

STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

BOARD OF SUPERVISORS MINUTES October 28, 19 81

The Subcommittee for Cable Television met this twenty-eighth day of October, 1981, at six-thirty p.m.

Members Present: Isenberg, Pope, Connelly, Collin, Sheedy

Members Absent: None

Chairman Isenberg opened the meeting.

Lee Elam, County Counsel, outlined the issues in his memo to the subcommittee dated October 28, 1981.

By consensus, Sections 5.50.100, 5.50.102 and 5.50.104 were forwarded to the Joint Body as written without comment.

Lee Elam requested consideration of Section 5.50.106 be deferred until Chapter Three was brought up for discussion.

By consensus, Sections 5.50.108 and 5.50.109 were forwarded to the Joint Body as written without comment.

Baxter Culver, Sacramento Cablevision, stated in relation to Section 5.50.112 that his organization would prefer the renewal run a full fifteen years without the reconstitution of the Commission.

By consensus, Section 5.50.112 was forwarded to the Joint Body as written.

Lee Elam addressed the subcommittee on the section of the ordinance dealing with Agreement of Formation of the Sacramento Metropolitan Cable Television Commission. He recommended a change to Paragraph 3b which was accepted by the subcommittee and incorporated into the draft. He requested that discussion on Paragraph 6 be deferred until Chapter 4d was heard.

Jim Feeney, Electrical Technician, addressed the subcommittee regarding the teletex system and HBO system. He expressed the opinion that the public access channels were the only advantage of the cable television system to the community.

By consensus, Sections 5.50.200, 5.50.202 and 5.50.204 were forwarded to the Joint Body as written without comment.

Lee Elam suggested that the subcommittee discuss Sections 5.50.206 through 5.50.218 together since those sections are covered in the staff's report back of October 23, 1981.

By consensus, Section 5.50.206 was forwarded to the Joint Body as written without comment.

The two-stage environmental review process was discussed and Member Connelly requested staff develop for information to the Joint Body, a timeline on the period between the initial award through the final award.

Member Connelly expressed concerns should the second stage of the environmental process run into difficulties thereby impacting the fifteen month deadline.

The selection process was discussed.

Member Isenberg stated he favored removal of Section 5.50.214 and Member Pope concurred.

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Chairman Isenberg moved to direct staff to assign to the Cable Television Commission the ministerial duties as opposed to policy duties, seconded by Member Pope and carried by consensus of those members present. (Members Collin and Connelly absent)

By consensus, Sections 5.50.210 and 5.50.212 were forwarded to the Joint Body as written.

By consensus, Section 5.50.214 was forwarded to the Joint Body as modified or to be deleted as staff sees fit.

The question was raised during discussion of Section 5.50.216 as to whether a time limit should be written to select another franchisee should the initial franchisee be rejected before the final selection.

Stephen Robbins, Warner Amex, suggested that in that eventuality the entire process begin again; that the franchise not be issued to a runner-up bidder.

Chairman Isenberg moved to direct staff to develop language with a time period not to extend beyond six months, seconded by Member Pope and carried by the consensus of those members present. (Members Collin and Connelly absent)

By consensus, Section 5.50.216 was forwarded to the Joint Body as amended.

By consensus, Sections 5.50.218 through 5.50.226 were forwarded to the Joint Body as written.

Joe Gray, Teleprompter, commented on Section 5.50.228, pointing out the four-month period mentioned in the Section triggers the right of the City/County to purchase the system.

By consensus, Section 5.50.228 was forwarded to the Joint Body as written, noting Mr. Gray's comment.

By consensus, Sections 5.50.232 through 5.50.236 were forwarded to the Joint Body as written without comment.

Suzanne Wood, United Cable Television, commented on Section 5.50.238, as it ties in with Mr. Gray's comments on Section 5.50.228. She wished to reserve the right of comment at a later time.

By consensus, Section 5.50.238 was forwarded to the Joint Body as written.

Lee Elam outlined the balance of the sections in Sub-Chapter 3 and recommended a change that the right to purchase in the assignment situation would arise only in the event that the Commission denies approval of the assignment and a court reverses the decision.

Suzanne Wood made reference to the position paper submitted by United Cable Television dated October 23, 1981, in which they interpret the valuation provisions as in violation of the law. She stated opposition to the paragraph under Section 5.50.248 which ascribes no value to the subscriber lists, and further stated the system should be purchased at market value.

William Collard, Warner Amex, expressed the opinion that the valuation sections were unfair because they did not allow the franchise to be sold at the real value of the system.

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Dave McMurtry, Teleprompter, stated he felt the franchise would not be renewed because the valuation system would enable the Joint Body to purchase the system at a low price and there would be political pressure put on the Joint Body to do so.

Suzanne Wood stated the decision not to renew and to purchase would be made on the ability to purchase at a decreased price and not on whether or not the operator had done a good job.

Lee Elam commented he felt the system would be paid for by the subscribers; that the taxpayers would be buying the system again and if it is sold at a higher rate, the subscriber fees would go up.

Joe Gray stated the initial investment of the County is nothing while the operator will invest considerable, and calculated an operator would not get a fair return on that investment until the system had been in operation for at least eleven years. He stated renewal of the franchise is essential for the operator to make it profitable.

Baxter Culver, Sacramento Cablevision, expressed his feeling that the subscriber does not have an equity interest in the system.

David Buckingham, Greater Sacramento Cable Company, made reference to the company's position paper and opposition to Sections 5.50.242, 5.50.244 and 5.50.248. He stated he wanted fair market value placed on the purchase price of the system if the operator had done a good job and the City and County decided to purchase the system.

Stephen Robbins questioned where the operator is compensated for the "goodwill" and the expenditures necessarily spent to attain that goodwill.

