

Memo

To: Honorable Mayor and City Council
From: Joe Kohlmann, City Administrator
Date: November 12, 2013
Re: LMCC – Executive Director and Attorney

LMCC Attorney Bob Vose and Executive Director Sally Koenecke are in attendance to discuss the LMCC. Bob can provide answers to the proposed JPA Amendments (*attached are the proposed JPA amendments*).

In short, the amendments aim to:

- 1) Provide a withdrawal clause for Member Cities in any year.
- 2) All future amendments would require 2/3 votes as opposed to unanimous approval.

Sally Koenecke will be able to answer questions regarding the membership and future services of the LMCC. Topics to discuss with Sally may include but are not limited to:

- 1) Number of members who have provided withdrawal notice.
- 2) PEG and Franchise fees
- 3) LMCC services and future of those services
- 4) Franchise Agreement with MediaCom
- 5) Distribution of assets

Attachments:

JPA AMENDMENTS

PEG fee and Franchise fee breakdown

LMCC Budget

Council Action Requested:

Discuss LMCC with Bob Vose and Sally Koenecke.

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&
Graven

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MEMORANDUM

To: LMCC
From: Bob Vose
Date: September 19, 2013
Re: Amendments to the Joint and Cooperative Agreement ("JPA")

At the LMCC's special meeting on September 17th, I was directed to draft amendments to the JPA regarding member withdrawal and the number of member cities that must approve future JPA amendments. I was also asked for input regarding who may serve as a commission director.

If the LMCC recommends approval any of these amendments, I will prepare a complete copy of the JPA with such amendments for consideration by the member cities.

1. **Withdrawal**

Amend Art. VIII. (Powers, Rights and Duties of Commission), Section 2 (Grant of Franchise) as follows:

~~g. Withdrawal. At any time after the franchise ordinance has been adopted by the Commission, but not later than five days before its effective date, a member may withdraw for any cause from the Commission by giving written notice of its withdrawal to the Secretary of the Commission. A member's withdrawal under this paragraph shall be effective upon the receipt of the notice of withdrawal by the Secretary of the Commission. A member which does not withdraw under this paragraph shall be bound by the franchise ordinance adopted and granted by the Commission. If four (4) or more members withdraw under this paragraph, the franchising process shall cease.~~

Amend Art. X. (Withdrawal) as follows:

~~Section 1. A member may withdraw from the Commission prior to the effective date of the franchise ordinance by filing a written notice with the Secretary by October 1st 15 of any year giving notice of withdrawal effective as of **December 31st of the next end of that** calendar year; and membership shall continue until the~~

effective date of withdrawal. A notice of withdrawal may be rescinded at any time by a member **prior to the effective date of the withdrawal**. If a member withdraws pursuant to this section, the member shall have no claim on the assets of the Commission. A member shall not withdraw until the member's financial contribution for the calendar year is paid in full.

~~Section 2. Withdrawal for Cause. A member may withdraw from the Commission after the effective date of the franchise ordinance as prescribed by Article VIII, Section 5, paragraph f only (i) if the Commission itself breaches or violates this agreement, of (ii) if the Commission fails to commence enforcement of the ordinance within four months after being notified by an member of the existence of a violation of the ordinance occurring within the territorial limits of that city.~~

Section 3. Notice of Withdrawal. A member withdrawing from the Commission under this article shall send to the MCCB and the Commission Secretary a written Notice of Withdrawal which shall specify both the grounds and the effective date of its withdrawal.

Section 4. Effectiveness of Ordinance After Withdrawal. ~~Any~~ The franchise ordinance adopted and granted by the Commission shall provide that it is effective and enforceable within the territorial limits of a city which has withdrawn from the Commission under this article and a city which withdraws from the Commission shall be bound by the terms of any cable communications franchise previously adopted and granted by the Commission. A city which has withdrawn shall be the exclusive authority to administer and enforce the cable communications franchise ordinance as to its corporate boundaries.

Section 5. Cooperation. The Commission and a city which withdraws under this article shall cooperate with each other and the cable communications operator and shall use their best efforts to achieve and orderly and efficient transfer to that city of the administrative and enforcement authority over the cable communications system established within the withdrawn city.

