

TOWN OF CLARKSTOWN
SPECIAL TOWN BOARD MEETING
PUBLIC HEARING

Town Hall

2/24/92

8:38 P.M.

Present: Supervisor Holbrook
Council Members Dusanenko, Mandia and Smith
Councilman Maloney ill
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: EXTENSION OF TKR CABLE CONTRACT

Supervisor declared Special Town Board Meeting open.
Assemblage saluted the Flag.

Supervisor stated that the purpose of this special meeting is to discuss the application of TKR for an extension of their contract beyond 1994 for an additional seven years. He said it is the intention of the Town Board to recess the meeting tonight and reconvene to the second meeting in March for those people who were not able to be here tonight as well as people who wish to make written comments. After the second meeting in March we will close the public hearing and the Town Board will then weigh the facts and make a decision. He felt this was fair to all parties involved as he did not think it was the intention of any Board Members to make that decision tonight. Supervisor then called upon Mr. James H. Helfgott to make a presentation on behalf of TKR.

Appearance: Mr. James H. Helfgott, General Manager
TKR Cable Company

Mr. Helfgott gave a history of TKR which took over the operation in 1983 from Goodview Cable. He noted that they have spent many years in trying to improve the quality of service provided to the community. In 1988 they virtually started from scratch to rebuild the company replacing the cable lines and amplifiers, etc. and the project was completed in December of 1991. There are now 54 fully operational channels providing three access channels including channels for educational access, community access as well as governmental access. They will be providing news to the community and that news channel will be up and running approximately the second week in May.

Mr. Helfgott then discussed just what improvements have been made and how responsive the company has become to community needs. He said there will be service 24 hours a day, 365 days a year and there will be trained customer service people available at all times. He said they have met and exceeded all standards set by the industry and by the company itself. He said they will commit to erect a new building on West Nyack Road on approximately seven acres which will incorporate all their facilities. They want this to be the hub of their operation and their home for the next 10 or 20 years. In order to get that process going they are asking that their franchise contract be extended. He said if there are questions during the course of this process he will be available to answer them.

Supervisor Holbrook said questions have come up regarding telephone response from the company and that has to be addressed, perhaps by more direct access. He said Clarkstown is the golden goose of cable television in Rockland County and there is no other town that comes close to the revenue which Clarkstown produces. He noted that the Town will have to be concerned with additional monetary benefits to the Town of Clarkstown regarding TKR system and its potential growth up through the next decade, if the Town Board goes with the extension. He spoke about the delivery of service to those who presently do not have it. He then asked if there was anyone wishing to speak?

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Appearance: Mr. Rudolph Yacyshyn, Chairman
Clarkstown Planning Board

Mr. Yacyshyn noted that TKR has presently before the Planning Board a request for site plan approval for its new headquarters and service facility. He said we have every expectation that it will proceed successfully and conclude with approval of a facility that will be a credit to them and to the Town. He said Councilman Maloney asked him to bring forth the following proposal for consideration. He said that has to do with the providing of basic service to the individual household or other facility. It is his feeling (Councilman Maloney's) and he hopes to elaborate upon this either at the next hearing or in consultation with the Town Board members subsequently, to the effect that the service that would come in would be the equivalent of what the telephone service is in that there would be the main line which will then be able to be distributed through any number of sets in the individual household or other facility. You may then be able to, for that one basic service charge which he was sure would have to be adjusted appropriately, have reception available for any set that you may wish to have connected to that service. He said he is not addressing anything with respect to the charges for the premium channels which, of course, are a separate item of purchase by the individual subscriber. It is Councilman Maloney's position, subject to further discussion and study, that if indeed we have the opportunity it would be cost effective perhaps for both the franchisee and certainly to the subscribers in this Town.

