



**SOUTH WASHINGTON COUNTY TELECOMMUNICATIONS COMMISSION**  
**Regular Commission Meeting**  
**MAY 26, 2022 7:00 PM Central**

**CITY of COTTAGE GROVE COUNCIL CHAMBER**  
12800 Ravine Parkway South, Cottage Grove, MN 55016

**PUBLIC PARTICIPATION VIA ZOOM**

<https://us02web.zoom.us/j/89644019605>

Meeting ID: 896 4401 9605

or dial +1 312 626 6799

**A G E N D A**

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Public Comment
5. Consent Agenda
  - a. March Regular and May Executive Meeting Minutes
  - a. March/April Checks Written report (Non-Payroll)
6. Reports
  - a. Executive Director
  - b. Treasurer
  - c. Legal
7. Unfinished Business
  - a. Financial policy reviews
  - b. HR Flexible Workplace policy review
8. New Business
  - a. Future office relocation fund
9. Commission Comments and Requests
10. Adjournment



**SOUTH WASHINGTON COUNTY TELECOMMUNICATIONS COMMISSION  
MARCH 24, 2022  
COMMISSION MEETING MINUTES**

**A G E N D A**

1. Call to Order

Chair Rob James called the meeting to order at 7:00 pm in the City of Cottage Grove Council Chamber

2. Roll Call

Present:

Rob James  
Brian Bluhm  
Tracy Rahm  
Justin Olsen  
Pat Downs  
Jerry Taube  
Dan Ohmann  
Dave Thiede

Also present:

Mark Martinez, SWCTC Executive Director  
Mike Bradley, Bradley Law  
Ann Schweisguth, Content Manager  
Lonnie Garland, Technical Director

3. Approval of Agenda

*MOTION 3.24.22.1 to approve the agenda. Rahm/MOVED, Bluhm/SECONDED.  
MOTION CARRIED UNANIMOUSLY.*

4. Public Comment

None

5. Consent Agenda

- a. January Regular Meeting Minutes
- b. January/February Checks Written report (Non-Payroll)

*MOTION 3.24.22.2 to approve the consent agenda. Olsen/MOVED, Taube/SECONDED.  
MOTION CARRIED UNANIMOUSLY.*



6. Reports

a. Chair report

Executive Director Martinez, Chair Jame, and Vice-Chair Bluhm met in February for Martinez's annual performance evaluation. The evaluation findings were reported to the Executive Committee at the February meeting. The evaluation used feedback from commissioners and staff. Based on a weighted scale, Martinez rated 3.6 out of 4. Of particular note, completion of staff performance evaluations, improved timeline on delivery of packets, and timely invoice processing and financial management. There are six major goals for 2022 including completion of strategic plan, completion of franchise agreement, fill open staffing positions, launch Community Voices grant, and launch closed captioning program for city council meetings. Based on Martinez's performance, the Executive Committee recommends he be awarded a 3% salary increase as of January 1, 2022.

*MOTION 3.24.22.3 to approve a 3% raise for Executive Director Martinez. Olsen/MOVED, Rahm/SECONDED. MOTION CARRIED UNANIMOUSLY.*

b. Executive Director

Executive Director Martinez reported the closed captioning portion of the channel server is expected to be completed in Q2. The bid was awarded to AlphaVideo. Conference room technology and cosmetic updates, and website development are in progress.

The Newport Council Chambers project is pushed back to Q3. The equipment for the project was purchased in 2021. It is sitting in storage waiting for the completion of the construction portion of the project.

The technology manager and IT specialist will be focused on city maintenance projects to ensure everything is running properly.

The financial audit is scheduled for April 12.

In February, Comcast was sent a revised franchise renewal agreement. Martinez is waiting to hear back from Comcast.

Martinez is presenting the annual report of the strategic plan to city councils in March and April.

As part of the community engagement initiative, SWCTC will have a booth at the Woodbury Chamber Expo. This will be a chance to meet members of the community and business sector and promote SWCTC's programs and products.

SWCTC has ongoing agreements with Anderson and ISD 833 school district to provide school board meeting coverage.

The Human Resources is putting forth for approval the Flexible Workplace Policy.

The Financial and Reserve policies are ready for review.

The Community Voices Grant application will launch on April 1.

Martinez met with the school district. The district requested SWCTC put together a proposal to create STEM or STEAM programs that can be shared with teachers. The district has a meeting planned with athletic directors regarding carrying more high



school sports on SWCTC. The district is excited by job skills offerings that might be provided by SWCTC.

Content Manager Schweisguth reported State of the City videos for Cottage Grove and Woodbury are complete. These videos can be found on their respective cities' YouTube pages. Producer Brian Schmidt produced a program called "Here Comes the Plow." The program highlights work done by the plow drivers of Cottage Grove. This program was a request by the City of Cottage Grove. Producer Alain Myers produced a video highlight a history exhibit all about Woodbury. The exhibit is available to view in person in Stillwater at the Washington County Heritage Center.