Section 6. Access to Commission Assets. A member withdrawing from membership at a time when such withdrawal does not result in dissolution of the Commission shall forfeit its claim to any assets of the Commission except that it shall have access, at a reasonable cost and under such conditions as the Commission may determine, to any cable communications programs, files or other materials developed for its use while it was a member.

Section 7. Merger. The merger of two or more municipalities then parties to this agreement shall not be deemed a withdrawal of the merged municipality for the purposes of this agreement. In the event of a merger of two or more municipalities then parties to this agreement, the newly created municipality shall be entitled to the number of votes on the Commission calculated pursuant to

Article V, Section 3 of this agreement and based upon the number of dwelling units within the newly formed municipality. Any subsequent financial contribution to the Commission required of a merged municipality shall be calculated pursuant to this agreement based upon new vote allocation of the merged municipality.

2. JPA Amendments

Amend Art. XV. (Duration) to read as follows:

XV.

AMENDMENT OF AGREEMENT; DURATION

Section 1. Amendment of Agreement. Any proposed amendment to this agreement shall be provided to all members of the Commission. As provided in Article VIII, Section 12, the Commission may provide a recommendation regarding any proposed amendment. The agreement shall be amended upon the approval of a proposed amendment by two-thirds (2/3) of all members.

Section 2. Duration. This agreement shall continue in effect from year to year until termination in accordance with the terms of this agreement.

3. Persons Eligible to Serve as Commission Directors.

I was asked to compare the current JPA language to the applicable state statute governing eligibility to serve as a cable commission director.

Minnesota Statutes, Section 238.08, Subd. 5 provides, in relevant part: "The members and governing body of the joint commission shall consist of two representatives appointed by each municipality, at least one of whom shall be a member of the council of that municipality or its designee and the other a qualified voter residing within that municipality." (emphasis added).

Accordingly, state law expressly allows either a council member or a council designee, such as the city administrator, to serve as one of a city's representatives on a joint cable commission.

Article V, Section 1 of the JPA provides, in relevant part: "The City Council of each member shall be entitled to appoint two directors, at least one of whom shall be a member of that council and the other a qualified voter residing within that city. The City Council of each member shall be entitled to appoint at least one alternate director..."

Accordingly, the JPA requires appointment of one city council member as a director. However, the JPA does not specifically prohibit appointment a non-councilmember alternate for that director.

LMCC Votes & Estimated Per-City Revenue

	Dwelling Units	LMCC Board Weighted Votes	Cable Subscribers	Subscribers ÷ Dwelling Units	Monthly Franchise Fee Per Subscriber	Estimated Annual Franchise Revenues	Monthly PEG Fee Per Subscriber	Estimated Annual PEG 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
Mishawaka	1,711	2	384	22.44%	\$4.42	\$30,952	\$1.20	\$9,410	\$39,362
Minnnetonka Beach	203	1	115	56.65%	\$4.42	\$6,095	\$1.20	\$1,656	\$7,751
Minnnetonka	2,203	3	750	34.02%	\$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	2,184	3	1,166	53.41%	\$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
TOTAL	20,347	28	9,173			\$486,168		\$132,091	\$627,432

