

STUDY SESSION DES MOINES CITY COUNCIL - June 5, 2003 - 7:30 p.m.

✓ CALL TO ORDER

✓ PLEDGE OF ALLEGIANCE TO THE FLAG

✓ ROLL CALL

DISCUSSION ITEMS:

✓ 1. Contract with Waldron & Company for Police
Chief Recruitment

*passed
6-0*

DISCUSSION LEADER:

City Manager

GOAL:

Approval

EST. TIME:

10 Minutes

2. Construction Contract for Pacific Highway South
Project

Public Works Director

Award of Bid

15 Minutes

✓ 3. Waterland Festival Beer Garden *sent*

Mayor

Discussion/Direction

20 Minutes

✓ 4. Reconsideration: Draft Ord. No. 03-075 Right-of-
way & Park Use Permits

moved to 9/11/03 6-0

Mayor

Placement on Future Agenda

5 Minutes

INTERVIEW of Finalists for Vacant, Unexpired Council Position #2 & Potential Selection of Candidate to Fill the Position

60 Minutes

NEXT MEETING DATE: Regular Meeting Jun 12, 2003

ADJOURNMENT

AGENDA ITEM

SUBJECT: Briefing: Renewal of
Cable TV Franchise.

AGENDA OF: June 5, 2003

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: May 22, 2003

ATTACHMENTS:

1. Draft Ordinance No. 03-032.
2. Summary of legislative history.

CLEARANCES:

[X] LEGAL

LAN

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL

Purpose and Recommendation:

The purpose of this agenda item is to provide a briefing to the City Council on Comcast's proposal to renew the franchise for cable TV service. A public hearing must be scheduled and held before final action may be taken on the franchise renewal.

Administration recommends enactment of Draft Ordinance No. 03-032. A motion to schedule a public hearing is provided below:

"I move Administration schedule a public hearing for July 10, 2003 regarding renewal of the non-exclusive cable TV franchise."

Background:

Comcast Corporation (formerly TCI Cablevision of Washington and AT&T Broadband) provides cable TV service throughout the City of Des Moines. Infrastructure for cable TV service is located mostly within the Des Moines' rights-of-way. A franchise granted by the City Council is the regulatory tool used to allow Comcast to install and operate cable TV equipment in the right-of-way. The City may grant franchises to more than one provider of cable TV service. To date, no other cable companies have requested permission to serve Des Moines.

The previous franchise (Ordinance No. 844) expired in April of 2000. Several Ordinances extended that franchise through 2002 (see Attachment 2). Administration and Comcast (and its predecessors) have been negotiating the terms of a renewal since the 4th Quarter of 1999. Early in the negotiation process, an ad hoc committee of the City Council (Councilmembers Sheckler, Towe, and Kaplan) provided policy direction to staff regarding franchise issues.

Administration and Comcast have now reached terms that are mutually agreeable.

Discussion:

Cable TV service is heavily regulated by the Federal Government. The City's authority to negotiate many issues is preempted by Federal regulations, such as the Communications Act of 1934, Cable Communications Act of 1984, Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996. A significant amount of case law from State and Federal Courts also applies to municipal franchises for cable TV service. Given these constraints, staff has worked to negotiate the most-favorable terms possible.

Major points of this draft franchise (04/30/03 draft) are summarized below:

Issue	Franchise Provision	Ordinance Section	Page
Term	Six-year franchise with possible two-year extension.	3 & 8	8 & 12
Franchise fee	Five percent of gross revenues (no change from previous franchise).	5	8
Street restoration	When altering street pavement, Comcast shall restore streets to original condition.	7 & 13	14 & 17
Relocation	When directed to do so by the City, Comcast shall remove or relocate facilities.	11	14
Outages	Comcast will provide refunds for outages.	25	21
PEG contribution	Comcast will provide \$140,000 for capital improvements to the City's public, education, and government (PEG) broadcast system. Des Moines' cable customers will reimburse Comcast over time for this contribution.	28	23
Cable internet service	Cable internet service not regulated by or subject to franchise.	32	25
Revocation	In the event Comcast does not comply with the franchise provisions, the City may revoke the franchise.	43	29
Removal of facilities	Upon termination of franchise, Comcast shall remove all facilities.	46	30
Bond	Comcast shall provide \$250,000 performance bond.	53	35

In a separate agreement, Comcast will provide \$10,000 to help offset the City's cost of evaluating and negotiating the franchise renewal. The City's direct costs for this project are expected to be \$13,400, which is \$500 more than was originally budgeted in January of 2000. Indirect costs include the many hours of staff time that have been devoted to this project since early 2000.