The Woodbury Community Expo is Saturday, April 2 from 10-4 at the East Ridge High School. This year's booth is a double booth. One half of the booth will be setup like a studio, giving people a chance to see the equipment used to create programming. There will also be a green screen that will allow people to interact with the crew and equipment.

Technical Director Garland reported the new playback system that will allow for closed captioning of council meetings will be installed the week of May 2. Garland expects the install to take about a week and then another month to six weeks of training before it will be fully implemented. The Central Fire Station in Cottage Grove training room upgrades are complete. The upgrades included equipment for video conferencing. SWCTC offices upgraded the firewall equipment. SWCTC purchased a system that will allow the SWCTC staff to control up to three cameras remotely. This system will be used at the upcoming Memorial Day celebrations.

c. Treasurer

Martinez reported on the actuals for 2021. Revenue exceeded expectations for 2021. Revenue included the franchise fee audit settlement (\$81,410), outside service income (\$16,769), and CenturyLink PEG fees from the conclusion of contract (\$8.19). The total income was \$1,805,884.85. Expenses were lower than expected for 2021. Expenses included capital expenses (\$509,634.67) and City of Newport City Hall expenditures (\$199,500.23). The total expenses were \$1,495,022.40. The net ordinary income was \$310,867.45. With interest income, the Return to the Cities is \$311,057.83.

d. Legal

Attorney Bradley reported the Supreme Court decided not to hear the appeal to the City of Eugene case.

Protecting Community Television Act (HR 6219, Senate 3361) is legislation that would nullify the franchise fee part of the FCC ruling. The legal packet included a draft letter put together by NATOA that cities and SWCTC can use to support the legislation. The confirmation of the fifth FCC commissioner has been voted out of committee and now moves to the full Senate to vote.

Finally, Bradley and Executive Director Martinez submitted and updated franchise renewal document to Comcast at the end of February.



7. Unfinished Business
  - a. 2021 Income Return

The Executive Committee recommends the next income from 2021 of \$311,057.83 be returned to the cities.

*MOTION 3.24.22.4 to approve \$311,057.83 be returned to the cities. Olsen/MOVED, Bluhm/SECONDED. MOTION CARRIED UNANIMOUSLY.*

- b. Financial Policies Audit

Administrative Spending Policy increased the total amount the Executive Director is authorized to spend from \$5,000 to \$25,000.

Credit Card Policy had two additions. The first addition is points earned will be used for travel expenditures, technology purchases, or as cash back to the commission. The second addition states employees who have a company card must receive approval from the Executive Director for purchases over \$5,000.

Legal Council Policy is unnecessary. It is recommended the policy be repealed.

Meeting Compensation Policy keeps the per diem at \$50/meeting. An addition states Commission Directors must provide a completed direct deposit form to receive the per diem.

Financial Reserve Policy has two policy elements. The first is the operating reserve must equal 6 months of the immediate upcoming year's budget. The second is the capital reserve must equal the 3 year average of the capital spending of the current year plus the previous two years actual expenditures. The reserve level is equal to the sum of these two elements. There are several additions to the policy. First, at the end of the fiscal year any net revenue surplus will use the ROV return procedure agreed to by the Commission at the 2/27/2020 Commission meeting. Second, deficits in the reserve level will be leveled to policy by scaling back capital spending. Finally, the deadline for revenue and expenses to be completed and considered shall be by the date of the February Executive Committee meeting. The Exception and Changes provision has been deleted as it is redundant.

There was discussion on these changes. Rahm asked if there was a need for a social security number for direct deposit. And if it is required, what security systems are in place to ensure the information cannot be compromised. Downs recommended more limits be added to employee credit cards such as a limit on total monthly spending and credit card limits based on employee position. Olsen recommended the policies be reviewed by legal and League of Minnesota Cities before approval. The financial policies approval will be tabled until they can be reviewed by legal and the questions from the meeting researched and answered.



*MOTION 3.24.22.5 to approve repeal of legal policy. Olsen/MOVED, Taube/SECONDED. MOTION CARRIED UNANIMOUSLY.*

c. Flexible Workplace Policy

The Flexible Workplace Policy is based on the Woodbury policy. The only change from the first draft is that remote work can be performed 3 days/week instead of 5 days/week.

Olsen requested legal and/or the League of Minnesota Cities review the policy before approval. The policy is tabled until reviewed by legal.

8. New Business

a. Reserve level

The current reserve level, following the two elements, is over the required amount. The overage is \$284,291.68. The Executive Committee recommends returning the overage to the cities with  $\frac{2}{3}$  going to Woodbury and  $\frac{1}{3}$  going to Cottage Grove.