Appearance: Mr. Jerome Miller

Mr. Miller submitted copies of Electronic Media and Variety on the passage in the Senate of S-12 which is the reregulation of cable tv. In the proposed agreement (Section 4.2 a and b, Section 9.1 and 9.6) he wanted to make sure that the language in those sections, if we get reregulation, will not get us grandfathered into a position where we will not be able to take advantage of full reregulation. It is legalese. He said he reads it that we will come under reregulation but he is not sure. He wants the Town Attorney to read those sections and make sure that when reregulation comes, and it is coming, that we are covered.

Town Attorney said we have taken the old contract and done an analysis of where the proposed changes are. He told Mr. Helfgott that there are going to be changes back to some of the provisions in the old franchise if the Town Board gives the go-ahead. Otherwise the old TKR franchise will stay in existence.

Mr. Miller commented on definition of terms - affiliate; basic cable; and franchisee which is now on page 3. He felt it should be stated very clearly who really owns TKR Cable (Liberty Media Corp.) and with whom we are making an agreement. He referred to articles from different publications which he made available to the Town Board. Mr. Miller also noted that TRK states that the reason for increased rates is that the cost of programming has escalated and these costs must be passed on. Mr. Miller said due to the ownership of the programming and the cable system they are moving money from one pocket to another as they own the programming.

Mr. Miller said in Ramapo the company has taken two channels which we have on our basic system (TNT and Comedy Central) and moved them into a tier by themselves and scrambled them and are charging people \$5.00 extra a month to get TNT and Comedy Central. They also give a box which lets you work the sound which is not a high tech item and has been around for more than 10 years. He said he wants to make sure that if we give them this extension they are not going to start tiering what we already have and then we have to

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pay for things we already have again as they scramble them. They did it in Ramapo and they can do it here. This agreement says they can do whatever they want to do with the rates and however they want to tier systems. If we get reregulation they may be blocked from doing that but the Board should look into protecting us from their raising the rates even more. He noted that Mr. Helfgott had stated on a televised show on which he appeared that "Right now, we don't do that in TKR of Rockland." Mr. Miller said "Right now" sounded like not a permanent situation.

Mr. Miller also questioned the "Whereas" comments on page 1 which had to do with rewiring with fibre optic cable. Apparently at the head end or the transmission they can bring up more channels. There are a lot of other cable channels available which we are not getting now and 54 channels is not state of the art in 1992. Mr. Miller reiterated that we must know who the ownership really is and with whom we are dealing.

Appearance: Mr. Michael Dolan,
Municipal Cable Consultant for
the Town of Clarkstown

Mr. Dolan said New York State has the finest Cable Commission in the whole country. They have always been willing to come down and assist the municipalities in whatever they need. He said he has been working with Mr. Helfgott in reviewing the existing franchise. He said there is a lot at stake for the Town. He went into detail on the refranchising. He said there is a formal way of doing this and an informal way of doing it. He highly recommended that the Town adopt the formal way. An audit is already underway being performed by Mr. Helfgott which Mr. Dolan had requested and which he believed would be ready by May 15th.

He said this is a multi billion dollar entertainment business and has brought in enormous revenues to cable television. He said his main message is to review the performance of the cable operator under the existing franchise. Councilman Mandia asked Mr. Dolan if he was aware of any new kinds of services available through cable that the Town Board should be aware of? Mr. Dolan said there is an emergency override system which gives a municipality the capability, in an emergency, of using that to make the residents aware of certain situations. Whether we have that in Clarkstown or not he was uncertain. The future capability, due to fibre optics, is enormous.

Councilman Dusananko asked what is the maximum? Mr. Dolan said definitely in the hundreds and maybe a great deal more. He went into detail on just what is available now and what we can expect in the future. He also touched on whether or not the telephone company will get involved in cable and how that will affect it. He said he recommends a five year franchise because so much can happen.

Councilman Mandia said then you (Mr. Dolan) would endorse escape clauses within the agreement that would enable us to adjust whatever we agree to, to the changing technologies. Mr. Dolan said language is very important.