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

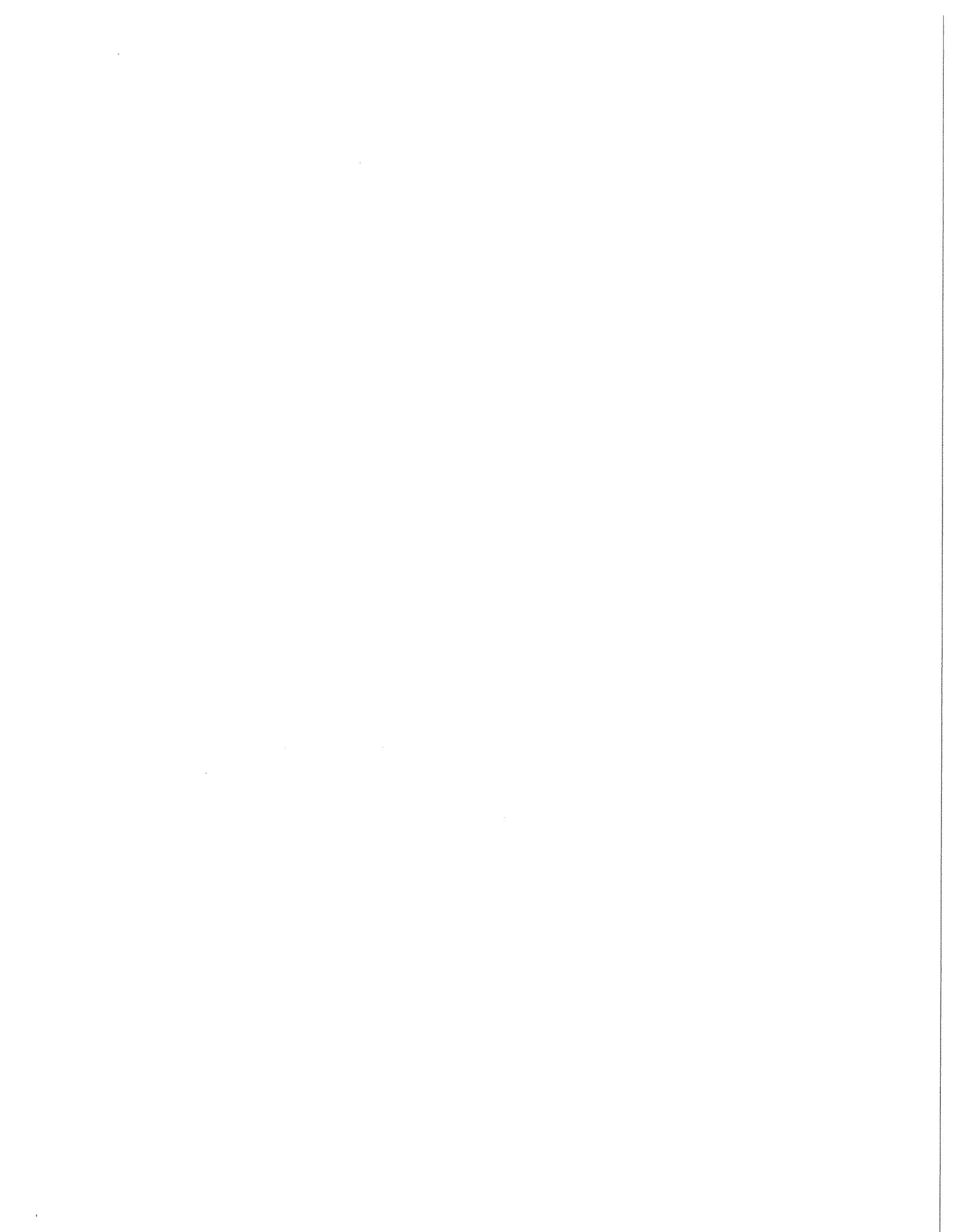
Amount of revenue kept by Mound (85% of franchise fees)

Mound pays all of their PEG fees to the LMCC (same as other LMCC 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.



Lake Minnetonka Communications Commissions
2014 Proposed Budget

6.17.2013 draft

	Franchise Administration	Studio Capital	Total All Funds
<u>Revenues</u>			
Franchise Fees	64,639	249,100	313,739
PEG Fees		79,398	79,398
Mound Usage Fees		49,816	49,816
Studio Rental Dub Fees		2,000	2,000
Interest		1,500	1,500
Insurance Refund		500	500
Projected Total Revenue	<u>64,639</u>	<u>382,314</u>	<u>446,953</u>

Expenses

Projected Fr.Exp./S. Salaries	64,639	252,233	316,872
Projected Total Studio Capital Expenses			93,815
Principal Mortgage Payments			0
Communications Education and Assessment			0
Franchise Renewal Consulting			0
Franchise Fee Audit			0
Total			<u>410,687</u>

Capital Equipment Budget

Proposed 2014 Capital Equipment Proposal			<u>5,000</u>
Projected Total Expenses (Fr.Exp. Stu.Salaries, Stu.)			<u>415,687</u>
Contingency			<u>300,000</u>
			<u>715,687</u>

Fund Balance

Projected 2014 Fund Bal.	376,208
Projected 2014 Revenues	<u>446,953</u>
Total Fund Balance	823,161
Projected Total Expenses	<u>415,687</u>
Projected Remaining FB	<u>407,474</u>