*MOTION 3.24.22.6 to return excess reserve funds to cities. Bluhm/MOVED, Olsen/SECONDED. MOTION CARRIED UNANIMOUSLY.*

9. Commission Comments and Requests

None

10. Adjournment

*MOTION 3.24.22.7 to adjourn at 8:08 pm. Bluhm/MOVED, Rahm/SECONDED. MOTION CARRIED UNANIMOUSLY.*



**SOUTH WASHINGTON COUNTY TELECOMMUNICATIONS COMMISSION  
MAY 5, 2022  
EXECUTIVE COMMITTEE MEETING MINUTES**

**City of Woodbury, 8301 Valley Creek Road, Woodbury, MN 55125  
Ash Conference Room**

**Public Zoom Meeting Link  
<https://us02web.zoom.us/j/86111005019>**

**Meeting ID: 861 1100 5019  
Or dial 1-312-626-6799**

**A G E N D A**

1. Call to Order

Chair Rob James called the meeting to order at 5:00 pm in the City of Woodbury Ash Conference Room

2. Roll Call

Present:

Rob James  
Brian Bluhm  
Tracy Rahm

Absent: Andrea Date

Also present:

Randy Olson  
Mark Martinez, SWCTC Executive Director  
Mike Bradley, Bradley Law

3. Approval of Agenda

*MOTION 5.5.22.1 to approve the agenda. Bluhm/MOVED, Rahm/SECONDED.  
MOTION CARRIED UNANIMOUSLY.*

4. Public Comment

None



5. Consent Agenda
  - a. March Regular Meeting Minutes
  - b. March Checks Written report (Non-Payroll)

*MOTION 5.5.22.2 to approve the consent agenda. Rahm/MOVED, Bluhm/SECONDED.  
MOTION CARRIED UNANIMOUSLY.*

6. Reports
  - a. Executive Director
  - b. Legal

Due to time constraints, the reports were not given. They were included in the packet.

7. Unfinished Business

The Commission recommended all policy drafts sent to legal to be reviewed. Attorney Bradley reviewed the policies and provided notes and suggestions.

- a. Financial policy update

#### Credit Card Policy

Bradley consulted with the League of Minnesota Cities. The League suggested following state purchase card guidelines.

The Executive Committee recommends the HR Committee review the state policy and decide what should be included in the SWCTC policy and/or include a line in the current policy to see the state policy for complete guidelines.

#### Administrative Spending Policy

Bradley noted that under the joint power agreement, SWCTC needs to follow state law, which has an executive director spend limit of \$20,000. The Executive Committee agreed with this recommendation.

#### Meeting Compensation Policy

Bradley recommended the Commission look at member cities and how they compensate commissioners under joint powers agreements. Cities with joint power agreement commissions have an ordinance instead of a policy stating how commissioners are compensated. SWCTC is a joint powers commission and could change from a policy to an ordinance. Based on this, Bradley recommends replacing the policy with an ordinance. He also recommends continuing to pay commissioners by check and confirm with the auditors the compensation is being recorded correctly.

Executive Director Martinez and Bradley will start work on a compensation ordinance. Martinez will update the Commission at the next meeting on the change from a policy to an ordinance.





## Financial Reserve Policy

Bradley recommends adding a procedure to the policy. The Executive Committee suggested adding Bradley's recommendation to add PEG fee restrictions to the policy.

The Executive Committee recommends full approval of the Financial Reserve Policy with the recommended changes at the next Commission meeting.

### b. HR Flexible Workplace policy update

Bradley consulted with the League of Minnesota Cities HR person and reviewed the League's remote work policy. Bradley added relevant lines from the League's policy to the SWCTC policy. He included a line that all remote workers need to reside in Minnesota. He also noted that as the employee handbook lays out how sick and vacation time is to be used, it does not need to be listed again in the flexible workplace policy. Instead, the line can be changed to reference back to the employee handbook. Bradley also recommended following the League's example on how to lay out the arrangement between employer and employee regarding schedule, etc. Martinez will incorporate the changes into the document and update the Commission on the proposed changes.

### c. Strategic Plan update

Martinez expanded the Strategic Plan one sheet to include community engagement and work for hire.

## 8. New Business

### a. Franchise extension

The current franchise extension agreement expired on March 24. Comcast is currently reviewing the revised franchise agreement draft. The Executive Committee requested Martinez follow up with Comcast to understand their timeline for completing a new agreement.

The Executive Committee recommends to the Commission to extend the previous agreement for another year.

### b. Future relocation fund

Due to time constraints, this item was tabled until a future meeting.

### c. Public remote meeting participation

Martinez wanted to inform the Executive Committee members that the public will continue to be invited to participate in meetings via Zoom as well as in person.

## 9. Commission Comments and Requests



None

10. Adjournment

*MOTION 5.5.22.3 to adjourn at 5:53 pm. Bluhm/MOVED, Rahm/SECONDED. MOTION CARRIED UNANIMOUSLY.*