Appearance: Mr. Mark Schreiber
New City, New York

He said he would like to caution the Town Counsel that any increase in franchise fees is probably going to mean an increase in our rates. TKR does not have any compuction about passing along whatever costs they have. He discussed state of the art and what it is. He said our system is not state of the art with 54 channels compared to other sections of this country. He said he questions TKR's responsiveness to the public's demand for channels and

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programming selection. He gave the line-up of the present channels and asked that the cable consultant review public demand for programming that TKR provides as part of a review of their performance.

Mr. Helfgott then spoke in answer to the questions and comments made. He said they have gotten mixed reviews on having an audio response unit. Half the people who call in do not want to use the audio response unit. If a customer calls our number and does not want to use the audio response unit they don't have to. It is the first thing that picks up the phone. If you don't push "1" and you don't do anything the next thing that happens is you get a live customer service representative. Clearly both options are offered to our customers. He said maybe we should do a little more customer education to let them know that they have the option not to push any buttons and go directly through to a customer representative.

Mr. Helfgott said basically they are servicing everyone in the Town who meets the the 35 home per mile density requirement that exists in the existing franchise. They have even gone beyond that in many cases. He discussed servicing people who up to now have been unable to get service because of agreements needed between them and PIP.

Councilman Dusanenko suggested maybe one state agency talking to another might be able to get rid of this log jam a little bit quicker.

Mr. Helfgott said providing service from one line to many outlets in the same residence is one their industry has wrestled with on an ongoing basis. He mentioned signal leakage which might present public hazard as one of the reasons for holding up on this particular item. There are costs involved in doing this even if there is a tight system without leakage. It would be costly and their interest has been in keeping costs down.

Councilman Dusanenko said would it be possible to have one live hook-up at a time rather than paying for two live hook-ups since possibly you would only be using one at a time? Mr. Helfgott said whether or not the tv is on is immaterial to the cost and expense in their offering cable service. Supervisor said a Dr. Albert called today and he was concerned about the pilferage of the signals in terms of what is the company doing to cut down on those who are descrambling themselves because a percentage of that has to be figured into the basic cost that everybody else pays.

Mr. Helfgott said they suffer from pilferage the same as any other retail outfit. He said they have started an audit department and they are out in the field working full time looking for people who are illegally or improperly hooked up to the cable and making sure that they become properly hooked up. Supervisor asked Mr. Helfgott what percentage are you talking about - 10% - 15%? What do you budget for that? Mr. Helfgott said it runs between 10% and 12% on average. Supervisor said then if Clarkstown is producing \$8 or \$9 million dollars of revenue you are talking about almost \$1 million of pilferage. Mr. Helfgott said that is right and is something they are working very aggressively on. He said they are also going to get into more visible prosecution.

Councilman Dusanenko said people have complained that other people have illegal hook-ups but when they have called TKR's customer reps they really did not want to get involved. Mr. Helfgott said they knew they were going to be rebuilding the system. Part of the rebuild involved a full audit of all of their lines. We wanted to wait until that was complete and have a clean starting point. Councilman Dusanenko said you should have been at least interested in taking names, numbers and addresses in case the audit or the rebuild didn't show it up. Then they would be able to

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have some reference points for later on. Mr. Helfgott said Councilman Dusanenko was right. Councilman Dusanenko said what it means is that he and everyone else has to pay more. Mr. Helfgott said they are going to put a lot of their resources behind it and hopefully we will see that number drop this year.

Councilman Mandia said the current contract said \$4.95 per month for additional set charges. In response to Councilman Maloney's suggestion you said you are concerned about leakage and line integrity in the home. This fee (\$4.95 or whatever it is today) is a monthly fee. If your company installed the lines and it was deemed against the rules, if nothing else, that anyone tamper with the lines, only your company could install them for a fee and then after that the people would just pay for the line that is coming into their house and not pay a monthly charge. Wouldn't that kind of reimburse you for your expense of installation and secondly avoid the risk that the lines wouldn't be installed improperly and cause whatever leakage you are talking about?