A public hearing is required before the City Council takes final action on the renewal. If no major changes are proposed by the City Council at this time, then the hearing can be scheduled.

Alternatives:

1. Schedule a public hearing for the renewal.
2. Direct changes to the draft franchise for Council review.

Financial Impact:

The franchise has several financial implications. Those include:

- \$10,000 paid to the City to (partially) offset costs related to evaluation of the franchise renewal.
- \$140,000 paid to the City for upgrades to the public, education, and government (PEG) broadcast system. These funds will be used to update the character generator, and upgrades to the lighting, video, audio, and projection systems within the Council Chambers. Cable customers in Des Moines will be assessed a monthly charge to allow Comcast to recoup this expense.
- Continuation of the current five-percent franchise fee. This fee is expected to generate \$265,000 in revenue during 2003. The revenue estimate for 2004 is \$278,000.

Recommendation/Conclusion:

Schedule the public hearing for the renewal. If no new issues are raised during the hearing process, approve the draft franchise as written.

Concurrence:

Des Moines's consultant regarding cable services, 3-H Cable Communications Consultants, has participated throughout the negotiation process and recommends approval of the draft franchise.

City of Des Moines
LEGISLATIVE HISTORY - CABLE TV FRANCHISE
March 1990 through May 2003

March 22, 1990

- Public Hearing held on draft master ordinance and franchise agreement

April 12, 1990

- Ordinance No. 843 passed establishing the conditions, requirements, obligations, duties of construction, maintenance & operation of a non-exclusive cable communication & distribution system with the City with TCI Cablevision of Washington
- Ordinance No. 844 passed granting a nonexclusive franchise to construction, install & operate, repair, replace & maintain lines, etc.

October 10, 1991

- Ordinance No. 909 establishing procedures and guidelines regulating the use of character generators on City of Des Moines cable television access channels (Pursuant to Sec. 6 of Ord. 844)

July 1, 1993

- Motion to authorize Administration to pursue franchising authority certification & rate approval through 3H Consultants with FCC

November 18, 1993

- Resolution No. 745 declaring City's intent to follow the regulations established by the Federal Communications Commission in adopting rate regulations consistent with the regulations of the Federal Communications Commission for basic cable service.

December 7, 1995

- Motion to direct Administration to prepare draft Resolution stating Council's opposition to removal of the CBUT channel.

December 21, 1995

- Resolution No. 798 requesting TCI Cablevision of Washington, Inc., to retain Vancouver station CBUT.

April 10, 1997

- Motion to accept TCI's proposal for providing cable service at the Marina and approve the broadband easement.

February 4, 1999

- Resolution No. 859 approving the change of control of the cable communications franchise. (To AT&T)

August 5, 1999

- Approved Consultant Services Agreement with 3 H Cable Communications Consultants.

April 13, 2000

- Ordinance No. 1259 amending Ord. No. 844 to extend for up to 120 days the non-exclusive franchise currently held by AT&T through Ordinance No. 844, adopted April 12, 1990 to construct, install and operate, repair, etc.

August 10, 2000

- Ordinance No. 1269 amending Ord. No. 844 to extend through December 31, 2000, the non-exclusive franchise currently held by AT&T through Ordinance No. 844, adopted on April 12, 1990 to construct, install and operate, repair, etc.

November 9, 2000

- Ordinance No. 1274 amending Ord. No. 844 to extend through February 28, 2001 the non-exclusive franchise currently held by AT&T through Ord. No. 844, etc.
- Ordinance No. 1275 amending Title 20 of DMMC to include definitions relating to provision of cable television services & establishing the conditions, requirements, obligations, duties of construction, maintenance & operation of cable franchises within the City, etc. . . . **AND** repealing Ord. No. 843.