South Washington County Telecommunications Commission

Checks Written - Non-Payroll

Accrual Basis

As of March 31, 2022

Type	Date	Num	Name	Amount
<b>Cash and Investments</b>				
<b>1010 - US Bank Checking</b>				
Bill Pmt -Check	03/01/2022	25717	Andrea Date	-50.00
Bill Pmt -Check	03/01/2022	25718	Randy Olson	-50.00
Bill Pmt -Check	03/01/2022	25719	Robert James	-50.00
Bill Pmt -Check	03/01/2022	25720	Tom Ingemann	-50.00
Bill Pmt -Check	03/01/2022	25721	Tracy Rahm	-50.00
Bill Pmt -Check	03/01/2022	25722	ODW Government, Inc.	-7,485.44
Check	03/01/2022	EFT	Merchant Services	-105.15
Bill Pmt -Check	03/03/2022	25724	To The Penny Bookkeeping, Inc.	-220.00
Check	03/03/2022	EFT	Chase	-7,302.02
Check	03/03/2022	EFT	Capital One, F.S.B.	-2,949.81
Bill Pmt -Check	03/03/2022	25723	Summerhill II	-11,135.98
Bill Pmt -Check	03/09/2022	25725	TIAA, FSB	-12,939.79
Bill Pmt -Check	03/09/2022	25726	Laurie Reineke	-150.00
Check	03/10/2022	EFT	MEDICA	-5,465.84
Bill Pmt -Check	03/11/2022	25727	B. H. VIDEO	-2,045.64
Bill Pmt -Check	03/11/2022	25728	Central Acoustics	-5,258.00
Bill Pmt -Check	03/11/2022	25729	Premium Waters	-98.03
Bill Pmt -Check	03/11/2022	25730	Taylor De Johnette	-600.00
Bill Pmt -Check	03/11/2022	25731	Varus Corporation	-299.11
Bill Pmt -Check	03/11/2022	25732	Irish Titan	-5,310.00
Bill Pmt -Check	03/11/2022	25733	AVI Systems	-820.00
Bill Pmt -Check	03/14/2022	25734	Central Acoustics	-852.35
Check	03/14/2022	EFT	US Bank	75,000.00
Check	03/14/2022	EFT	Analysis Service Charge	-7.00
Bill Pmt -Check	03/16/2022	25735	TBS Office Automations	-279.98
Bill Pmt -Check	03/21/2022	25736	Ann Schweisguth (Reimbursement)	-78.75
Bill Pmt -Check	03/21/2022	25737	CTN Studios	-7,800.00
Bill Pmt -Check	03/21/2022	25738	Microsoft	-1,610.63
Bill Pmt -Check	03/28/2022	25739	City of Cottage Grove	-103,685.94
Bill Pmt -Check	03/28/2022	25740	City of Cottage Grove	-94,763.89
Bill Pmt -Check	03/28/2022	25741	Brian Bluhm	-50.00
Bill Pmt -Check	03/28/2022	25742	Dan Ohmann	-50.00
Bill Pmt -Check	03/28/2022	25743	Dave Thiede	-50.00
Bill Pmt -Check	03/28/2022	25744	Jerry Taube	-50.00
Bill Pmt -Check	03/28/2022	25745	Justin Olsen	-50.00
Bill Pmt -Check	03/28/2022	25746	Patrick Downs	-50.00
Bill Pmt -Check	03/28/2022	25747	Randy Olson	-50.00
Bill Pmt -Check	03/28/2022	25748	Robert James	-50.00
Bill Pmt -Check	03/28/2022	25749	Tracy Rahm	-50.00
Bill Pmt -Check	03/29/2022	25750	B. H. VIDEO	-4,872.11
Total 1010 - US Bank Checking				-201,835.46
Total Cash and Investments				-201,835.46
<b>TOTAL</b>				<b>-201,835.46</b>

