

City of Worcester, Massachusetts

Edward M. Augustus, Jr.
City Manager

Judith A Warren
Director of Cable Services



Cable Television Advisory Committee

Minutes 1/27/2021

Approved March 3, 2021

1. Meeting to order – 6:10
2. Roll Call – attending: Steve Quist, Jeff Levering, Marie DiCardy, Sergio Bacelis, Judy Warren
3. Approval of minutes from 1/06/2021 – Motion to approve Quist; Second Bacelis – approved by all
4. Public Comment pertaining to items on the agenda – Mauro DePasquale, Worcester (WCCA) advocating resources, PEG is active in Worcester, community regional needs, PEG channels on lower tier, channel in HD
5. Ascertainment
 - a. Finish Spectrum Contract ;Review Notes by Mr. Levering (handout) finished final pages.
 - b. Timeline – Plan of Action discussed working on survey, customer feedback and hearings; ideas to get more members – social media, youtube, Warren shared some of what city does to get more members on boards, to find out more of what CAC is doing, Levering suggests nextdoor.com. Depasquale offers to what they can; Quist suggests hiring someone to help technical review and someone with more contract experience, asks if there is funding. Warren explains that a portion of annual funds are set aside for renewal, requested to get amount of funding available. Warren suggests members go online to review other municipal licenses and agencies like Buske Group, Jim Harwood for resources. Motion made by Quist to meet the first Wednesday of month, seconded Levering, Vote on motion approved by all;
 - c. Legal and Charter questions – Quist requests a summary

6 .Informational news items - <https://www.nexttv.com/news/netflix-hulu-disney-sued-again-over-cable-franchise-fees>

i. Netflix, Hulu, Disney Sued Again Over Cable Franchise Fees

7. Next Meeting – February 3, 2021 6:00pm
8. Adjournment – Motion by Quist, approved by all. 7:01

By [Daniel Frankel](#) 12 days ago

Three Georgia municipalities join growing a national fight to make streaming companies pay the same 5% regulatory bill as cable companies. Satellite TV operators Dish and DirecTV are also defendants

The fight to make streaming video companies like Netflix pay the same local 5% regulatory fees already paid by cable companies still in the TV/video business is picking up steam.

Three Georgia municipalities have sued Netflix, Hulu and Disney, seeking to collect millions of dollars in fees dating back several years.

The [suit](#), first reported by the *Atlanta Business Journal*, and filed by the counties of Gwinnett and Athens-Clark, as well as the city of Brookhaven, also names satellite TV operators DirecTV and Dish Network as defendants.

The federal lawsuit alleges that the defendants violated a 2007 state law called the Georgia Consumer Choice for Television Act. That law stipulates that companies supplying video services to local residents have to pay quarterly franchise fees to local governments.

[Also Read: Netflix, Hulu, Disney Plus Sued by Indianapolis to Collect 5% Cable Franchise Fee](#)

Nationally, a number of similar lawsuits are ongoing. In August, four Indiana cities, including Indianapolis, jointly filed suit in a local state court against the same defendants, seeking payment under Indiana's [Video Services Franchise Act](#) of 2012. And in 2018, the city of Creve Coeur, Missouri [filed a similar suit against Netflix](#) under its state's Video Services Providers Act. As *The Hollywood Reporter* [noted](#) earlier this month, a Missouri judge refused Netflix's request to have the case tossed.

At the heart of the franchise fee burden is the notion that cable operators pay municipalities in order to have the right to festoon their jurisdictions with wires. And big video operators also do use infrastructure like content delivery networks (CDNs), the judge noted. She also rejected that the federal Internet Tax Freedom Act provides blanket protection to streaming companies.

The possible impact from all of these relatively small suits are huge. Gwinnett County estimates that Netflix has generated \$103 million in revenue over the last five years

streaming video to the county with just over 1 million residents. That video franchise bill alone would come to \$5.15 million for just one supplier.

Most cable companies don't include these costs in their advertised price, but rather consign them to the dreaded realm of hidden fees.

“These cases falsely seek to treat streaming services as if they were cable and internet access providers, which they aren’t,” a Netflix spokesperson told [The Verge](#). “They also threaten to place a tax on consumers that the legislature never intended, and we are confident that the courts will conclude that these cases are meritless.”

Comcast sues Beaverton, opening new front in cable giant’s fight over local taxes

Updated Nov 17, 10:53 AM; Posted Nov 17, 10:53 AM

Previously, Comcast waged a five-year legal fight over how Oregon counties value the company’s equipment for property tax purposes.

By [Mike Rogoway | The Oregonian/OregonLive](#)

Six years after losing a major tax case with Oregon counties, cable giant Comcast has sued Beaverton as it seeks to exempt itself from another class of tax.

Comcast wants \$3 million in damages from the city, plus attorney fees and 9% interest – and a court declaration that Beaverton’s fees are illegal. The city responded to Comcast’s suit, filed last summer, with a counterclaim demanding at least \$3.75 million in unpaid fees.

The underlying issue is a fee Beaverton began levying four years ago on Comcast and other companies that use city land along streets to provide phone and internet service. The city’s fee is based on a share of revenue companies derive from those services. And Beaverton warns that if Comcast succeeds in its lawsuit it will take similar action against other cities.

Comcast didn’t pay those so called “right of way” fees from 2016 until 2019, but began paying them last year – apparently under protest.

In its lawsuit, Comcast says a 2007 Federal Communications Commission order holds that local governments cannot use their cable TV franchise fees to regulate anything other than cable TV. That, Comcast maintains, excludes internet and phone service.

“Comcast already pays Beaverton substantial franchise fees for access to rights-of-way to deliver all of its services over its cable systems,” Comcast said in a written statement. “The FCC has expressly ruled that the types of duplicative fees that Beaverton is assessing – and ultimately paid for by Comcast customers -- violate the federal Cable Act.”

Beaverton says the U.S. Constitution restricts federal regulations of local matters in narrow circumstances that don’t apply to this dispute.

“No corporation is above the law,” the city wrote in its response. “All companies, large and small, must pay their fair share in supporting the infrastructure that allows their entities to operate.”

Most Oregon cities charge right-of-way fees and Beaverton said at least some other jurisdictions apply those fees to phone and cable TV service, suggesting that rulings in this case could affect those communities.

Previously, Comcast waged a five-year legal fight over how Oregon counties value the company’s equipment for property tax purposes. Comcast lost that case before the Oregon Supreme Court in [2014](#), but kept fighting over how to apply the judgement.

Comcast ultimately [settled for \\$155 million in 2018](#), leveraging a legislative fight over a corporate tax break for internet providers to reduce its bill from the \$200 million the Oregon Department of Revenue said the company owed.

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<https://www.oregonlive.com/silicon-forest/2020/11/comcast-sues-beaverton-opening-new-front-in-cable-giants-fight-over-local-taxes.html>