April 12, 2001

- Ordinance No. 1281 amending Ord. No. 844 to extend through June 30, 2001 the non-exclusive franchise currently held by AT&T through Ord. No. 844, adopted on April 12, 1990, to construct, install and operate, repair, etc.

August 9, 2001

- Ordinance No. 1285 amending Ord. No. 844 to extend through October 31, 2001 the non-exclusive franchise transferred to AT&T pursuant to Res. 859, to construct, install and operate, repair, etc.

February 28, 2002

- Ordinance No. 1300 amending Ord. No. 844 by extending through December 31, 2002 the non-exclusive franchise transferred to AT&T pursuant to Res. No. 859, to construct, install and operate, repair, etc.

July 11, 2002

- Resolution No. 932 relating to cable communication franchises and the merger of cable communications corporations. (AT&T Comcast)

AGENDA ITEM

SUBJECT: Draft Ordinance No. 03-075
Right-of-way & Park Use Permits

AGENDA OF: June 5, 2003

DEPT. OF ORIGIN: Legislative

DATE SUBMITTED: May 27, 2003

ATTACHMENTS:

CLEARANCES:

[] _____
[] _____
[] _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda item is to provide the City Council an opportunity to decide whether or not to place Draft Ordinance No. 03-075 on a future meeting agenda for action.

Suggested Motion:

"To place Draft Ordinance No. 03-075 on the agenda of the _____ meeting."

Background:

Rule 9 of the City Council Rules of Procedure allows the Presiding Officer the "option of deleting any item from the agenda until the next regular Council meeting when the full Council shall vote on whether to introduce the item on the agenda of a subsequent meeting". At the May 27, 2003 meeting, the presiding Officer pulled Draft Ordinance No. 03-075 from the agenda.

Discussion:

There currently are Council meetings scheduled for June 12 and 26, and July 10, 2003, that would be available for this item to be discussed.

Alternatives:

Council may choose to place this item on a future meeting agenda, or choose not to take any action on this item by not placing it on any future agenda.

Recommendation/Conclusion:

None.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Contract with Waldron and Company
to conduct the Recruitment for
Chief of Police

FOR AGENDA OF: June 5, 2003

DEPT. OF ORIGIN: City Manager's Office

DATE SUBMITTED: May 30, 2003

ATTACHMENTS:

Contract from Waldron and Company

CLEARANCES:

[X] Legal

[]

APPROVED BY CITY MANAGER
FOR SUBMITTAL: AM

Purpose and Recommendation

The purpose of this report is to request City Council approval of a contract with Waldron and Company to conduct the recruitment for the position of Chief of Police.

Suggested Motions:

"I move to approve the contract with Waldron and Company to conduct the recruitment for the position of Chief of Police substantially in the form as submitted."

Background

On June 15, 2003, after a long and very successful career with the City of Des Moines, the last seven as Chief of Police, Don Obermiller will be retiring. In his 34 years of service to the citizens of our community, he has performed his duty and conducted himself with the utmost professionalism, dedication, and compassion. It has been an honor and a privilege for each of us who know and have worked with Chief Obermiller. We will truly miss him and his steady, calm leadership.

Discussion

With Chief Obermiller's retirement, the City will need to conduct a recruitment to find a new chief. The responsibility of naming a new chief, per DMMC 2.08.020, rests with the city manager. The first question to answer when faced with filling a vacant position is whether or not to conduct an internal-

only process or allow outside applicants to apply for the position. After much thought and discussion, I have decided that an external process is the most appropriate to follow. The Chief of Police is the most visible and well-known department head, if not the most visible and well-known employee, of the City. The Chief oversees the largest budget in the City (over \$5 million, almost half of our general fund budget), and sets the tone and attitude of the city's police force. Our residents expect that the City will look for and choose the best person, the best fit, for the community.

In order to conduct a proper and thorough recruitment for such a high profile position, it is my belief that is in the City's best interest to bring in an executive recruiting firm, experienced in public-sector and law enforcement recruitments. The firm I recommend is Waldron and Company. Waldron and Company has extensive experience and expertise in public-sector recruitments and has worked with the City of Des Moines to fill several executive-level positions in the last ten years. They know our community and our organization. In addition, Waldron and Company has conducted eleven chief of police searches in the last two to three years, including Puyallup, Fife, Vancouver (WA), Medical Lake, Marysville, Olympia, and Richland. I am confident that Waldron and Company is the right choice for our search.