Mr. Helfgott said there are ongoing costs involved in terms of maintaining the system. He said what they fear is forcing the fees up to cover the costs we incur. It is their feeling that if the customer wants to have five outlets in the home that they should incur the costs related to having five outlets. If only one outlet, why should they incur the average cost of the additional outlets for the entire county? Anytime you talk about adding additional things on everything comes with a price tag. He said one of their goals has always been to hold the line as much as possible on the basic rate. He said the entry level rate for the lowest cable service in Clarkstown right now is \$15.95. Our full basic and advantage service, as of March 1st, runs \$23.95.

Councilman Dusanenko asked what would it cost if you had every channel for one unit? Mr. Helfgott said it would be \$66.45 on one set. It would give you everything except Pay-for-View.

Mr. Helfgott said he wanted to clarify for the record that TKR Cable Company is a partnership doing business in New York and is 50% owned by a company called Liberty Media which is a spinoff of TCI. There are some members of the board of TCI who are members of the board of Liberty. He said Knight Ridder is the other owner and they own exactly 50%. Knight Ridder is a conglomorate based in Miami. Neither one of our two partners owns more than 50%. They manage the company through a management committee which is comprised of members of both companies as well as the President of TKR. We operate independent of either of those companies. We do business in New York as a partnership. Ownership information is registered annually with the New York State Commission on Cable Television. Any transfer of interests, other than small minority ownership interest, is confirmed through the New York State Commission on Cable Television.

Mr. Helfgott said last year TKR Cable paid to the Town of Clarkstown in excess of \$300,000.00 in franchise fees. Those franchise fees were for recurring subscribers. We pay 5% of those recurring subscribers' fees to the Town and that includes basic rate, people who buy premium services and people who buy Pay-for-View programming. The new franchise we have proposes the addition of a franchise fee on our ancillary services such as advertising sales revenue and home shopping revenues. We also will be passing along 5% of the rate adjustment which takes effect on March 1st as well as customer growth which we anticipate in the Town of Clarkstown during 1992. He said he could not give an exact number because we are paying based on actually what happens. He said he hopes they are very successful and the numbers are even higher than we anticipate. We are talking about somewhere between \$43,000.00 and \$50,000.00 in incremental franchise fee payments to the Town of Clarkstown in 1992 under the new agreement.

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Councilman Dusanenko asked what the increase would be under the old agreement? Mr. Helfgott said it would be approximately \$20,000.00. Mr. Helfgott said incremental dollars under the new agreement would be roughly \$25,000.00 or \$30,000.00 in incrementals in the first year of the agreement. He said advertising sales and home shopping business is a growing part of the business, not the part that is mature such as basic and premium revenues. That part of the business we expect to take off. We see that as being a large revenue producer for us and obviously for the Town over time. He said the proposed franchise agreement gives the opportunity for growth in revenue immediately.

Mr. Helfgott said they will be taking part in an emergency notification system that is being prepared by the County. It will be a message on the bottom of the screen and will be an emergency news alert. Mr. Helfgott was questioned about having the Town Board Meetings transmitted live. He said since we sit right off Route 304 we probably could do it from here.

Mr. Helfgott said the Town is not permitted to regulate rates that are charged by a cable company. It is a federal regulation. There is a regulation which has been passed by the Senate and is currently under review by the House that may change that. Any cable company regardless of contractual situation would fall under a new regulation that would take effect. Councilman Dusanenko said they may do things retroactively with grandfather provisions.

Councilwoman Smith asked what was the basis for the different basic rates between here and TKR Ramapo? Mr. Helfgott said TKR Ramapo has approximately one third as many basic channels as the Rockland system does and, as was alluded to by a speaker before, my comments have been all along that one of the key factors in the course of cable service is the cost of the programming. Since they have less channels their rate is lower. Councilwoman Smith asked if they are upgraded to 54 are they still going to be lower? Mr. Helfgott said the TKR Ramapo system is scheduled right now for an upgrade to be completed in 1994. We have made no public statement as to what the rates will be in 1994. He said he could not comment on that now. Our rates are tied directly to what our costs are so that's why they are paying less now.

