

STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

BOARD OF SUPERVISORS MINUTES October 14, 1981

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The Subcommittee for Cable Television met this fourteenth day of October, 1981, at four o'clock p.m.

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

Members Absent: None

Member Isenberg called for discussion on the Cable Television Ordinance, Article 4-c, Sub-Chapter 4 through the end of the Ordinance.

ARTICLE 4-C

Member Isenberg asked for reasoning behind staff's position with respect to the regulatory policies in the Ordinance.

Member Pope requested clarification of the regulatory provisions with respect to non-entertainment business services.

The Subcommittee, by consensus, gave tentative approval of Article 4-c.

ARTICLE 4-D

Member Collin questioned the formula used to arrive at the minimum fee to be paid by the franchisee.

Member Pope questioned possible violation of Federal Regulations in the five percent (5%) fee returned to the Cable Television Commission.

Member Connelly spoke about the future use of the five percent (5%) fee.

Member Collin questioned the term "Cable-related", and whether the fee could be built back into the system for use by community service agencies as long as the use was related to Cable Television.

Member Connelly suggested there were other options for structuring the franchise fee. Member Connelly directed that staff look at alternatives for maximum discretion, considering Federal and State laws, and realizing that the Committee has a strong commitment for adequate community use; but recognizing the Committee would like as much discretion as possible as to how the fee may be spent.

Member Isenberg expressed concerns about asking for more, and ending up with incessant complaints for the joint body to fund the obligations themselves. Member Isenberg further expressed his concerns about keeping the established hearing timeframe if extensive redrafts of the Ordinance are attempted at this point.

Lee Elam, County Counsel, suggested a report could be presented during the hearings, and could be dealt with at that time.

Member Isenberg summed up, stating Article 4-d, Franchise Fees - Rates, would automatically come back during hearings before the Subcommittee.

ARTICLE 4-E

Member Pope questioned the amounts of the performance bonds and security deposit.

The Subcommittee, by consensus, gave tentative approval of Article 4-e.

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ARTICLE 5-A

The Subcommittee, by consensus, gave tentative approval of Article 5-a.

ARTICLE 5-B

Member Isenberg discussed "video channels" as opposed to "data channels".

Mac Mailes, Assistant City Manager, explained the difference in the capacities of the two types of channels.

Jim Jackson, City Attorney, informed the Subcommittee that Howard Gann had indicated he would be opposing the banking concept and the inclusion of the requests by K.V.I.E. and the Educational Consortium.

Member Isenberg expressed concern about "dark" channels - channels which were started in operation, but failed for one reason or another. Member Isenberg suggested that these channels could become "banked" channels and requested staff to come back with information on the suggestion.

Member Connelly discussed the language in the Ordinance relating to channels available for use and the reasons behind the banking concept. Member Connelly further explored Member Isenberg's concern, wondering whether it would constitute a breach of the release provisions.

The Subcommittee, by consensus, tentatively adopted Article 5-b subject to the report back.

Member Connelly stated he had several questions relating to the Ordinance and RFP. He indicated he would set the questions forth in a memo to all members of the Subcommittee.

Bill Freeman, Assistant County Executive, outlined his October 14, 1981, report back, and requested the Subcommittee review the RFP.

Jim Jackson presented a proposed addition to the RFP which asks applicants to develop performance plans they would institute in event of future legislation modifying franchise provisions.

Member Connelly stated he had no objections to the inclusion of the language in the RFP as submitted by Jim Jackson and dated October 14, 1981.

Member Collin suggested striking the last sentence "proposals which contain the best ideas in this area will receive more favorable consideration".

Lee Elam suggested rewording the sentence to read: "proposals which the issuing authority finds creative and effective will receive favorable consideration".

Bill Freeman suggested striking the word "more" from the last sentence.

Member Connelly moved approval of the language as submitted, seconded by Member Pope and the following votes were cast. AYES: Members Collin, Connelly, Isenberg, Pope; NOES: Member Sheedy

Member Connelly discussed requesting operators for opinions as to the legality of the Ordinance.

Lee Elam stated he would be more inclined to ask operators to set forth what they assert to be illegal on each and every section.

