

# Council Communication

## October 21, 2014, Business Meeting

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### Resolution Consenting to the Transfer of Control of Cable Franchisee

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**FROM:**

Ann Seltzer, management analyst, seltzer@ashland.or.us

**SUMMARY**

Approval of this resolution gives consent to the transfer of control of the current cable franchisee Falcon Cable Systems II, L.P., a subsidiary of Charter Communications, to Comcast Corporation. Registration of telecommunication carriers is required in AMC 16.08. The code states that the appropriate application and license from the Federal Communications Commission qualifies as the necessary registration information.

The transfer of control will not take effect until Comcast Corporation and Charter Communications complete their proposed transactions to exchange cable systems and related assets. This is expected to occur in 2015.

**BACKGROUND AND POLICY IMPLICATIONS:**

In June of this year, the City received notice that Comcast will provide cable television services in Ashland pending the exchange of cable systems with Charter Communications. As required by Federal law, Comcast has submitted to the Federal Communications Commission Form 394 which serves as their Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise.

The City has reviewed the materials provided by Comcast and has determined it complies with AMC 16.08.

**FISCAL IMPLICATIONS:**

None

**STAFF RECOMMENDATION AND REQUESTED ACTION:**

Staff recommends Council approved the Resolution.

**SUGGESTED MOTIONS:**

I move approval of a resolution titled, "A resolution consenting to the transfer of control of the cable franchisee Falcon Cable Systems Company II, L.P. to Comcast Corporation, with conditions."

**ATTACHMENTS:**

Resolution



## RESOLUTION NO. 2014-\_\_\_\_\_

### **A RESOLUTION CONSENTING TO THE TRANSFER OF CONTROL OF THE CABLE FRANCHISEE FALCON CABLE SYSTEMS COMPANY II, L.P. TO COMCAST CORPORATION, WITH CONDITIONS**

#### **RECITALS:**

- A. Falcon Cable Systems Company II, L.P., a subsidiary of Charter Communications, Inc., is the Franchisee under a Cable Franchise Agreement approved by the City of Ashland (the “City”) dated February 5, 2004;
- B. The original term of the Cable Franchise Agreement has lapsed, and the agreement has been extended on a month-to-month basis for an indefinite period, subject to termination by either party at any time.
- C. On June 18, 2014, the City received a Federal Communications Commission Form 394 Application by which Comcast Corporation (“Comcast”) requested approval from the City of a proposed transfer of control of the Franchisee to Comcast;
- D. Federal law and Section 15.2 of the Franchise authorize the City to review any proposed transfer of control, including the proposed transaction as described in the Application and as clarified in answers to questions presented by the City to Comcast;
- E. Section 15.2.6 of the Franchise also authorizes the City to condition approval of a transfer upon such terms and conditions as it deems reasonably appropriate within the legal, financial, and technical framework provided by the Franchise and federal law; and
- F. The City has reviewed the materials provided by Comcast in the Application and in response to the City’s request for additional information, and the City deems it to be in furtherance of the public interest and the welfare of its citizens to consent to the transfer request, subject to appropriate conditions.

#### **THE CITY OF ASHLAND RESOLVES AS FOLLOWS:**

**SECTION 1. Consent to the Transfer of Control.** To the extent the Cable Franchise Agreement granted to Franchisee remains in effect, the City of Ashland hereby consents to the transfer of control of the Franchisee as set forth in the Federal Communications Commission Form 394 submitted by Comcast, subject to the conditions set forth in Section 2, below.

**SECTION 2. Conditions to the Transfer of Control.** The approval of the proposed transfer of control shall not take effect until such time as each of the following conditions is met:

1. Comcast and Charter consummate the proposed transaction described in the Form 394 Application and the subsequent additional information provided to the City by Comcast with no substantial change in the terms and conditions as described therein.
2. The current Franchisee complies with the terms of the Cable Franchise Agreement at the time of the transfer of control and any known violations have been corrected prior to the transfer.

3. Comcast reimburses the City for its reasonable costs and expenses, including its attorney fees, incurred as a result of the City analyzing and acting upon Comcast's application for change of control not to exceed \$3,500.
4. Comcast complies with all terms and conditions of the 2004 Cable Franchise Agreement with the City until the parties enter into a replacement cable franchise agreement.
5. Comcast acknowledges these conditions of approval of the transfer of control in writing in a form and by a date acceptable to the City.

This resolution was duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014, and takes effect upon signing by the Mayor.

\_\_\_\_\_  
Barbara Christensen, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

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John Stromberg, Mayor

Reviewed as to form:

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David H. Lohman, City Attorney