Councilwoman Smith asked if Mr. Helfgott was going to come back and give us the cost of what a single entry would be. Mr. Helfgott said no he was not planning on doing that because that is not within the purview of the franchise agreement right now with the Town, being that rates are not one of the items. Supervisor Holbrook said he thinks what Councilwoman Smith is leading up to is that maybe that's something that we would talk about possibly modifying. Councilwoman Smith said she definitely wants to talk about that. If it is being done anywhere else she would like us to be advised of it and what the rates are. Mr. Helfgott said we could discuss it but he would have to review it. It is his understanding that would fall under the guise of rate regulation which is not permitted right now in the scope of a franchise agreement. Councilwoman Smith said she would think of it as a type of service not rate regulation whether you want a single entry and then inside the home hook up your own or just a single entry split into two wires. This does not permit laying out specifically what channels a cable system can or cannot carry and how those channels are packaged. Mr. Helfgott said that would not be something that could be in the purview of a franchise agreement right now. Councilwoman Smith said let's not talk about additional channels. Let's just talk about basic service where you have more than one wire coming into the house - a single entry fee.

Supervisor said what we are looking for here is what can you do for us to provide our constituents who really want cable,

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and most of them have multiple uses for it, how can you make their service better possibly for basic or lesser cost, more efficiently, and at the same time provide benefit for the Town? He said when he and Mr. Dusanenko were on the board before, Good-Vue was like no view. We've come a long way but he thinks at this juncture there are some people out there who can't afford it and having cable is difficult. We'd like to try to keep those costs for a basic and maybe a single entry into a house or whatever it is and at the same time make it beneficial for the Town to consider the extension of this. He said he didn't want to make it sound nefarious but you sort of have to convince us, why should we change what we have and go for seven more years?

Councilwoman Smith said if you use more you pay more but she thinks that decision should be made inside the home whether or not you want to buy additional -- Mr. Helfgott interrupted to say that our technology is not such that we can know what you are turning on and what you are turning off and if you are watching one tv or three tv's and that's why we made it at the point of entrance. He said we are trying to avoid packaging too much into the basic rate and then jacking up that basic rate. Instead of us looking at adding more to the basic service and bringing up that basic rate we should be looking at something along the lines of what we did last year which was pulling some of those services out of the basic rate so that we could bring the basic rate down. The point of entry last year was \$19.95. By pulling some of the services out we were able to bring the point of entry for cable service down to \$15.95. Councilwoman Smith said but people felt like they were getting less at that point. Mr. Helfgott said yes but they are getting cable into the home whereas the point of entry before was much higher. He said what we have been hearing from our customers is they want to bring that point of entry down.

Mr. Helfgott said right now we have cable in 62% of the homes which means roughly 40% of the homes that can get cable do not get cable. We want to bring that point of entry down because maybe the reason some of them aren't getting cable is because if you bring up that cost of entry then you are locking them out because you're making that cost too high. Councilwoman Smith said then we are asking you to work on that and tell us what the cost would be.

Councilman Mandia said other communities have a discount for senior citizens. Mr. Helfgott said we offer one month's free service for every 12 consecutive months of service. Councilman Mandia asked based solely on age? He was told yes - age 60. If you are eligible for the Town card you are eligible for the senior discount.

There was discussion regarding number of channels for basic rate and the number for the maximum rate.

Mr. Helfgott said the commitment that TKR Cable is making to the Town of Clarkstown exceeds just the issue of the cable service into the home. As far as the financial commitment to the community we are looking to erect a building and bring a solid business into the community that is going to be here in ten years and is going to be a good corporate neighbor. That is a very valuable asset to the Town and it is important that we receive this franchise extension so we can proceed with our building construction.

Appearance: Mr. Brian Donnelly

Mr. Donnelly asked what would happen if in 1994 we decided not to renew their contract? Who would we deal with then? Have we pursued anyone or what? It appears they have a death grip on us and we don't have any other option.