South Washington County Telecommunications Commission

Checks Written - Non-Payroll

Accrual Basis

As of April 30, 2022

Type	Date	Num	Name	Amount
<b>Cash and Investments</b>				
<b>1010 - US Bank Checking</b>				
Bill Pmt -Check	04/02/2022	25751	Tane Danger	-750.00
Bill Pmt -Check	04/05/2022	25752	Advanced Systems Integration	-375.00
Bill Pmt -Check	04/05/2022	25753	AT&T Mobility	-572.44
Bill Pmt -Check	04/05/2022	25754	Audiomute	-1,730.00
Bill Pmt -Check	04/05/2022	25755	Laurie Reineke	-350.75
Bill Pmt -Check	04/05/2022	25756	TBS Office Automations	-139.99
Bill Pmt -Check	04/06/2022	25758	Bradley Law, LLC	-2,612.50
Bill Pmt -Check	04/06/2022	25759	CenturyLink (V)	-506.95
Bill Pmt -Check	04/06/2022	25760	Comcast 2	-210.67
Bill Pmt -Check	04/06/2022	25761	Park Grove Electric, Inc.	-550.00
Bill Pmt -Check	04/06/2022	25762	AVI Systems	-15,286.39
Bill Pmt -Check	04/06/2022	25763	Bob McSherry (Reimbursement)	-96.98
Bill Pmt -Check	04/06/2022	25764	NATOA	-725.00
Bill Pmt -Check	04/06/2022	25765	Sumnerhill II	-8,906.29
Bill Pmt -Check	04/06/2022	25766	Verus Corporation	-4,852.43
Bill Pmt -Check	04/07/2022	EFT	Xcel Energy	-2,335.68
Check	04/07/2022	EFT	Chase	-15,886.11
Check	04/07/2022	EFT	Capital One, F.S.B.	-3,348.10
Bill Pmt -Check	04/12/2022	25767	City of Woodbury	-396,899.67
Check	04/12/2022	EFT	MEDICA	-5,465.84
Bill Pmt -Check	04/13/2022	25768	AV For You	-397.29
Bill Pmt -Check	04/13/2022	25769	Cinemechanics	-750.00
Bill Pmt -Check	04/13/2022	25770	Premium Waters	-75.89
Bill Pmt -Check	04/13/2022	25771	TIAA, FSB	-44.38
Check	04/14/2022	EFT	Analysis Service Charge	-14.00
Bill Pmt -Check	04/19/2022	25772	Alaina Myers (Reimbursement)	-310.50
Bill Pmt -Check	04/19/2022	25773	Bob McSherry (Reimbursement)	-310.50
Bill Pmt -Check	04/19/2022	25774	Brian Schmidt (Reimbursement)	-310.50
Bill Pmt -Check	04/19/2022	25775	Lonnie Garland (Reimbursement)	-310.50
Bill Pmt -Check	04/19/2022	25776	Laurie Reineke	-150.00
Bill Pmt -Check	04/25/2022	25777	Marko Zitzer Films	-1,700.00
Bill Pmt -Check	04/25/2022	25779	Bradley Law, LLC	-1,162.50
Bill Pmt -Check	04/25/2022	25780	Wish Titan	-7,665.00
Bill Pmt -Check	04/25/2022	25781	Mary Braun	-350.00
Total 1010 - US Bank Checking				-475,101.85
Total Cash and Investments				-475,101.85
<b>TOTAL</b>				<b>-475,101.85</b>



**EXECUTIVE DIRECTOR REPORT  
2022 COMMISSION WORK PLAN  
MAY REPORT**

**2022 CAPITAL PROJECTS**

- Q1
  - Commission Office
    - Infrastructure:
      - Studio acoustics treatment (**COMPLETED**)
      - Network firewall and switch implementation (**COMPLETED**)
- Q2
  - Commission Office
    - Infrastructure:
      - Channel servers and closed captioning (**COMPLETED**)
      - Conference room technology and cosmetic update (**In Progress**)
      - Website development (**In Progress**)
  - City Maintenance
    - Audio maintenance at Central Park Amphitheater (**COMPLETED**)
- Q3
  - Newport - Council Chambers, new construction (**TBD-Construction Delay**)
  - City Maintenance
- Q4
  - TBD

**ONGOING 2018-2022 WORK PLAN**

**2021 FINANCIAL AUDIT**

- Harrington Langer & Associates scheduled (**April 12**)
  - **HLA rescheduled to July due to staff illness (May 26)**

**FRANCHISE RENEWAL**

- Comcast Franchise Renewal and Fee Audit (**ONGOING**)
  - Internal review meeting (11/30/21)
  - Internal review and revised sent to Comcast (2/11/22)
  - Franchise extension ends March 24
  - **June 10 informal meeting scheduled (Mark)**

**STRATEGIC PLAN IMPLEMENTATION**

- Plan implementation
  - ROV
    - Annual Report presentations (March - April)
  - Community Engagement
    - 2022 Quarterly Newsletter (1/27/22)
    - Scout Troop Studio Tour (2/17/22)
    - Woodbury Chamber Expo (4/2/22)



- 2022 Quarterly Newsletter (4/15/22)
- **Woodbury New Resident Event (May 17)**
- Diversified Revenue
  - Renewal by Anderson (ongoing)
  - ISD 833 school board meetings (ongoing)

#### **HUMAN RESOURCES**

- Organizational Structure and Compensation
  - Flexible Workplace Policy Draft (12/2/21)
  - Revised Flexible Workplace Policy Draft (3/24/22)
  - **Flexible Workplace Policy Review (5/26/22)**
  - **HR Committee to convene in June**

#### **TECHNOLOGY COMMITTEE**

- NineNorth site tour (February 25)

#### **POLICIES, ORDINANCES, and RESOLUTIONS**

- Financial Policy review (12/2/21)
- Revised Financial and Reserve Policy (3/24/22)
- Legal Policy Repealed (3/24/22)
- **Revised Financial and Reserve Policy (5/26/22)**
  - **Commission Director Per Diem Ordinance introduced (5/26)**

#### **COMMUNITY VOICES GRANT**

- Staff working on grant application, timeline, and marketing components (01/21/22)
- Graphic design, logo, and marketing development (2/25/22)
- Application launch (April 1)

#### **EDUCATIONAL PROGRAMING**

- Initial meeting with district Communications (March 16)
  - Create STEM or STEAM proposal the district can share with teachers
  - Meeting planned with athletic directors for input
  - Job skills offerings can be shared with counselors; geared toward student AV specialists

#### **RECOMMENDATIONS & ADDITIONAL DIRECTION**

- Exploring attorney retainer
- Autism Acceptance Month Panel (TBD)
- RFP audit firms for 2023
- Rebranding? (Target 2022-2023)
  - New name/New logo



**Bradley Law**  
Attorneys at Law

## MEMORANDUM

**To: South Washington County Telecommunications Commission**  
**From: Michael R. Bradley, Michael C. Athay, and Tou Xiong**  
**Re: May 2022 Legal Report**  
**Date: May 5, 2022**

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### **Biden Nomination of Gigi Sohn For Open FCC Seat**

The Senate vote to discharge Gigi Sohn's nomination as FCC Commissioner to the Senate floor remains pending. Discharge is required because the Commerce Committee moved the nomination on a 14-14 vote. Undecided (and necessary) votes include Sens. Catherine Cortez Masto of Nevada, Mark Kelly of Arizona and Joe Manchin of West Virginia.

