



**Board of Selectmen
Minutes
Tuesday, August 19, 2014 at 7:00PM
Town Hall Meeting Room**

The meeting was called to order at 7:00 PM by Chair, Stu Sklar in the Town Hall Meeting Room. Selectmen Lucy Wallace, Ron Ricci and Leo Blair were in attendance as well as Town Administrator Tim Bragan and Executive Assistant Julie Doucet.

CABLE LICENSE TRANSFER HEARING

Stu Sklar opened by explaining a hearing is required to consider the proposed transfer and/or transfer of control of the cable television renewal license held by Charter Communications pursuant to 207CMR 4.03 and a 1-day waiver by the Massachusetts Department of Telecommunications and Cable of the 60-day time limitation to hold a public hearing. He said the proposed transfer was set out in a FCC Form 394 application which was submitted to the town on June 18, 2014. He confirmed the hearing was noticed in the Harvard Hillside and posted at the Town Hall.

Sklar introduced the Town's Special Cable Counsel William Solomon, Charter representative Thomas Cohan and Comcast representative Gerry Buckley. He then officially opened the hearing and invited Counsel Solomon to give an overview of the license transfer process and proposal. Solomon explained the limits of town jurisdiction. He said the town has no jurisdiction under federal or state law to regulate Internet or telephone services, cable rates or programming. Solomon also explained the summary of standard review for an application for a cable license transfer. He said in reviewing an application an issuing authority shall consider only the transferee's management experience, technical expertise, financial capability and legal ability to operate a cable system under the existing license. Solomon explained the negotiation of the existing license is handled separately.

Senior Manager of Government and Community Relations Gerry Buckley explained his role at Comcast. He said Comcast is very excited about the proposed deal with Charter and are confident they have the qualifications required to allow the transfer. He described some of the services Comcast offers including video on demand with over 50,000 choices and a DVR converter which can be used to watch programs on mobile devices. Buckley said they are committed to being a good local corporate partner with the town and having gone through many other transfers he expects it to go smoothly. He looks forward to working with the residents of Harvard.

Director of Government Relations from Charter Thomas Cohan expressed his appreciation to have served the residents of Harvard since Charter took over the contract from United Video. He explained the current license expires in January. He confirmed Comcast will be obligated to abide by the conditions negotiated in the renewal process. Cohan said currently Charter is the smallest cable provider in New England making it challenging for them to promote their own

service. He explained this license transfer is contingent on finalization of a deal between Time Warner and Comcast. Once their deal is finalized, Charter will receive 1.5 million customers from Comcast in the western states and 1.5 million Charter customers will go to Comcast. He said this will allow Charter to have a better cluster of services which will benefit their customers.

Selectmen questions

Stu Sklar asked if many surrounding towns have Comcast for cable service. Buckley answered many towns in Worcester County do have Comcast.

Lucy Wallace asked when the license renewal negotiations will be complete. Solomon answered late September or early October.

Public

Harry Jacobson, 26 Bolton Road, thought it was unusual the hearing notice did not run the Harvard Press. He asked if internet service was covered by this license. Solomon said the legal authority of the telecommunication act is limited to cable service. Jacobson asked who will provide internet service. Solomon answered Comcast. Jacobson asked who will own the cable infrastructure. Tom Cohan said Charter will be leaving New England turning all operations over to Comcast. Jacobson said he received a postcard from Comcast offering internet service. He wondered if this was done in error as it seems premature. He felt the mailing was suspicious assuming the transfer is a done deal.

Stu Sklar confirmed a vote on the transfer will not be taken tonight. He asked Solomon what would happen if the town did not vote in favor of the transfer. Solomon said there is no question as cable companies get larger it is difficult for one town to stop them. He said Cohan and Charter have done a remarkable job over the years serving Harvard and he fully expects Comcast will do the same.