Councilman Dusanenko said they have what is called a non-exclusive franchise. If another company wanted to come in

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tomorrow, both companies could serve this Town. Mr. Donnelly asked are we going to pursue them to see if they could give us a better deal? If we got rid of Good-Vue we could get rid of these people too. Supervisor said the present company bought Good-Vue.

Councilwoman Smith asked if Mr. Donnelly had specific complaints about this company? Mr. Donnelly spoke at length about his problems with the company. Councilman Dusanenko asked if he had complained to them and had he complained to the Supervisor. Mr. Donnelly said he has complained to the cable company, he has written letters to the Supervisor and to the Cable Commission and it all comes back to the same rhetoric - you don't want the system - take it out. He said in this county you can have three or more grown children living at home because they can't afford to live anywhere else and they each want cable in their room. Who is going to pay for that?

Councilwoman Smith said the point Mr. Donnelly is making is what we are trying to look into. Those are the costs that have to be kept down and if that can be kept down by your own choice, inside of the service boxes, then that should be permitted just like the phones are. Mr. Donnelly said Mr. Helfgott said 62% are using cable. He said he thinks they ought to look into why the other 38% aren't. He said he thinks there are more people like himself that aren't using it not because they can't afford it but because they refuse to pay it. The way they treat the residents themselves and with the stranglehold they've put on the Town we don't have another option.

Councilman Dusanenko said the way to handle it is to give your name and address and the problem with TKR to the Supervisor and it can be written up where the problems are occurring. Any cable complaints should come to the Supervisor because he and I and all Board Members want answers. Supervisor said in the years he has been Supervisor the complaints have diminished but of course it is not perfect. Mr. Donnelly said unless you call and tell them that the cable is out and for how long they don't credit your account. Supervisor said there have been letters he has received regarding billing disputes over outages. Mr. Donnelly said they say they are computerized. He noted that he had returned his system last Monday and was due a \$21.95 credit and could not be issued a check. My account is paid and their property has been returned to them. Where is my property? I want my check from them. It's not a lot to them and it's not a lot to me but where is it and why do I have to wait for it?

Mr. Donnelly said he wants to know what the option is? Supervisor said the option is that it is non-exclusive. It is more difficult there is no question but it is not impossible. Mr. Donnelly asked who pursues that? Do the citizens have to pursue it? Supervisor said it is up to the Town Board to make a decision as to whether or not they want to grant the extension or pursue a new company in anticipation of the expiration of the present lease which will be in 1994. Mr. Donnelly said he remembers when they came in for renewal last time there was a representative of their company who stated that they had spent X amount of millions of dollars on this and were not going to take no for an answer. I sat here and heard that. They told us we upgraded the system and you are going to give it to us. What is your option? We have no option. Now, here they are looking for another extension on their contract.

Councilman Dusanenko said there are ways according to the Cable Commission, and he believed in the franchise, that if they are remiss in doing certain things often enough and it is documented, this Town Board or the Supervisor, as Administrator of the franchise, could either fine them, could pull a security bond and also have public hearings to see why they shouldn't be run out

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of Town but it has to be documented. It has to be in writing. It has to be on file.

Councilwoman Smith said she is sure there are exceptions and customers do get irate over things but the present administration and customer service relations, when you approach them, works extremely well.

Councilman Dusanenko asked if it was possible that periodically the Supervisor's office could forward to TKR the list of complaints and then instead of one at a time they report back the disposition so that we know what is outstanding? Supervisor said they do that. Supervisor said Mr. Helfgott gets letters from him on a regular basis. Mr. Donnelly said if they got their system back they should take care of his refund right now. Supervisor said he understands that Mr. Donnelly wants his money right on the spot.

Appearance: Irene Saccende
11 Windmill Lane
New City, New York

Ms. Saccende said a year and a half to two years ago the Federal Government came out with a report on TKR systems and they were advancing at that time to allow more than one TKR system into an area to give them competition so that the service would be better. She said she would like to see something like that happen in the Town of Clarkstown. She did not feel that the residents are getting a fair deal. The service is poor and she would like to see some competition in that field. She said there should be bidders on this; not just one company tying it up. She did not feel that the residents who are applying for this service are getting a choice. She said she understood that the Town may be reaping some reward and if that justifies lowering the taxes to any amount she could see a give and take there but if it doesn't and that isn't the whole picture than she would like to see room for some competition.