Dave McMurtry suggested the right of the public agencies to purchase be taken out of the ordinance and the agencies either renew in fifteen years or the operator must come to a valuation agreement with the new franchise.

Joe Gray stated he did not wish to see renewal dictated on whether or not the City and County could raise money for their General Fund accounts by purchasing the system and re-selling it at a profit.

Member Connelly suggested perhaps language could be developed whereby if the public entity bought the system at lower than market value, they were prevented from re-selling it at a profit.

Suzanne Wood stated that would place the government agency in a position to bargain for all kinds of free services.

Member Connelly told the operators if they would prepare an alternative that included some percentage value for goodwill, he would look at it; but otherwise he would stay with the staff's recommendations.

Lee Elam recommended under Section 5.50.248(b) the wording be changed to only "Replacement Costs"; and that in the event of termination of the franchise not valud on a change in law, whatever value standard assigned to non-renewal at expiration of term also be assigned to that termination contingency.

By consensus, Sections 5.50.240 through 5.50.246 were forwarded to the Joint Body as written.

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Member Pope commented he thought the operators had a valid point about the use of market value.

William Collard requested that the mention of subscriber lists under Section 5.50.248 should be omitted or changed.

By consensus, Section 5.50.248 was forwarded to the Joint Body incorporating the recommendations by the County Counsel.

By consensus, Section 5.50.250 through 5.50.258 were forwarded to the Joint Body without comment.

Joe Gray requested that Section 5.50.260 be amended to include a hearing process.

Lee Elam commented that if the subcommittee desired a hearing process, the entire arbitration process should be deleted and be just a hearing procedure. He pointed out the hearing process would be very costly.

Jim Jackson, City Attorney, stated the hearing process would be difficult to complete in the four-year period.

Suzanne Wood stated constitutional law required a hearing on value.

Member Pope requested staff to come back with some modified hearing process within the arbitration section.

Members Connelly and Isenberg stated they would go along with that direction to staff.

By consensus, Section 5.50.260 was forwarded to the Joint Body incorporating the direction to staff to place amended language in the ordinance.

By consensus, Sections 5.50.262 through 5.50.300 were forwarded to the Joint Body as written without comment.

Member Pope discussed Section 5.50.302(c), the key-lock devise to prevent unauthorized viewing.

Lee Elam mentioned a change in wording at the operators request to insert "premium entertainment" for "first-run movies and special entertainment".

By consensus, Section 5.50.302 was forwarded to the Joint Body with the change in wording.

By consensus, Sections 5.50.304 through 5.50.314 were forwarded to the Joint Body as written without comment.

Bob Rios, Greater Sacramento Cable Company, commented on Section 5.50.316 that rates should be determined by the market place.

By consensus, Sections 5.50.316 through 5.50.326 were forwarded to the Joint Body as written.

Baxter Culver commented on suggested language submitted in the County Counsel's memo dated October 23, 1981, regarding Section 5.50.328, and pointed out the subcommittee had not acted upon that recommendation.

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Kathleen Anderson, KVIE, concurred with the restrictions recommended for KVIE, but stressed KVIE wishes to continue the use of tele-conferencing.

Ron Cooper, Media Services, submitted documentation to the subcommittee showing that a portion of the KVIE operation, namely KVIE Video, is not non-profit. He stated he feels the draft language in Section 5.50.328 is too general to preclude non-commercial use by KVIE.

Member Pope expressed a desire to have language written into the ordinance to prevent KVIE from using equipment given them by the franchisee in a profit-making endeavor.

Tim Neal, an independent producer, stated KVIE does rent their studio for profit and requested language in the ordinance to prevent KVIE from using equipment given them by the franchisee being used in a profit-making venture.

Kathleen Anderson responded that the money made by KVIE Video is used to finance the public television portion of the KVIE operation.

Phil Carbo, General Manager of KXPR Radio, requested public access for radio.

Stephen Robbins referred to Attachment B of the County Counsel's memo to the subcommittee dated October 28, 1981, and the wording "instructional services and programming".

Lee Elam indicated staff would like to look further into the language in Sections 5.50.328 and 5.50.330.

Chairman Isenberg directed that staff develop language under Sections 5.50.328 and 5.50.330, meet with interested parties and forward the re-drafted sections to the Joint Body with such sections underlined. He further directed that staff forward copies of re-drafted sections to KVIE and the Educational Consortium.

Carol Bass, Public Access Sacramento, addressed the subcommittee regarding the formation of a public access committee to govern the public access channels.

Gloria Burt, Sacramento Regional Arts Commission, addressed the subcommittee expressing the desire that the arts be considered in the requests for proposals.

Tim Neal objected to the provisions of the ordinance regarding public access channels.

Stephen Robbins stated his organization intended to bid a public access channel and provision for governing it by an independent organization.

Carol Bass requested the ordinance specify the independent organization.

By consensus, Sections 5.50.332 through 5.50.340 were forwarded to the Joint Body as written.

Lee Elam stated a communication from KVIE had been received which expressed concerns regarding Section 5.50.342 in the ordinance.

Kathleen Anderson, KVIE, addressed the subcommittee regarding Section 5.50.342.

Member Pope stated he wished staff to develop something to force operators to provide the resources which they have included in their proposals.

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Member Connelly moved to direct staff to include in the ordinance enforcement language to cover third-party contract rights.

Members Collin and Pope indicated they were interested in looking at such language.

By consensus, Section 5.50.342 was forwarded to the Joint Body subject to analysis by the staff regarding third-party contract rights.

The subcommittee adjourned to October 29, 1981, at 6:30 p.m.

A T T E S T

Brenda A. Williams

CLERK OF THE BOARD