay the \$854 difference from the 75% of franchise revenues that they would otherwise receive.
6. Pay a member city to provide LMCC administrative services (to be determined via a bid process of interested cities).

**MAY IT BE FURTHER RESOLVED** that city council of the city of Victoria, Minnesota supports the that following changes be made to the LMCC JPA with approval of all LMCC member city councils:

1. Change rules for appointing each city's 2 board representatives to reflect state statute (no limitations on qualifications for the 2nd city representative).
2. Change voting rules so that 1 representative may cast the votes of an absent representative from the same city.  
If no representative is present at the meeting, the city has no votes.
3. Clarify rules so that a city may leave the JPA by giving 2-plus year's notice prior to December 31. For example, if a city gives notice on September 30, 2014, the city will stay a member of the JPA through December 31, 2016.
4. Disband executive committee and have board meetings 4 times per year.
5. Change rules so the JPA may be changed in the future with approval of 4/5ths of the LMCC member city councils.

**MAY IT BE FURTHER RESOLVED** that city council of the city of Victoria, Minnesota directs the city clerk to email a copy of this resolution 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 July 12, 2013, so the LMCC executive board can take action at their July 16, 2013 meeting, and direct the LMCC attorney to draft JPA changes for consideration at the LMCC full board meeting on August 20, 2013.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Victoria City Council hereby accepts the donations and designations listed above.

Adopted this 24<sup>th</sup> day of June, 2013 by the Victoria City Council.

Tom O'Connor, Mayor \_\_\_\_\_ AYE

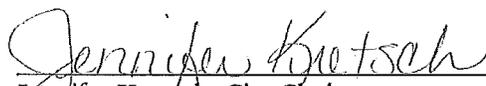
Lani Basa \_\_\_\_\_ AYE

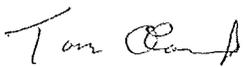
Jim Crowley \_\_\_\_\_ ABSENT

Joe Pavelko \_\_\_\_\_ AYE

Tom Strigel \_\_\_\_\_ AYE

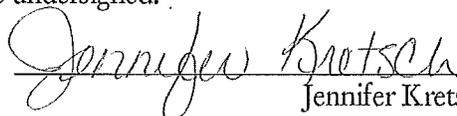
ATTEST:

  
\_\_\_\_\_  
Jennifer Kretsch, City Clerk

  
\_\_\_\_\_  
Tom O'Connor, Mayor

**CERTIFICATION**

The undersigned, being the duly qualified and acting Clerk of the City of Victoria, hereby certifies the foregoing Resolution No. 13-49 is a true and correct copy of a resolution presented to and adopted by the Council of the City of Victoria at a duly authorized meeting thereof held on the 24<sup>th</sup> day of June 2013, as shown by the minutes of the aforesaid meeting in possession of the undersigned.

  
\_\_\_\_\_  
Jennifer Kretsch, City Clerk

(Seal)

**Joe Kohlmann**

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**From:** Sally Koenecke [sally@lmcc-tv.org]  
**Sent:** Tuesday, July 02, 2013 10:49 AM  
**To:** MGaylord@ci.Excelsior.mn.us; Kristi Luger; Debra Kind; Gus Karpas; marvdjohnson@gmail.com; Toni Hirsch; thultmann@longlakemn.gov; tpost@longlakemn.gov; kkoch@ci.loretto.mn.us; Travis Rosin; roger5850@ymail.com; Jason Ziemer; Elizabeth.Weir@ci.medina.mn.us; Scott Johnson; info@ci.minnetonka-beach.mn.us; Susanne Griffin; cfischer@ci.minnetrista.mn.us; Michael Funk; Lili McMillan; Jessica Loftus; St. Bonifacius ; Scott Zerby; bjoynes@ci.shorewood.mn.us; sreinhart@ci.spring-park.mn.us; dtolsma@ci.spring-park.mn.us; gerryd@terradek.com; Joe Kohlmann; toconnor@ci.victoria.mn.us; Don Uram; 'Doak, Jim'; Shelley Souers; Norman C. Wenck; Joe; BWilliamson@ci.spring-park.mn.us; Norman C. Wenck; Jim Smith; Tom Fletcher  
**Cc:** Dana Young; paulskrede@mchsi.com  
**Subject:** FW: Franchise and PEG fees  
**Follow Up Flag:** Follow up  
**Flag Status:** Red  
**Attachments:** 2013 06-18 Model Resolution Supporting Viability of LMCC.doc

LMCC Mayors, City Administrators and LMCC Board:

The City of Deephaven has asked through their adopted resolution concerning the LMCC to distribute their resolution to the mayors and administrators of the member cities of the LMCC and to the LMCC Board. Please see attachment.