Town Attorney said this is a non-exclusive agreement. If another company came in they could get a franchise just like this one has. Unfortunately as part of the capitalist system people have to enter a field and contend in the market place. So far nobody has done that here.

Councilman Dusanenko said somebody would have to come in and spend approximately \$17,000,000.00 to parallel all the lines, etc. Mr. Jerome Miller said currently you can't lease the lines through the phone company but the phone company has started fibre optics in leased lines from the phone company. There are nine cities in the United States that have competition (two cable systems) and when that other cable system opened up in competition against the existing system they always opened at a lower price and the existing company always came down and met that price and those nine cities have the best service at the lowest cost in the United States right now.

Mr. Miller said in addition Mr. Helfgott did not speak to the point that since they are also programmers they will not supply the programming at the same price as TKR pays for it. If I wanted to come in and start a system and get a franchise from you I can't buy the programming at the same price as TKR pays for it because of this interconnection between TCI owning the programming services and owning the cable system. If someone wanted to come in here and put a wireless cable system in they will not sell it at the same price. If a dish packager wanted to come in to supply people by satellite they won't sell it to them at the same price. They keep competition out of this business. That is why TCI spun off into this Liberty Media to stop the government, they think, from busting them up. But they are going to be busted up and the worst offender in the cable industry is this Liberty Media which is

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apparently a 50% owner of our system. They have blocked the telephone company from getting into it. They have blocked an independent from getting in. He said if he went to the phone company and said I want to lease lines from you - I'm blocked. I can't do it. You don't have to make a \$17,000,000.00 investment and if we get reregulation and we are allowed to use the fibre optics that the phone company has already strung we would have competition. If they said the basic advantage is \$18.95, TKR would lower their price to \$18.95 because they are not going to move out. They put the equipment up. In addition, he would ask Mr. Helfgott to say whether either one of the 50% partners currently has their 50% for sale. He said he has been told that this system is for sale.

Appearance: Mr. Ira Reiss
New City, New York

Mr. Reiss said he likes sports on MSG. This system tiers its sports channel making it very expensive. Other systems of which he is aware have MSG as a basic advantage. He said his teams are on MSG and he is paying \$15.50 a month to get MSG which most people are getting for the regular rate and there is no alternative around it.

Mr. Reiss said some members of the Board asked about a single entry fee and letting people hook up their own extra units. The gentleman here totally evaded an answer on that claiming that it costs them more and it will cost everybody else more. Why does it cost them more if one signal comes into your house? Why does it cost them more if you split up the wires or if they do it for you at a one time fee rather than a monthly fee or if people are allowed to do it themselves? Where is the extra cost if only one wire is coming into the house? Our system is unique in the whole metropolitan area.

Councilman Mandia said he would like to hear from the gentleman from the State Commission who came to be with us tonight. One of the things he would mention is that he thinks it is reasonable to assume that any company or any person that supplies a service is going to get their share of complaints. He asked are there any statistics kept as they do in the Better Business Bureau about the number of complaints on a certain company to see how our current provider may compare with another?

Appearance: Mr. John Figliozzi, State Rep.
New York State Cable

Mr. Figliozzi, in response to Councilman Mandia's question, said they do have a Consumer Services Bureau and we log every complaint we receive by company, by municipality, etc., so we could provide you with a rundown. Supervisor said we get copies of it too. Mr. Figliozzi said he would caution with those figures, it presupposes that everyone in the state knows that there is a cable commission that will help them with these problems. It is on the bill now so probably the more recent numbers would be more accurate. He said also we tend to get a higher number of calls from people who are closer to Albany, even though it is an 800 number, than we would get from people that are further away. He said maybe people figure that the further away they are from Albany the less interested Albany will be in their problems.