The attached contract lays out in general terms the process to be followed. Waldron and Company will conduct a needs assessment and evaluation of the community and the City organization, put together recruitment materials, place ads and make calls to potential candidates, screen applicants, and develop the interview process. It is our hope that the entire process, resulting in an offer to and acceptance by the best candidate, can be accomplished within ninety days after signing the contract.

Alternatives

The Council may elect not to enter into the attached agreement with Waldron and Company and direct staff to either find a different firm or to conduct the process using in-house resources.

Financial Impact

Waldron and Company charges a fee for their services equal to twenty-five percent of the successful candidate's starting salary, plus project expenses, such as advertising, mailings, travel, etc. The current salary range for Chief of Police is \$85,188 to 103,548. It is estimated that the final cost of this recruitment will be in the \$30,000 to \$35,000 range. Funds are available for this contract in the Police Department budget via salary savings.

Recommendation and Concurrence

The city manager recommends approval of the contract with Waldron and Company. While other firms are able to conduct this recruitment, Waldron and Company knows Des Moines very well because of their previous work for the City and they have conducted several chief of police searches in the last few years. Also, in house staff does not have the experience of recruiting for a chief of police.

May 27, 2003

Mr. Tony Piasecki
City Manager
City of Des Moines
21630 11th Ave. S.
Des Moines, WA 98198

Dear Mr. Piasecki:



Thank you for your confidence in Waldron & Company. We are pleased that you have chosen us to conduct the search for your new Police Chief. We look forward to working with you as the City of Des Moines moves into this next phase.

This letter will serve as a proposed agreement of services to be performed by Waldron & Company for the City of Des Moines.

NEEDS ASSESSMENT & EVALUATION

As with any leadership transition, we are confident that the City of Des Moines seeks a recruitment process that assures the thoughtful selection of a Police Chief who shares the vision and values of the organization. It has long been one of Waldron & Company's principle tenets in all searches to talk to as many key people as possible to ensure a thorough and comprehensive understanding of all issues and concerns relating to the position to be filled. In order to achieve this end, Waldron & Company will:

- ◆ Conduct private interviews with the City Manager, City Council, staff, citizenry and other key stakeholders as directed.
- ◆ Conduct a salary survey (if desired) and present the results, along with a recommended salary range, to the Search Committee for consideration.
- ◆ Prepare a comprehensive *Position Specification* for the position which includes:
 - ◆ A general description of the City of Des Moines.
 - ◆ The basic function, authority and responsibilities of the Police Chief position.
 - ◆ Immediate and long term goals of the City ("Priorities & Issues"), as well as its vision, mission and philosophy.
 - ◆ All qualification requirements including education, experience and personal characteristics.
 - ◆ Salary range, benefits and relocation provision (if any).



We have found that each search process is different and requires an individual approach. We will evaluate the City's situation and needs and work closely with the Search Committee to develop and design a recruitment strategy to find the right Police Chief. The remainder of the project continues with:

- ◆ The approval of the search timetable including dates of completion for key events, as well as a target for selection and appointment of the new Police Chief.
- ◆ The composition of a recruitment letter that describes the position and invites prospective candidates to apply.
- ◆ The design of all supplemental screening tools.
- ◆ The creation of the initial format of the semi-final and final interview processes.

CANDIDATE RECRUITMENT STRATEGY

Through our extensive executive recruitment experience and community involvement, we at Waldron & Company have developed a unique connection to many individuals in executive leadership positions. Typical activities involved in recruiting candidates include:

- ◆ Waldron & Company's project team members making direct recruitment calls to our network and prospects.
- ◆ Utilizing the database and catalogue of contacts that we have compiled over the years to develop a comprehensive list of prospects to be reached through a direct mail campaign.
- ◆ Planning, developing and placing advertisements in professional publications and on related web-sites targeting qualified individuals.
- ◆ Distributing position materials and announcements, as well as requests for supplemental information.