Sally

Sally Koenecke  
Executive Director  
Lake Minnetonka Communications Commission  
952-471-7125

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**CITY OF DEEPHAVEN  
RESOLUTION NO. 21-13**

**RESOLUTION IN SUPPORT OF LONG-TERM VIABILITY OF  
THE LAKE MINNETONKA COMMUNICATIONS COMMISSION**

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

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

**WHEREAS**, the above is better accomplished by keeping a majority of the current LMCC cities in the LMCC JPA.

**NOW THEREFORE, BE IT RESOLVED** that city council of the city of Deephaven, Minnesota supports that the following changes be made to the LMCC JPA with approval of all LMCC member city councils:

1. Change rules for appointing each city's 2 board representatives to reflect state statute (no limitations on qualifications for the 2nd city representative).
2. Change voting rules so that 1 representative may cast the votes of an absent representative from the same city.  
If no representative is present at the meeting, the city has no votes.
3. Clarify rules so that a city may leave the JPA by giving 2-plus year's notice prior to December 31. For example, if a city gives notice on September 30, 2014, the city will stay a member of the JPA through December 31, 2016.
4. Disband executive committee and have board meetings 4 times per year.
5. Change rules so the JPA may be changed in the future with approval of 4/5ths of the LMCC member city councils.

**MAY IT BE FURTHER RESOLVED** that city council of the city of Deephaven, Minnesota directs the city clerk to email a copy of this resolution 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 July 12, 2013, so the LMCC executive board can take action at their July 16, 2013 meeting, and direct the LMCC attorney to draft JPA changes for consideration at the LMMC full board meeting on August 20, 2013.

**ADOPTED by the Council of the City of Deephaven, Minnesota this 1<sup>st</sup> day of July, 2013.**

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**Paul A. Skrede, Mayor**

**Attest:** \_\_\_\_\_  
**Dana H. Young, City Administrator**

## Joe Kohlmann

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**From:** Debra Kind [dkind100@gmail.com]  
**Sent:** Monday, July 01, 2013 2:00 PM  
**To:** Scott Zerby  
**Cc:** Sally Koenecke  
**Subject:** Re: LMCC Model Resolution

**Attachments:** 2013 06-18 Model Resolution Supporting Viability of LMCC.doc



2013 06-18 Model  
Resolution Su...

Scott --

Greenwood Councilmember Tom Fletcher, who serves on the LMCC executive board and has knowledge of the LMCC's finances, is the one who crunched numbers and suggested the 75/25 split as a way of encouraging cities to stay within the LMCC JPA, yet have enough money to support basic services. Number 3 in the top section of the resolution states that individual cities can choose to reduce their 75% of the franchise fees for their residents / businesses if they desire. Per your request, I copied all of the LMCC mayors and administrators (recipients of my original email) on this reply, so folks can see your comments below.

Deb .

DEBRA J. KIND  
Mayor, City of Greenwood  
20225 Cottagewood Road  
Deephaven, MN 55331  
www.greenwoodmn.com  
Main: 952.474.6633  
Direct: 612.718.6753

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On Jul 1, 2013, at 1:29 PM, Scott Zerby wrote:

Where did this 25/75 model come from? Has anyone checked what services would be still available with this model?

Seems pretty arbitrary.

Personally I am not a fan of "shadow taxes" like this, where money from a subset of the population is greater without justification. I.E. using cable tv subscriber fees for city-wide purposes. It's just not fair.

Sally, please forward to the same group mayor Kinds message was distributed to.

Sent from my iPhone 5

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On Jul 1, 2013, at 11:56 AM, "Debra Kind" <dkind100@gmail.com<mailto:dkind100@gmail.com>> wrote:

LMCC Mayors & Administrators --

As you know, the city of Medina has given notice of withdrawal from the Lake Minnetonka

Communications Commission (LMCC). Orono, Victoria, and Minnetrista (and other cities?) also are considering withdrawing from the LMCC. The city of Victoria sent the attached letter with a list of their priorities to the LMCC. In response to the letter, the city administrators and the LMCC reps from Victoria, Minnetrista, and Greenwood met to see if there is a middle ground that will keep a core group of cities in the LMCC. Based on the discussion, the attached resolution was drafted for the LMCC member cities to consider. Victoria approved the resolution at their 6/24 council meeting. The Greenwood council will take action on the resolution at our 7/3 meeting. Minnetrista will take action on the resolution at their July meeting. We are hoping that other city councils will do likewise.