Lake Minnetonka Communications Commission
2014 Proposed Budget

6.17.2013 draft

Franchise Administration
Expenses

	2012 Adopted	2012 Actual	2013 Proposed	2013 6 Mo. Proj	2013 Projected	2014 Proposed
<u>Personal Services</u>						
101 Salaried Part-time	49,019	49,479	50,224	24,309	49,019	25,112
103 Salaried Part-time	33,825	23,050	33,825	11,324	23,372	12,066
121 Pera Cont.	6,012	6,790	6,393	3,700	7,400	754
122 FICA Cont.	6,970	8,315	7,500	5,500	7,500	2,305
131 Health Insurance	15,500	14,981	15,700	8,300	15,500	6,758
151 Workers Comp. Insurance	775	1,684	1,684	1,684	1,684	842
Total Personal Services	112,101	104,299	115,326	55,217	104,475	47,837
<u>Supplies</u>						
200 Office Supplies	1,500	1,821	1,500	750	1,500	1,000
210 Special Events/Meetings	525	548	525	263	525	100
220 Repair & Maint. Supplies	200	63	300	100	200	100
225 Studio Expendables	0	0	0	0	0	0
Total Supplies	2,225	2,432	2,325	1,113	2,225	1,200
<u>Professional Services</u>						
301 Accounting/Audit Fees	7,000	2,070	7,000	4,000	7,000	4,000
302 Access Contractors	0	0	0	0	0	0
304 Legal Fees	10,000	5,721	10,000	4,478	9,000	3,250
314 Payroll Services	800	555	800	360	750	575
318 Janitorial Services	1,200	724	1,200	628	1,200	150
319 Security Services	470	402	470	200	470	170
325 Computer/Consulting	1,250	851	1,250	340	1,250	400
326 Training	400	875	400	200	400	100
Total Professional Services	21,120	11,198	21,120	10,206	20,070	8,645
305 Franchise Renewal Legal		7,848				
<u>Other Services and Charges</u>						
309 Copier Expense	3,300	3,235	1,848	1,632	3,300	1,510
321 Telephone/Communications	1,100	1,250	1,100	350	1,100	500
322 Postage	1,300	1,172	1,300	360	1,100	700
331 Travel School & Conference	8,500	8,625	7,500	2,370	8,500	500
332 Mileage	680	185	500	342	680	100
350 Printing and Publishing	1,500	440	1,500	228	1,400	500
360 Insurance	2,000	2,800	2,200	300	2,000	1,227
380 Utilities	4,700	2,555	3,700	2,350	4,700	1,000
384 Refuse & Recycling Collection	500	848	500	250	500	200
395 Bank Finance fee	20	20	50	20	20	20
401 Contracted Building Repair	2,000	1,096	2,000	409	1,300	500
404 Maint. Repair Equip.	400	1,545	2,000	1,200	2,000	200
413 Equipment Rental	200	31	300	150	300	0
433 Dues & Subscriptions	2,000	575	2,000	1,098	1,500	0
438 Property Taxes	0	0	0	0	0	0
439 Contingency	3,000	1,637	3,000	1,700	3,000	0
440 Advertising	400	0	400	0	400	0
441 Van Operation	0	0	0	0	0	0
442 Webstreaming/Broadband	0	-832	0	0	0	0
443 Licenses	250	106	250	0	100	0
Total Other Charges	31,850	25,288	30,148	13,359	32,100	6,957
<u>Interest / Capital</u>						
411 mortgage interest	3,050	0	0	0	1,500	0
412 mortgage interest	0	689	0	0	0	0
599 Building Improvements	5,000	0	4,000	2,400	5,000	0
Total Interest / Capital	8,050	689	4,000	2,400	6,500	0
Total Expenditures	175,346	151,754	172,919	82,395	165,370	64,639