Lynda Moulton, 308 Old Littleton Road, operates her business from home and only uses Charter for their internet service. She has been pleased with the responsiveness of Charter and is concerned because she is not a cable subscriber she will not be a valued customer. Buckley assured her small business accounts are important to Comcast and she will be pleased with what is offered.

Ben Myers, 73 Westcott Road, said citizens are on their own with the transition.

Rob Curran, 100 Slough Road, said he understands the transfer is contingent on a Selectmen vote which will not be taken tonight. He is confused by the changes and asked if information could be provided to the public with details on the changes. He said it would be helpful to have a comparison of what services are offered now and what will be offered once Comcast takes over. He is concerned about his business operation. He expressed his satisfaction with the current internet speeds and he has found Charter to be very responsive in emergencies. Buckley suggested residents can go to the Charter and Comcast websites to compare services and determine costs.

He also said many residents will not even notice much of a difference when the transition initially happens. Curran reiterated it would be nice for residents to understand the changes prior to the transfer.

Lucy Wallace asked for a description of what is provided for local access. Buckley confirmed Comcast provides what is required in the license and funds over 200 access corporations in Eastern Massachusetts. Solomon suggested Buckley state for the record Comcast's support of PEG (Public Educational Governmental Access Services). Buckley confirmed Comcast has always supported PEG and he sees no reason for that to change.

Paul Richards, 63 Westcott Road, asked about the email transition. Buckley said it will be gradual and well publicized. Tom Cohan suggested residents prepare for the change now.

Ron Ricci asked if Harvard residents will be considered new customers of Comcast. Buckley did not believe so but said it was a good question.

Solomon recommended the Selectmen select a date to keep the official record open allowing residents more time to submit questions or concerns. The board discussed some dates and decided to close public comment on September 17th and take a formal vote at their October 7th meeting.

Solomon said during the recent license negotiations he has witnessed the remarkable job the town is doing to protect PEG access with the renewal. He commented on the hearing process as a good opportunity for the town residents to speak directly with the Comcast representative. He said it is now incumbent on Comcast to use the feedback from the hearing to provide the public with the information they need to understand and feel comfortable with the transition.

Sklar closed the public hearing at 7:52pm.

PUBLIC COMMUNICATION

Bruce Leicher, Chair of the Bare Hill Pond Watershed Management Committee (BHPWMC), asked if the Selectmen would accept comment on the Bare Hill Rowing (BHR) agreement now or later in the meeting. Sklar invited him to speak now. Leicher said BHPWMC met with BHR and had a really good constructive discussion but they did not officially vote on the agreement. He said they were asked to wait until after the Harbormaster forum to be held in September. He explained their discussion included the drawdown and safety issues such as swimming zones and motorboats. Leicher was under the impression changes were not going to be made until more public input was heard. Sklar understood changes to the agreement now are specific for the fall and spring seasons and if the agreement expires at the end of May any issues related to the summer season could be addressed later. Harbormaster Bob O'Shea agreed with Leicher's suggestion.

TOWN HALL UPDATE

Tim Bragan provided the board with the amended contract and reviewed each change. He noted the proposal is for 21 months beyond the date of the signed amendment to ensure it encompasses the whole project. He confirmed the contract has been reviewed by Town Counsel Mark Lanza and signed by LLB.

Lucy Wallace made a motion to authorize the Chair to sign the amended contract seconded by Leo Blair for discussion.