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Member Isenberg outlined a motion in which applicants and interested operators be directed to submit written statements on alleged illegalities in the Ordinance and RFP and further direct that such statements shall be presented to the sub-committee in sufficient time to allow for staff review.

Discussion followed as to the fairness of requiring operators presently involved in the process to submit statements without considering new operators who might show up to bid at the end of the process.

Member Connelly stated his belief that the input from the companies as to what sections they deem illegal would reflect to him what that company would enforce, and therefore was necessary information to him in evaluating the proposals.

Member Connelly moved to request that applicants provide opinions as to the enforceability and legality of the ordinance provisions prior to October 26, 1981; and as a condition within the bidding process, require applicants who have not submitted prior opinions to do so in that process; seconded by Member Collin and the following votes were cast: AYES: Members Collin, Connelly, Isenberg, Pope; NOES: Member Sheedy; ABSTAIN: Members, none; ABSENT: Members, none.

Member Pope commented that he did not think the ordinance should be amended after the RFP's had come in.

Jim Jackson, City Attorney, reviewed the RFP process.

Member Collin commented on the proposed filing fee -- twenty to twenty-five thousand dollars, with unsuccessful bidders being returned everything above fifteen thousand and the successful bidder paying the remainder of costs. Ms. Collin felt the costs should be pro-rated over all the applicants.

The Subcommittee discussed the policies and priorities in the RFP.

Jim Jackson informed the Subcommittee that the operators had requested the Governing Body to indicate how they intended to spend the franchise fee, and directed the attention of the Subcommittee to the staff's recommendation under Paragraph 4 of his letter dated October 9, 1981.

By consensus, the Subcommittee approved the staff's recommendation.

Member Collin commented on the alternate language proposed regarding resource commitments to local entities. Ms. Collin suggested deleting "unrelated to cable television use," and replace it with some language that indicates artistic and civic endeavors -- perhaps deleting "social service" and limiting it solely to "cultural and artistic endeavors."

Jim Jackson agreed to bring back amended language for consideration prior to the joint Subcommittee hearings.

Member Connelly felt that this proposal inter-related to the franchise fee schedule, expressed the opinion that non-cable related things should be decided by the Commission and felt it would be difficult to evaluate such items.

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Member Isenburg summed up the matter by stating there were probably three votes present to include some language regarding resource commitments to local entities, but the Committee would put the definition over until the next meeting and requested Member Collin to work with staff to come back with some language. Further directed that the concerns raised by Member Connelly be included in the report the County Counsel was to return with regarding options for structuring the franchise fee, and that both reports be brought back at the same time.

Staff outlined the two-stage environmental analysis recommended.

Member Connelly noted problem areas -- the tentative selection of an operator followed by delays until second stage of the Environmental Impact Report is completed and until the Cable Television Commission is established. He stated that a timeline needs to be set which concludes well before any change of office holders, and feels the time between tentative and final selection of operator should be very short.

Al Freitas, County Environmental Coordinator, sketched the environmental process and estimated the time necessary for completion.

Member Isenberg suggested that staff come back with some sample language on the EIR review, using a more regular EIR review rather than a two-stage EIR; and an alternative revised voting procedure.

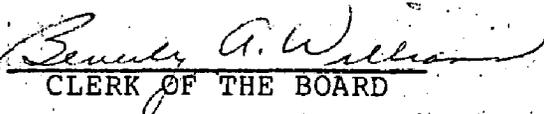
Al Freitas informed the Committee that the operators will not be prepared in the RFP's to say where the transmission lines will be located. That the first stage of the EIR would determine whether or not a franchise would be issued at all, and the second stage would focus on the individual application and the necessary mitigation measures to reduce any environmental impact.

Member Connelly requested staff to devise a process that meets the requirements of the California Environmental Quality Act and allows the making of a decision as soon as possible from the initial selection to the final, and to shorten the process as nearly as is possible.

Lee Elam distributed a sample agenda for the public hearings.

Subcommittee members moved an adjournment to Wednesday, October 21, 1981, at 4:00 p.m.

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