

**Telecommunications Commission Meeting Minutes  
May 6, 2009 Meeting**

**Members Present**

Cory Scott, chair  
Jim Downing  
Julianne Nery

**Others present**

Ray Heise, Village Attorney  
David Powers, Village staff liaison

Chairman Cory Scott called the meeting to order at approximately 7 p.m.

Chairman Scott asked Commission members to take a few moments to review the minutes from the March 4, 2008 meeting. He then made a motion to approve the minutes. Commissioner Julianne Nery seconded the motion. The motion to approve the minutes was approved 3 – 0.

Chairman Scott introduced Village Attorney Ray Heise who had been invited to the meeting to discuss efforts to negotiate a new franchise agreement with Comcast.

Attorney Heise first brought the commission up to date on the issue of the AT&T video ready access devise (VRAD) at 1046 S. Harvey Ave. The VRAD was viewed as problematic by the residential property owner who said it emitted high noise levels as well as visibility issues for vehicles exiting the alley. According to Heise, evidence supporting the belief that the telephone box used to locate the VRAD had originally been behind Barrie Park and should have been returned after the remediation of the project related to a 19<sup>th</sup> century coal gasification plant once located on the site. Had the telephone box been returned to its original location, as it should have been, then the VRAD would have been placed there and been less intrusive on the neighborhood, he said. The recently discovered engineering drawings and aerial photos should help the Village convince AT&T to move the telephone box to its original location, along with the VRAD. AT&T had been refusing to move the equipment unless the Village paid the expense, estimated to be well in excess of \$100,000.

Chairman Scott updated the commission on the Village Board's recent adoption of a resolution supporting the Illinois Attorney General's investigation of AT&T treatment of public access, education access and government access (PEG) stations.

Chairman Scott asked staff liaison David Powers about the status of an in-house Uverse monitor. Powers said he had not yet gotten confirmation of the service for Village Hall, but would follow up with AT&T, noting that the company had provided directions on how to tap into the feed from the dedicated server in the VOP-TV control room. The complexity of the steps likely would require support from the Village's Information Technology Department

Discussion returned to Comcast and a list of questions previously provided to the Village Attorney related the expired franchise agreement and potential to negotiate a new agreement.

Chairman Scott asked about the signal quality and the potential to have outside counsel draft a letter to Comcast citing provisions of the expired franchise agreement that requires the company to ensure good signal quality.

Liaison Powers explained that the signal quality letter had been put on hold when issues with using outside counsel had been raised by the Village Attorney. Powers briefly outlined the signal quality issue for Attorney Heise who recommended contacting outside counsel to draft such a letter.

Attorney Heise then turned to the questions from the Telecommunications Commission. He walked through each of the questions, noting that most were related to the Comcast "sweetheart" franchise document the company had been trying to get the Village to adopt. Attorney Heise said he believed the agreement should be rejected in its entirety and outlined two approaches to re-energize negotiations with Comcast. He said the Village could continue to follow the informal process of the past where documents are drafted then amended by the other party, or begin a formal process that would require Comcast to take certain steps within specific time frames.

The informal process had proven ineffective to date, he said, and there was little point in pursuing it. The formal process likely would be more effective, he said, but would require the Village to have a needs assessment document. Chairman Scott noted that the Village had created just such a document in 2002 as part of the franchise negotiation process. Attorney Heise said outside counsel had said that document would be a good starting point, but would need to be updated. Such a document would require Comcast to file a "request for renewal form" that would be the basis for formal negotiations.

Attorney Heise commended the commission for the time spent preparing the questions related to the future of negotiations with Comcast. He said the next step would be to seek Village Board direction to begin working on an assessment needs study. He noted that the annual notice of renewal from Comcast, which allows them to continue to operating under the existing agreement, provides a platform for beginning a formal process.

The Village Attorney summed up the situation, saying a needs assessment template and model ordinance would be needed.

Commissioner Nery asked Attorney Heise if Comcast franchise agreements had expired in other jurisdictions where they had continued to provide the service, but not successfully negotiate a new agreement.

Attorney Heise said he was not sure.

Chairman Scott asked if AT&T had provided documentation that it was accounting for the 5 percent right of way access fee and 1 percent PEG fee separately. Attorney Heise said he did not know, but would ask the Village Chief Financial Officer.

Commissioner Jim Downing said he was a certified financial fraud examiner and could review any revenue back up documents or audit findings. Attorney Heise thanked him for his offer, noting that his services could be called upon in the future.

Chairman Scott called for a motion to adjourn.

Commissioner Downing made a motion to adjourn. Commissioner Nery seconded the motion. The motion passed 3 – 0.

Meeting adjourned at approximately 8:45 p.m.

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