Blair shared an email response from Drayton Fair stating the following:

- Design development phase with cost \$63,000 and take 6 weeks
- Construction documents will cost \$100,000 and take 10 weeks
- Overall 4 month timeframe – end of December

Ron Ricci is concerned the board is embarking on a course with a direction that is undefined. He noted the lease proposal does not include the cost for 1 year to accommodate moving offices off site during the renovation. He is concerned about going back to the voters for additional funds to secure a long term lease considering the amount of money that will have been spent on the renovation of the building. He encouraged the board to wait until a special town meeting is held to get a clearer direction from the town on what the best use of the building is. Blair understands Ricci's concerns however he acknowledge it is the Selectmen's responsibility to try and preserve the town assets. He is confident option 1B will preserve the building, provide the same amount of office space we have now, add a conference/volunteer room on the second floor and provide a 162 seat auditorium. He is convinced if a plan is not executed now the building is going to cost the town more money later down the road. Blair expects plan 1B will at the very least get the building to a point where the town can really decide what to do next. Ron Ricci asked if signing the amendment obligates the town to completing the entire project. Bragan answered no and he also confirmed there is a 30 day out-clause included in the agreement.

Ron Ricci suggested the board spend no more than \$63,000 for design development before a Special Town Meeting is held to determine the direction the town wishes to take. Ricci made a motion to authorize the Chair to sign contract and to instruct the architect to go through design development phase and wait for further instructions and spend no more than \$63,000. Lucy Wallace was reluctant to have a hard stop at \$63,000 in case any extenuating circumstances arise. Ricci was adamant a Special Town Meeting needs to be held before we go any further. Blair was in agreement. Wallace suggested the BOS hold a q & a session in the fall to give the public an opportunity to become informed on choices and express their preferences or concerns. She felt a vote at a fall Special Town Meeting without giving the public information would not be useful..

On a Blair/Ricci motion, the board voted to authorize the chair to sign contract to spend no more than \$63,000 on design drawings and commitment to hold a Special Town Meeting prior to October 31st and before proceeding with construction documents. After a few failed attempts at amending the motion the following motion was made:

On a Blair/Ricci motion, the board voted unanimously to authorize Chair to sign revised document with LLB and to authorize architects to spend up to \$63,000 for detail design documents and to suspend any further expenditures until such time we convene a special town meeting to seek input from the voters to occur no later than October 31st.

STATE PRIMARY WARRANT – September 9, 2014

On a Wallace/Blair motion, the board voted unanimously to sign warrant.

BARE HILL ROWING AGREEMENT

Stu Sklar explained this item was added to the agenda after the rowing association gained approval from the school department, the Park & Recreation Commission and the Harbormaster on proposed changes related to the fall and spring programs. He said they are under a time constraint with the fall season quickly approaching. He agreed with Bruce Leicher's point on adding a termination date of May 31st. This will allow further discussion of issues related to the summer programs. Lucy Wallace had a couple of questions of clarification on pages 1 and 3. Ron Ricci did not understand why this was on the agenda before the Harbormaster forum. He is not interested in revisiting the agreement for the summer programs. He wants revision of the agreement to be handled once and suggested the Town Administrator be involved as he was prior. This way we can be certain all parties have a clear understanding of the changes. Leo Blair found an inconsistency in the agreement provided related to a Park & Rec change which was not approved by the commission but was included in the revised agreement. Bruce Leicher reiterated the pond committee was asked not to take a vote until after the Harbormaster forum. BHRA member Jim Ware explained the changes presented are important for the novice program in the fall and this is why they are seeking approval now. He confirmed section 8 was not approved by Park & Rec and should not have been included in the agreement for approval tonight. After some debate about the process and what was requested from the Selectmen at their July 8th meeting Lucy Wallace made the following motion:

On a Wallace/Sklar motion, the board voted to authorize the Chair to sign agreement subject to identifying the party referred to as "we" on page 3 is BHR, add section 22 for termination of the agreement on May 31, 2014 and remove changes to section 8.

(Blair & Ricci – Nay, Sklar & Wallace – Aye – Tie vote so the motion did not pass)

The meeting was adjourned at 9:24pm.

Documents referenced:

Cable Hearing: Cable License transfer document FCC form 394 dated 6.17.2014

Town Hall update: amended proposal dated 8.9.2014

Warrant dated: 9.9.2014

BHR agreement: red lined agreement dated 7.31.2014 and spreadsheet with changes dated 7.31.2014