CANDIDATE SCREENING

From the resumes we receive, Waldron & Company will identify a group of promising candidates who appear to meet or exceed our profile, then request additional information, including a brief application and responses to supplemental questions, from those individuals. We have found the completed supplemental materials provide:

- ◆ A good sample of a candidate's writing ability.
- ◆ An early indicator of the sincerity of his/her interest.
- ◆ An opportunity to view a candidate's analytical, management and communication styles.
- ◆ An indicator of his/her philosophy and values.



At that time, we bring a preliminary pool of the most qualified applicants to the Search Committee. Using the application, supplemental questionnaire, resume and other materials submitted by the candidates, we will partner with the Search Committee to identify the top semi-finalists. This work session provides you with the opportunity to:

- ◆ Assess the quality of the candidate responses.
- ◆ Gain initial familiarity with the semi-finalists.
- ◆ Institute a quality control checkpoint to evaluate the results of the recruitment.
- ◆ Control the expenses involved in the travel/interview phase of the search.

After the semi-finalists have been identified, the project team from Waldron & Company will conduct personal interviews with the semi-finalist group.

FINAL INTERVIEW PROCESS

Following Waldron & Company's interviews with the semi-finalists, we will meet with the Search Committee to present our findings. We will recommend three to five candidates for the Search Committee's consideration as finalists. In preparation for the final interviews we will:

- ◆ Work closely with the Search Committee to design the final interview process.
- ◆ Have a criminal background check conducted by another law enforcement agency in the State of Washington.
- ◆ Conduct professional references on each of the finalists that include elected officials, supervisors, peers and subordinates.
- ◆ Confirm all academic credentials for each finalist.
- ◆ Provide a comprehensive list of available media articles that reference the candidates.

Prior to the final interviews, we will deliver a written report that includes the application, answers to supplemental questions, resume, reference reports and education verifications for each candidate. In addition, we provide our clients with:

- ◆ A list of suggested interview questions designed to augment questions that the Search Committee and other participants may wish to ask.
- ◆ A quantitative/qualitative scoring system to evaluate and compare the merits of each candidate (if desired).
- ◆ Assistance in making the needed travel arrangements for the final interviews and tours of facilities.
- ◆ Access to the Waldron & Company project team to act as facilitators during the finalists' interviews.

While it is not the policy of Waldron & Company to negotiate the final offer with the selected candidate, the Waldron & Company project team will continue to serve as on-call advisors until a final selection is made and an employment agreement is reached.

Fees & Expenses

Professional Services Fee: Waldron & Company's fee for professional services is 25% of the successful candidate's starting salary.

Project Expenses: Expenses incurred are the responsibility of the City of Des Moines. A two percent (2%) charge will be added to all pass-through expenses referenced below. This reflects Waldron and Company's B&O tax obligations to City and State departments of revenue. Waldron & Company will pre-approve expenditures with you and maintain accurate records at all times.

Expense items include, but are not limited to:

- ◆ Newspaper, trade journals and related advertising to announce the position.
- ◆ Direct mail announcements and regret letters.
- ◆ Telephone and facsimile expenses.
- ◆ Delivery expenses.
- ◆ Printing of documents and materials.
- ◆ Travel and related costs for the consultants assigned to the project.
- ◆ Travel and related expenses for candidates during the interview process.

Billing: Professional fees are billed in three equal installments during the course of the search. The initial installment is billed at the time the search is assigned to Waldron & Company. The second installment is billed when the recruitment campaign is in the final stages. The final installment is billed at the conclusion of the search. Expenses are billed monthly.

Guarantee: Waldron & Company guarantees placement of a qualified candidate. If the selected individual leaves the position or is terminated for any cause within two years from the employment date, we will conduct a replacement search with no additional service fee. The only cost to you would be the expenses related to the additional search.

Cancellation: The City of Des Moines has the right to cancel the search at any time. The City's only obligation to Waldron & Company would be the fees and expenses incurred prior to cancellation.

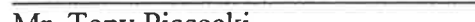
ACCEPTED BY:

Waldron & Company

City of Des Moines



Mr. Fred Pabst
Vice President
Waldron & Company



Mr. Tony Piasecki
City Manager
City of Des Moines

5-27-03

Date

Date