To be clear, this resolution was NOT created by or endorsed by the LMCC executive board. The intent of the resolution is NOT to dismantle the LMCC. We sincerely are trying to come up with a solution that keeps as many cities as possible in the LMCC. I know it is hard to accept, but the city of Victoria (and likely other cities as well) will leave the LMCC unless the key initiatives included in the resolution are accomplished.

Please review the resolution and call or e me if you have any questions. Thanks!

Deb

DEBRA J. KIND  
Mayor, City of Greenwood  
20225 Cottagewood Road  
Deephaven, MN 55331  
[www.greenwoodmn.com](http://www.greenwoodmn.com)<<http://www.greenwoodmn.com/>>  
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<2013 05-14 Victoria Letter.pdf>  
<2013 06-18 Model Resolution Supporting Viability of LMCC.doc>

## Joe Kohlmann

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**From:** Debra Kind [dkind100@gmail.com]  
**Sent:** Monday, July 01, 2013 4:37 PM  
**Cc:** Sally Koenecke  
**Subject:** LMCC Votes & Estimated Per-City Revenue

**Attachments:** LMCC Vote and Estimated Per City Revenues Data 01-25-13.xlsx.pdf



LMCC Vote and  
Estimated Per Ci...

LMCC Mayors & Administrators --

For your reference, attached is a spreadsheet showing LMCC votes and ESTIMATED per-city revenue. Some of you may have seen a 01-16-13 version of this document that used 2009 household numbers. The attached 01-25-13 version uses the most current Met Council household numbers (2011).

Deb

DEBRA J. KIND  
Mayor, City of Greenwood  
20225 Cottagewood Road  
Deephaven, MN 55331  
www.greenwoodmn.com  
Main: 952.474.6633  
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## LMCC Votes & Estimated Per-City Revenue

|                  | Dwelling Units | LMCC Board Weighted Votes | Cable Subscribers | Subscribers ÷ Dwelling Units | Monthly Franchise Fee Per Subscriber | Estimated Annual Revenues | Monthly PEG Fee Per Subscriber | Estimated Annual Revenues | Total Fees       |
|------------------|----------------|---------------------------|-------------------|------------------------------|--------------------------------------|---------------------------|--------------------------------|---------------------------|------------------|
| Deephaven        | 1,337          | 2                         | 722               | 54.00%                       | \$4.42                               | \$38,266                  | \$1.20                         | \$10,397                  | \$48,663         |
| Excelsior        | 1,125          | 2                         | 753               | 66.93%                       | \$4.42                               | \$39,909                  | \$1.20                         | \$10,843                  | \$50,752         |
| Greenwood        | 290            | 1                         | 149               | 51.38%                       | \$4.42                               | \$7,897                   | \$1.20                         | \$2,146                   | \$10,043         |
| Independence     | 1,246          | 2                         | 194               | 15.57%                       | \$4.42                               | \$10,282                  | \$1.20                         | \$2,794                   | \$13,076         |
| Long Lake        | 734            | 1                         | 321               | 43.73%                       | \$4.42                               | \$17,013                  | \$1.20                         | \$4,622                   | \$21,635         |
| Loretto          | 270            | 1                         | 128               | 47.41%                       | \$4.42                               | \$6,784                   | \$1.20                         | \$1,843                   | \$8,627          |
| Maple Plain      | 726            | 1                         | 330               | 45.45%                       | \$4.42                               | \$17,490                  | \$1.20                         | \$4,752                   | \$22,242         |
| Medina           | 1,711          | 2                         | 584               | 34.13%                       | \$4.42                               | \$30,952                  | \$1.20                         | \$8,410                   | \$39,362         |
| Minnetonka Beach | 203            | 1                         | 115               | 56.65%                       | \$4.42                               | \$6,095                   | \$1.20                         | \$1,656                   | \$7,751          |
| Minnetrista      | 2,203          | 3                         | 750               | 34.04%                       | \$4.42                               | \$39,750                  | \$1.20                         | \$10,800                  | \$50,550         |
| Orono            | 2,828          | 3                         | 1,319             | 46.64%                       | \$4.42                               | \$69,907                  | \$1.20                         | \$18,994                  | \$88,900         |
| Shorewood        | 2,660          | 3                         | 1,403             | 52.74%                       | \$4.42                               | \$74,359                  | \$1.20                         | \$20,203                  | \$94,562         |
| Spring Park      | 909            | 1                         | 357               | 39.27%                       | \$4.42                               | \$18,921                  | \$1.20                         | \$5,141                   | \$24,062         |
| St. Bonifacious  | 865            | 1                         | 452               | 52.25%                       | \$4.42                               | \$23,956                  | \$1.20                         | \$6,509                   | \$30,465         |
| Tonka Bay        | 587            | 1                         | 332               | 56.56%                       | \$4.42                               | \$17,596                  | \$1.20                         | \$4,781                   | \$22,377         |
| Victoria         | 2,484          | 3                         | 1,166             | 46.94%                       | \$4.42                               | \$61,798                  | \$1.20                         | \$16,790                  | \$78,588         |
| Woodland         | 169            | 1                         | 98                | 57.99%                       | \$4.42                               | \$5,194                   | \$1.20                         | \$1,411                   | \$6,605          |
| <b>TOTAL</b>     | <b>20,347</b>  | <b>28</b>                 | <b>9,173</b>      |                              |                                      | <b>\$486,168</b>          |                                | <b>\$132,091</b>          | <b>\$627,432</b> |