Mr. Figliozzi said many of the things that you are hearing tonight are federal regulatory matters or federal deregulatory matters as they are now. Representatives in Congress have been hearing these complaints now for some time and he thinks it is the reason why you are seeing some activity in Washington to try to address some of these questions. What you are dealing with in this municipality, even though there is a legal non-exclusivity to the contract, is defacto exclusive contracts because the cost

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involved to construct a cable system is high. There are certain legal barriers in addition about use of the existing lines and cable into the community. There are also being addressed in Washington certain questions of vertical integration which are causing the price war in certain cable services to be higher to other providers than they would be to the cable provider in the community. Cable, as an industry, claims that these services are proprietary in some ways; that they are services that they develop for their own industry and that if these other industries wish to compete they should compete on the same level as the cable industry and that means provide their own program services. That is being played out right now in Washington. Some of the problems that you see arise because of the virtual monopoly status.

He said he was not saying that cable companies do not try to address their problems and that this one is not trying to address many of the problems that it has but certainly the market has been shown in the past to be a very powerful incentive for any service provider to meet its responsibilities quicker and with greater alacrity than has happened across the board in the cable industry. That is one of the reasons why he thinks you are seeing in Washington a review of the 1984 Cable Act.

Mr. Figliozzi said unfortunately many of the questions that you are being asked are difficult, if not impossible in some circumstances, for you to respond to. For example, the question of opening up this to other providers. There is the defacto problem of a defacto monopoly but there is also the problem of a situation that this company, as a result of the Cable Act of 1984, has a strong presumption of renewal in your community - in any community in which it comes in. You have to have a very high threshold of proof to prove that this company is unfit to continue to serve here. That is a result of federal regulatory actions and there is not much that you can really do about it.

Mr. Figliozzi said the problem of defranchising this particular company is that you have a very high threshold of proof. You have to prove that they have been in material breach of their contract in order to remove them from a presumption of renewal of this franchise and even if you do that it is highly doubtful. Right now under the 1984 act the legal remedies available to the cable television industry are many and varied and they can tie you up in court for many years if you decide that you don't want to go along with this company even if you can prove that they have been remiss in their duties under their current contract.

Mr. Figliozzi said those are all kinds of things that are being revisited in Washington. They got quite a windfall in the 1984 act and you shouldn't be misdirected in the fact that it is going to be easy to get another provider in here. It probably will be a lot easier to provide competition through perhaps the telephone industry, if that's what they decide in Washington. The President claims he is four square in favor of that but we will have to see what happens as a result of all the activity in Washington. S-12 is a significant step forward but it remains to be seen whether the House can pass a bill that is veto proof and that is highly doubtful.

Mr. Figliozzi said perhaps since you have a few years remaining on your contract one of the things you may want to consider is that unless the company can show you a major benefit accruing to you in renewing early that you adopt a more or less wait and see attitude to see how things play out in Washington if you still have time on the contract, which you do, at least until 1994.

Councilwoman Smith said is it possible for you to provide us, from the different cable companies in the state, the rate of their basic charges and what programs their basic or basic advantage includes? Mr. Figliozzi said he could provide the rates

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as they currently have them. They have to report their rates to us and he can provide the number of channels they provide on basic service or on expanded basic service but he does not keep on a data base the actual channels that each one carries but they are pretty much comparable. Councilwoman Smith asked could you survey a comparable Town pretty much this size and see what comes into their basic advantage and what is included in the basic? Mr. Figliozzi said he wanted to stress that unfortunately Mr. Helfgott seems to be correct as far as the way in which they market their services that has been preempted by the 1984 act. It is going to be very difficult to get them to change the manner in which they market their services. Supervisor said unless they agree to it.

There being no one further wishing to be heard, on motion of Councilwoman Smith, seconded by Councilman Mandia and unanimously adopted, the Special Town Board Meeting was recessed until March 24, 1992.

Respectfully submitted,

PATRICIA SHERIDAN,
Town Clerk