

Leanne Scott

From: Staran, John D. [jstaran@hshcdlaw.com]
Sent: Wednesday, April 04, 2007 2:29 PM
To: Mayors Office@rochesterhills.org; Erik Ambrozaitis; City Council@rochesterhills.org; Jim Duistermars; Barbara Holder; Greg Hooper; Hooper, Greg (2); Jim Duistermars(2); Linda Raschke; Jim Rosen; Ravi Yalamanchi
Subject: AT&T Video Service Local Franchise Agreement – CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED COMMUNICATION
Importance: High

Councilmembers and Mayor: I understand that the AT&T Local Video Franchise Agreement will be added to tonight's Council work session due to the matter's time sensitivity. Councilmember Yalamanchi and I mentioned the subject briefly at last week's City Council meeting. Council will not be asked to take any action tonight, but I think it is important to update City Council.

The State Legislature enacted the Uniform Video Service Local Franchise Act, effective 1/1/07. In February, the MI Public Service Cm'n approved a standard form of franchise agreement. Basically, these actions govern the local regulation of video service providers, and allow video service providers to have access to local rights of ways and public property. A video service provide is required to receive a local franchise, but the franchise agreement must be the MPSC-approved form. The new Act prohibits provisions that are inconsistent with or in addition to the provisions of the standardized agreement. Local government cannot require fees or in-kind services beyond what the Act authorizes. Also, the video service provider receives a credit against franchise fees for fees the provider pays under the METRO Act.

AT&T has applied for a local franchise agreement pursuant to the new law. The City received their request on 3/23. Under the law, the City has 15 business days (i.e., until April 13) to determine whether the application is complete. Unless we notify AT&T within that time that their application is incomplete, it is automatically deemed complete under the law. The significance of this is that under the new law, the City has 30 calendar days after receiving a complete application to approve it. Thus, if the current application is deemed complete, the City's deadline to approve it would be April 23.

I believe there are some technical shortcomings in AT&T's application. They are technical and they are correctible, but they are there nonetheless. If the City administratively determines and notifies AT&T that their application is incomplete, that will, at minimum allow the City some additional time to evaluate and understand what is going on. My various conversations, this week, with other municipal attorneys leaves me with the impression that other communities are considering a similar approach. I've also heard that one or more of the PROTEC members may mount a legal challenge to the new law, so there is quite a bit unfolding and may be some further developments over the next days/weeks.

I look forward to discussing this matter further with City Council.

John D. Staran

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