|                                  |      |  |       |        |        |          |        |          |           |
|----------------------------------|------|--|-------|--------|--------|----------|--------|----------|-----------|
| Mound:                           |      |  |       |        |        |          |        |          |           |
| What they collect                | 3987 |  | 2,097 | 52.60% | \$4.42 | \$74,359 | \$1.20 | \$30,197 | \$104,556 |
| Mound: What they pay to the LMCC |      |  |       |        | \$0.67 | \$16,860 | \$1.20 | \$30,197 | \$47,057  |
|                                  |      |  |       |        |        | \$57,499 |        | \$0      |           |

Grey indicates "underserved" cities.  
 Households based on most current Met Council Data (2011).  
 Votes are rounded up, based on past policy.  
 Cable subscribers numbers are from Mediacom 11/11/2012 data.  
**FRANCHISE FEES**  
 \$4.42 per month Franchise Fee is 5% of the cable bill (5% is the maximum allowed by FCC regulations).  
 The use of franchise revenues by the LMCC and cities is not restricted.  
**PEG FEES**  
 Public Educational Government (PEG) fees are negotiated in the franchise agreement.  
 2013 PEG fees are \$1.20 per subscriber per month.  
 PEG fees must be used for programming / equipment.

## RESOLUTION NO. 13-14

### A RESOLUTION IN SUPPORT OF LONG-TERM VIABILITY OF THE LAKE MINNETONKA COMMUNICATIONS COMMISSION

**WHEREAS**, the Lake Minnetonka Communications Commission (LMCC) 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 above is better accomplished by keeping a majority of the current LMCC cities in the LMCC JPA.

**NOW THEREFORE, BE IT RESOLVED** that the City Council of the City of Tonka Bay, Minnesota supports that the following items be established with a majority vote of the current weighted votes by those present at a meeting of the full LMCC board:

1. Top priority: Full build-out of Orono by 12-31-14, and full build-out of all other cities by 12-31-16.
2. Designate 25% of franchise fees to stay with the LMCC to cover administration, franchise management, and franchise audits.
3. Designate 75% of franchise fees be sent to the cities to be used for technology updates or whatever each individual city deems appropriate. Cities can elect on a city-by-city basis to have reduced franchise fees for their residents/businesses.
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6. Pay a member city to provide LMCC administrative services (to be determined via a bid process of interested cities).

**MAY IT BE FURTHER RESOLVED** that the City Council of the City of Tonka Bay, Minnesota supports that the following changes be made to the LMCC JPA with approval of all LMCC member city councils:

1. Change rules for appointing each city's two board representatives to reflect state statute (no limitations on qualifications for the 2nd city representative).
2. Change voting rules so that one representative may cast the votes of an absent representative from the same city. If no representative is present at the meeting, the city has no votes.