### **Comcast Streaming Service Adds 4 Million Subs; Traditional Video Loses 500,000**

According to Fierce Video, in an investors call late last month, Comcast executives reported strong subscriber growth for its Peacock streaming service in the first quarter of 2022. At the same time, Comcast's traditional video business lost more than 500,000 customers in the first three months of 2022. Peacock, Comcast's subscription streaming service (reported as part of NBCUniversal), had an "exceptional" first quarter, according to Comcast CEO Brian Roberts, bringing in 4 million paid subscribers in the first quarter to end the quarter with over 13 million paid customers and 28 million monthly active accounts in the U.S – an expansion of Peacock's total paid subscribers by over 40%. By contrast, the traditional video business saw first quarter net customer losses of 512,000, compared to 491,000 net losses in the first quarter of 2021, including losses of 484,000 residential and 27,000 business video customers. The quarter ended with 17.66 million traditional video customers, down from 19.35 million last year. Total Comcast cable revenues were up 4.7% to \$16.5 billion, but traditional video revenues shrank 1.5% year over year to \$5.54 billion. For more information:

<https://www.fiercevideo.com/video/comcast-adds-4-million-peacock-subs-traditional-video-losses-stack-q1>

### **Comcast and Charter Launch Streaming Platform Joint Venture**

According to Telecompetitor.Com, Comcast and Charter, the two largest fixed broadband providers in the U.S., are launching a new 50/50 joint venture that will focus on developing and offering a next-generation streaming platform, to be delivered through multiple branded streaming devices and smart TVs. The platforms will be based on Comcast's Flex and XClass TV platforms. Comcast will license Flex and XClass TV technology to the joint venture and contribute its Xumo streaming service. Charter is making an initial cash contribution of \$900 million, funded over multiple years. Charter will begin offering the streaming platforms in 2023. Collectively, Comcast and Charter have nearly 60 million residential broadband customers (as of the end of 2021) to market the platforms to. For more

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**Bradley Law, LLC**

2145 Woodlane Drive | Suite 106 | Woodbury, MN 55125 | (651) 379-0900 | [BradleyLawMN.com](http://BradleyLawMN.com)

information: <https://www.telecompetitor.com/comcast-and-charter-partner-for-battle-in-the-raging-streaming-war/>

## **Minnesota Legislature Passes Broadband Funding Bill**

The Minnesota House and Senate both passed [HF 4366](#), the Omnibus Agriculture, Housing, and Broadband bill, in the last week of April and it is now with the governor. The legislation includes an increase in grant funding for broadband projects from 50 percent to 75 percent of the total cost of the project, up to a cap of \$10 million, increased from the current \$5 million limit. If signed by the governor, the bill will provide \$25 million in general fund dollars for expansion of high speed broadband across the state. Currently, 72.5% of rural households have access to the state's 2026 speed goal of 100mbps download/20mbps upload. According to the state Office of Broadband Development, \$1.3 billion is needed to connect remaining Minnesota homes to broadband service with these speeds. According to the Office, many townships with low populations have not been able to meet the current 50 percent match requirement. The Office must report to the leaders of broadband policy and finance committees by the end of 2022 regarding whether and by how much the bill changes the number and dollar amounts of broadband grants awarded.

## **FCC Open Meeting May 19, 2022**

The FCC's May Open Meeting will be May 19, 2022 at 10:30 a.m. Eastern. The [Tentative Agenda](#) includes items on combatting robocalls; A-CAM changes to increase support for deployment in high-cost areas in exchange for increased broadband deployment obligations to additional locations and at higher speeds; rule changes to authorize service providers to prioritize data, video, and IP-based voice services, for eligible national security and emergency preparedness (NSEP) personnel users, on a voluntary basis; and updating FM broadcast radio service directional antenna performance verification.

## **State Net Neutrality Bill**

Net Neutrality legislation has been passed by Washington, Oregon, Vermont, California, Colorado and Maine. Six states have promulgated executive orders requiring ISPs that do business with the state to follow Net Neutrality principles. Net Neutrality bills have been introduced in New York, Connecticut, Missouri, Rhode Island, Texas and Massachusetts.