Lake Minnetonka Communications Commission 2014 Proposed Budget

6.17.2013 draft

Access Studio Operating

	2012 Adopted	2012 Actual	2013 Proposed	2013 6 Mo. Proj.	2013 Projected	2014 Proposed
<u>Personal Services</u>						
101 Salaried Full-time	206,742	191,526	209,843	88,392	206,742	215,950
103 Hourly Part-time	42,904	36,614	40,600	16,248	38,000	0
121 Pera Cont.	14,860	15,842	17,981	8,858	17,716	10,205
122 FICA Cont.	16,900	17,815	19,158	11,886	15,023	13,388
131 Health Insurance	27,000	25,508	26,490	14,504	27,000	10,500
151 Workers Comp. Insur	1,000	2,190	2,190	2190	2190	2190
Total Personal Services	309,406	289,495	316,262	142,078	306,671	252,233
<u>Access Studio Capital</u>						
<u>Supplies</u>						
200 Office Supplies	1,500	1,822	1,500	960	1,500	1,500
210 Special Events/Meetin	1,200	882	1,200	810	1,200	500
220 Repair & Maint. Supp	400	63	600	0	400	1000
225 Studio Expendables	2,750	4,098	3,000	1,000	2,750	4,000
Total Supplies	5,850	6,865	6,300	2,770	5,850	7,000
<u>Professional Services</u>						
301 Acct. Fees	7,000	12,424	7,000	2,000	7,000	10,000
302 Access Contractors	26,000	25,988	26,000	9,782	26,000	16,802
304 Legal Fees	3,000	2,636	3,000	1764	3,000	9,000
314 Payroll Services	1,500	1,297	1,600	842	1,500	1,300
318 Janitorial Services	2,575	1,689	2,575	1,466	2,700	2,289
319 Security Services	470	403	470	200	470	634
325 Computer/Consulting	4,000	1,988	3,000	798	3,000	3,000
326 Training	600	875	800	1000	1500	500
Total Professional Ser	45,145	47,300	44,445	17,852	45,170	43,525
305 Franchise Renewal Legal		1,549				
<u>Other Services and Charges</u>						
309 Copier Expense	3,250	3,235	1,848	1,584	3,250	3,710
321 Telephone/Communic	2,550	2,916	2,700	1,290	2,550	3,300
322 Postage	1,250	1,172	1,350	360	1,250	1,450
331 Travel School & Con	4,770	2,503	4,500	1,500	4,770	500
332 Mileage	1,100	926	900	300	1,000	900
350 Printing and Publishir	1,600	440	1,200	550	1,600	400
360 Insurance	4,500	6,533	4,700	4,500	4,500	4,700
380 Utilities	1,000	5,961	8,500	3,779	8,000	9,500
384 Refuse & Recycling C	575	848	600	253	575	900
395 Bank Finance Fee	0	0	0	0	0	0
401 Contracted Building F	1,750	1,096	1,800	266	1,750	2,000
404 Maint. Repair Equip.	2,000	1,545	3,000	1,214	2,000	3,500
413 Equipment Rental	100	31	300	0	100	30
433 Dues & Subscriptions	2,100	1,459	2,000	1,434	1,500	0
438 Property Taxes	0	0	0	0	0	0
439 Contingency	2,000	3,912	2,000	300	2,000	0
440 Advertising	3,000	770	1,500	696	1,500	50
441 Van Operation	2,000	1,251	2,000	892	2,000	2,000
442 Webstreaming/Broadl	8,000	11,855	11,000	5,318	10,700	10,000
443 Licenses	700	319	350	100	400	350
Total Other Charges	42,245	46,772	50,248	24,136	49,445	43,290
<u>Interest/ Capital</u>						
411 Mortgage Interest	9,500	2,064	0	2,656	7,500	0
412 Mortgage Interest Expense		0	0	0	0	0
599 Building Improvemen	10,000	-	5,000	2,500	7,000	0
Total Interest / Capita	19,500	2,064	5,000	5,156	14,500	-
Total Expenditures	422,146	394,045	422,255	191,992	421,636	346,048

LAKE MINNETONKA COMMUNICATIONS COMMISSION
2014 Proposed Budget Notes to Budget Committee on Proposed Changes