## **Supreme Court Decides Important "Government Speech" Case, Providing Guidance for Local Governments**

On May 2, 2022, in a unanimous decision in *Shurtleff v. Boston*, the Supreme Court held that Boston violated the First Amendment by refusing to fly a Christian flag in front of City Hall when it had approved hundreds of other third-party flags over the years and had never before rejected one. The case turned on whether Boston was engaging in government speech or whether it had (inadvertently) created a public forum for private speech, in which case refusing to fly a flag because it is religious in nature constituted viewpoint discrimination in violation of the First Amendment. Although Boston lost, the decision does not reject the government speech doctrine, and it identifies characteristics of government speech that should guide local governments in crafting policies related to third party programs like the one at issue in order to bring them under the government speech doctrine.



Boston owns three flagpoles in front of City Hall. Boston flies the United States and the POW/MIA flag on one flagpole, the Commonwealth of Massachusetts flag on the second flagpole, and its own flag on the third flagpole. Third parties may request to fly their flag instead of the City's flag in connection with an event taking place near the flagpoles. Over a 12-year period, the City approved 284 flag-flying events and until the request of an organization called "Camp Constitution" to fly its Christian flag while it held an event near the flag, it never rejected a request.

The City refused Camp Constitution on the ground that "the City's policy was to refrain respectfully from flying non-secular third-party flags in accordance with the First Amendment's prohibition of government establishment of religion." Camp Constitution sued the City and the First Circuit held that the City was engaging in government speech when it flew third-party flags in front of City Hall and it therefore did not violate the First Amendment.

The Supreme Court reversed, concluding after balancing several factors, that Boston was not engaging in government speech, and that it therefore abridged Camp Constitution's freedom of speech by refusing to let it fly its flag based on religious viewpoint. The majority underscored the importance of the government speech doctrine: that a government is free to speak for itself, to formulate policies, and implement programs, and that when it does so, "the First Amendment does not demand airtime for all views" because otherwise, government would be unable to function. The question was whether Boston's flag-raising program was government speech.

The opinion acknowledged that whether a government is engaged in its own speech can be difficult to determine where "a government invites the people to participate in a program." To determine if a message is government speech under these circumstances, the majority required a "holistic inquiry" which looks to "the history of the expression at issue; the public's likely perception as to who (the government or a private person) is speaking; and the extent to which the government has actively shaped or controlled the expression."

Although the first factor (history) favored Boston, the Court found that the second factor, whether the public would tend to view the speech as Boston's, was not clearly satisfied because Boston has "allowed its flag to be lowered and other flags to be raised with some regularity," so that, the Court suggested, members of the public might not necessarily believe that all of the flags at city hall were conveying the city's message.

On the issue of whether Boston controlled the message, the Court found the answer was "not at all" and ultimately concluded this factor was "the most salient feature of the case." The Court pointed to the fact that although Boston may have endorsed some messages associated with certain flags like the Pride Flag, in the case of a local credit union flag, connection to the city was "more difficult to discern." And the Court found the City had no policy (until after litigation commenced) on how to decide which flags it would fly, and that the City exercised virtually no control over the messages the flags in the program conveyed: It had no record of denying any flag-raising requests before Shurtleff, and it did not have any guidelines about what flags were permitted under the program.

The Court also explained that if a local government wishes to speak for itself when it creates a program that, like Boston's, involves third party speech it can "easily" do so, pointing to the City of San Jose as an example. San Jose provides in writing that its "flagpoles are not intended to serve as a forum for

free expression by the public,” and lists approved flags that may be flown “as an expression of the City’s official sentiments.” While the Court ultimately found Boston had not engaged in government speech in this case, it concluded by noting that nothing prevents the City from changing its policies going forward, and thereby making its flag-raising program government speech.

IMLA’s detailed analysis is available here: <https://imla.org/2022/05/supreme-court-decides-important-government-speech-case/> To review the decision, [click here](#).

### **OMB Guidance on Buy American Priorities for Infrastructure Investment and Jobs Act**

On April 18, 2022, the Office of Management and Budget issued [guidance](#) on the Buy American provisions of the Infrastructure Investment and Jobs Act (IIJA). The guidance applies Buy American priorities to all infrastructure projects using federal funds, including IIJA projects.

### **Increasing ISP Charges Drive Users To Wireless Internet According to Research Project**

According to research by Parks Associates, U.S. households pay an average of \$116 per month for home Internet, including both standalone and bundled options, or an average of \$1,392 annually. The Parks study, titled “Quantified Consumer: Fixed vs. Wireless—Consumers’ Shifting Broadband Preferences,” found that for a growing number of households, that cost is too high: More than 13.9 million home Internet users in the United States are cord cutters and they save between \$600 and \$1,800 per year according to the research, for a missed revenue opportunity of more than \$10.5 billion. The study found that reasons for cord cutting, in descending order of prevalence, are: Cost, a preference for mobility, issues with the broadband provider, having moved and not yet gotten reconnected, lack of availability and lack of need. “Consumers overall are increasingly concerned with quality over price; however, older households are concerned about costs” according to a Parks [press release](#) about the research. At the same time, the study found that an ever-higher percentage of consumers are more concerned with the quality of home Internet service than with price. This tendency has been caused impacts of the COVID-19 pandemic, the growth of work from home and increases in video consumption and video conferencing. The result is increasing pressure on providers to focus on quality, including offering additional services, and according to Parks, ISPs risk losing their customers to competitors if they fail to increase quality and value to the consumer. For more information:

<https://www.telecompetitor.com/research-u-s-broadband-cord-cutters-approach-14-million/>

to: Commission Directors

from: Mark Martinez, Executive Director

subject: Financial Policies

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**Financial Policies:**

- Administrative Spending Policy (2008)
- Credit Card Policy (2010)
- ~~Legal Counsel Policy (2004)~~
  - **Advised to repeal the policy**
  - **Repealed (03/24/22)**
- Meeting Compensation (2005)
- Reserve Policy (2017)

**Attorney Review and Executive Committee Recommendations (April/May)**

**1) Financial Reserve Policy.** The Executive Committee recommended a) adding the 2020 process to the policy; b) delete the sentence on capital spending; and c) make the reporting deadline consistent with current accounting practices; and d) **adopt policy as amended.**

**2) Meeting Compensation.** The Executive Committee recommended the following: a) Check with Member Cities on how meeting compensation is handled with other JPA Commissions; b) **Repeal current policy**; c) **adopt compensation ordinance**; d) encourage but do not require direct deposit; and e) consult with auditor about how to report compensation.

**3) Administrative Spending Policy.** The Executive Committee recommended the Commission **repeal the current policy** and follow the JPA and state law governing statutory cities for the expenditure of funds.

**4) Credit Card Policy.** The Executive Committee recommended **holding off on this policy** so the Policy Review group could review the Department of Administration Purchasing Card Use and Policies, and the Guidelines from the State Auditor, and consult with the auditor for credit card best practices for an organization the size of the Commission.

**Action Requested:** Discussion and comments.

**ORDINANCE SUMMARY**

**ORDINANCE NO. 2022-1**

**SOUTH WASHINGTON TELECOMMUNICATIONS COMMISSION,  
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE OF THE SOUTH WASHINGTON TELECOMMUNICATIONS  
COMMISSION, WASHINGTON COUNTY, MINNESOTA, ESTABLISHING THE  
COMPENSATION OF COMMISSION DIRECTORS**

**Findings and Purpose:**

The purpose of this ordinance is to establish compensation for its Commission Directors. The Commission finds that compensation should be set on a per meeting basis to compensate directors for their time and to encourage Commission Directors to attend all publicly noticed meetings of the Commission.

The specific terms and conditions of Ordinance 2022-1, Sections 1 to 2, are available for review at the office of the South Washington County Telecommunications Commission at 6939 Pine Arbor Drive South #106, Cottage Grove, Minnesota 55016.

**ORDINANCE NO. 2022-1**

**SOUTH WASHINGTON TELECOMMUNICATIONS COMMISSION,  
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE OF THE SOUTH WASHINGTON TELECOMMUNICATIONS  
COMMISSION, WASHINGTON COUNTY, MINNESOTA, ESTABLISHING THE  
COMPENSATION OF COMMISSION DIRECTORS**

**Findings and Purpose:**

The purpose of this ordinance is to establish compensation for its Commission Directors. The Commission finds that compensation should be set on a per meeting basis to compensate directors for their time and to encourage Commission Directors to attend all publicly noticed meetings of the Commission.

**The South Washington County Telecommunications Commission, Washington County, Minnesota ordains:**

**Section 1. Commission Director Compensation:**

A Commission Director shall be eligible to receive \$ \_\_\_\_\_ for each regular and special meetings of the Commission and its committees attended by the Commission Director, provided, however, a Commission Director may decline to receive compensation at any time by providing electronic or other written notice to the Executive Director.

**Section 2. Effective Date:**

This ordinance becomes effective from and after its passage and publication.

Passed and adopted by the South Washington County Telecommunications Commission, Washington County, Minnesota this 28<sup>th</sup> day of July, 2022.

ATTEST:

\_\_\_\_\_  
Robert James, Chair

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Mark Martinez, Executive Director

to: Commission Directors

from: Mark Martinez, Executive Director

subject: Flexible Workplace Policy

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Flexible Workplace Policy sent to attorney for review on April 22.

**Human Resources**

- Flexible Workplace Policy (2022)

**Attorney Review and Executive Committee Recommendation**

**Flexible Workplace Policy.** The Executive Committee recommended that the draft policy be amended to be consistent with current Commission practices on pages 4, 5, and 6; and **adopt the policy as amended.**

**Action Requested:** Discussion.

SWCTC Item 8a.  
MAY 26, 2022

to: Commission Directors

from: Mark Martinez, Executive Director

subject: Future office relocation fund

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The Commission office lease expires on August 31, 2024. There are options available including staying in our current location. We have, however, outgrown our current space. Should we decide to relocate to provide more value in our communities we would be looking at a rather large buildout expense estimated at approximately \$300,000. Rather than expense the relocation all at once I recommend the Commission consider earmarking relocation funds between now and 2024.

**Actions Requested:** Discussion