1. Columns 4 and 5 on the Franchise and Studio budget are not completed. They would be completed after the June financials to get a more accurate picture of the 6 month expenditures and projected year-end budget.
2. Attached is a list of where many of the major cuts are to the 2014 Budget.
3. Streaming and agenda parsing are left in the budgeted services as I feel that these services are what city officials have deemed as important to them.
4. Due to staff cuts there will be some reorganizing of duties which could potentially lead to a much reduced number of educational and staff produced programs for the cities.
5. Van operation was left in the budget because I think our needs assessment supported it.
If the van becomes inoperable we have nothing in capital or contingency to cover replacement.
6. The franchise budget was cut by over \$100,000. To do this the administrative assistants hours were cut by ½. She would now be working 2 half days a week instead of four. This will allow for her to remain involved in the check disbursement to keep in line with our segregation of duties according to the financial audit requirements. She will also process the monthly packet which currently takes one of her half days. She will also keep our character generated message display up to date.
7. Executive Director salary and hours were cut by ½. I would request the commission consider allowing me to participate in the PERA program currently in place called "Phased Retirement". Enclosed is a sheet explaining that program. The program calls for at a minimum ¼ hours to be cut. In order to make the budget cuts requested I have cut my salary and hours by ½ working three 7 hr. days per week. In this program the LMCC would no longer have the expense of contributing to PERA for the ED salary. The commission would also have less expense with regard to health insurance as it would eliminate the health savings contribution and monthly expense to a much lower supplemental retirement insurance plan. I believe the commission will need administration to monitor the new franchise agreement as well as take complaints and manage the expenditures so that our "new" budget does not exceed the proposed cuts.
8. The LMCC Financial Audit has been completed. I met with the auditors on the 14th to review the final documents. For the last 5 or 6 years Abdo, Eich and Meyers have completed our audits we have had successful audits. They will provide a report at the August Full Commission meeting. I will have copies at the Budget Meeting if complete.

Sally Koenecke

From: Jim Lundberg <jim@lmcc-tv.org>
Sent: Monday, June 17, 2013 9:46 AM
To: Sally Koenecke (Sally Koenecke)
Subject: Reduction in Government Meeting Coverage and Reduced Costs

Hi Sally,

If we stop paying for contract producers for the 4 cities who may possibly leave us as well as any other meetings for non-member cities that we currently pay contract producers to cover, here is the breakdown of savings over a 12 month period:

Medina: 24 meetings at \$73 per meeting = \$1752
Minnetrista: 24 meetings at \$73 per meeting = \$1752
Orono: 24 meetings at \$73 per meeting = \$1752
Victoria: 24 meetings at \$73 per meeting = \$1752
Excelsior Fire District: 6 meetings at \$73 per meeting = \$438
LMCD: 24 meetings at \$73 per meeting = \$1752

Total Savings: 126 meetings at \$73 per meeting = \$9198

Jim Lundberg
Operations Manager
LMCC
(952)471-7125 x104

Proposed Cuts to LMCC Budget:

1. Cut capital budget to minimal replacement costs of peripherals.	\$55,000
2. Eliminated all membership and dues for MACTA, NATOA and Chambers of Commerce.	4000
3. Cut conference fees for commissioners and staff to a minimum.	8540
4. Cut contracted videotaping to those cities who may drop out	9198
5. Cut contingency line item	5000
6. Cut Health Insurance, eliminated Health Savings (AGENT ESTIMATED)	25,212
7. Cut part time staff budget for studio. Reorganize duties of full time.	40,600
8. Cut full and part time staff hours and pay to 1/2 for administration	64,230
9. Cut building improvements	14,000
10. Cut PERA	14,157
11. Cut FICA	9018
12. Communications And Assessment	10,000
13. Franchise Renewal Consulting	20,000
14. Franchise Fee Audit	7,000
15. Numerous line item cuts (printing, mileage, building repair, advert. etc.)	14,000

Cost saving measures:

The LMCC would reduce the number of hours of operation to close at 7 PM and would not be open on Saturdays. Currently we are open until 10 PM on weekdays and 2 PM on Saturdays. This should cut our utility expenses.

We would work towards paperless which would reduce paper and printing costs as well as postage of mailing packets to commissioners.

We would no longer provide any refreshments at meetings which will cut our meeting expenses. Water will be available from the cooler.

Due to fewer conferences and fewer cities to serve with technical service (Jim goes to cities to clean equipment and consult on equipment failure) this will cut down on mileage expenses.

I transferred some of the line item expenses in franchise to studio. Many of the bills will still be relevant even if the franchise budget is reduced. Many of the line items were split 50/50 on past budgets but as we know the studio operations take up a much greater portion of the building and those costs will remain.