

September 13, 2016

Clarke County Board Of Supervisors
Berryville Town Council
Joint Meeting
Main Meeting Room

7:00 p.m.

At a joint session of the Board of Supervisors of Clarke County, Virginia, and Berryville Town Council held in the Berryville Clarke County Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia on Tuesday, September 13, 2016.

Supervisors Present

Barbara J. Byrd – Russell District; Terri T. Catlett - Millwood / Pine Grove District; Mary L.C. Daniel – Berryville District; Bev B. McKay – White Post District; David S. Weiss - Buckmarsh / Blue Ridge District

Supervisors Absent

None

Town Council Present

Harry Lee Arnold, Jr. – Recorder; Pat Dickinson – Mayor; Erecka Gibson – Ward 3; Allen Kitseleman – Ward 2; Donna McDonald – Ward 1; David Tollett – Ward 4

Town Council Absent

None

County Staff Present

David Ash, Gordon Russell, Lora Walburn

Town Staff Present

Keith Dalton, Ann Phillips, Neal White

Press

Cathy Kuehner

Others Present

Dr. Franklin Roberts – Mayor Town of Boyce; Matt Ames

1. Call to Order

At 6:31 p.m., Chairman Weiss called the Board of Supervisors work session to order.

At 6:31 p.m., Mayor Dickinson called the Berryville Town Council meeting to order.

2. ComCast Franchise Agreement

Keith Dalton, Berryville Town Manager, briefed the bodies on the background of the cable franchise agreement. Mr. Dalton then introduced Matt Ames, legal counsel for Clarke County and the Towns of Berryville and Boyce.

Matt Ames distributed and reviewed the following:

KEY TERMS OF PROPOSED COMCAST FRANCHISE RENEWAL

1. Franchise Agreement:

- a. Each jurisdiction will continue to have a separate agreement with Comcast.*
- b. Term of franchise: 15 years.*
- c. Comcast continues to pay existing 5% state communications tax, or franchise fee if tax is ever repealed.*
- d. Clarke County and the Town of Berryville have right to require up to 2 public, educational and governmental ("PEG") access channels on 9 months' notice. Boyce would receive the County's channels.*
 - i. One channel would be used by the local governments, the other by the County school system.*
 - ii. If request more than 3 years from the effective date of the new franchise, must pay cost of building connection between origination site and Comcast headend in Winchester.*
- e. Communities can require Comcast to pay PEG capital fee of \$0.50 per subscriber per month on 90 days' notice; this fee would be collected from subscribers as a separate line item on bills.*
- f. Comcast to provide free cable service at public buildings listed in Ex. A, plus additional locations within 200 feet of their plant, upon request.*

EXHIBIT A

COUNTY FACILITIES LOCATED IN THE COUNTY TO BE PROVIDED COURTESY CABLE SERVICE

Location	Address	
Blue Ridge Fire Station	131 Retreat Rd	Bluemont, VA 20135
Rec Center	370 Al Smith Cir	Berryville, VA 22611
Cooley Upper Campus	34 Westwood Rd	Berryville, VA 22611
Cooley Lower Campus	240 Westwood Rd	Berryville, VA 22611

COUNTY FACILITIES LOCATED IN THE TOWN OF BERRYVILLE TO BE PROVIDED COURTESY CABLE SERVICE

Location	Address	
Government Center	101 Chalmers Ct	Berryville, VA 22611
Sheriff's Office	100 N Church St	Berryville, VA 22611
Circuit Court Building	102 N Church St	Berryville, VA 22611
General District Court	104 N Church St	Berryville, VA 22611
Social Services	311 E Main St	Berryville, VA 22611
Old Library	36 E Main St	Berryville, VA 22611
Enders Fire	9 S Buckmarsh St	Berryville, VA 22611
Johnson-Williams Middle School	200 Swan Ave	Berryville, VA 22611
School Board Office	309 W Main St	Berryville, VA 22611
Pupil Personnel	321 W Main St	Berryville, VA 22611
Alternative Education	317 W Main St	Berryville, VA 22611
High School	627 Mosby Blvd	Berryville, VA 22611

COUNTY FACILITIES LOCATED IN THE TOWN OF BOYCE TO BE PROVIDED COURTESY CABLE SERVICE

Boyce Fire Station	15 Greenway Ave.	Boyce, VA 22620
Boyce Elementary School	309 W. Main St.	Boyce, VA 22620
Sewer Plant	162 Howards Ln.	Boyce, VA 22620

- g. Agreement includes updated customer service standards and improved enforcement provisions.*
 - h. Comcast must serve upon request any home located within 400 feet of the public right-of-way, where there are at least 30 homes per mile along the right-of-way.*
- 2. Fiber lease agreement:**
- a. Clarke County and the Town of Berryville to pay \$3600/year for right to use existing fiber network.*
 - b. Agreement runs as long as the Franchise Agreement.*
- 3. Side letter:**
- a. Comcast to provide all existing equipment, at no charge.*

b. Comcast to provide up to 3 converters or other equipment to serve new public buildings, at no charge. If request more than 3, Comcast will charge standard rates.

Additional Highlights of Review:

- The cable franchise is separate from broadband service; however, cable service might be used as a way to get network extension.
- Worked with ComCast to identify areas that are either not served or underserved.
- Cable should now be available to all residents in the Towns of Boyce and Berryville.
- The greatest cost to the cable company is labor, material and equipment to create the plant [cables].
- There is no requirement to place wire underground. Most wire in this area is on poles.
- "PEG" is an option with guaranteed access; however, the individual localities would be responsible for funding the installation of cameras, operator salaries, etc.
- The agreement does not create an unlawful monopoly by prohibiting competition from other service providers.
- Dark Fiber Lease:
 - o \$3,600 annual payment is the total due from the localities combined.
 - o \$3,600 is inexpensive in comparison to paying commercial rates to another carrier.
 - o ComCast will not expand the dark fiber network.
- The state has no customer complaint reporting requirements.
- Approximate number of town and county subscribers is less than 2,000.
- Agreement only covers ComCast services and does not include companies that provide service via satellite.
- Towns, traditionally, have authority over telephone and utilities, such as electric; however, counties only have authority over cable.

3. Establish Public Hearing Date

Keith Dalton advised that the next step for the bodies was to set the matter for public hearing and suggested that the bodies hold a joint hearing with legal counsel in attendance.

By consensus, Berryville Town Council and the Clarke County Board of Supervisors agreed to conduct a joint public hearing during the Supervisors' evening session on

Tuesday, October 18, 2016, at 6:30 pm in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

David Tollett – Town of Berryville Ward 4 Member, noted that he had a scheduling conflict with the public hearing date.

Town of Boyce Mayor, Dr. Franklin Roberts, advised that he would seek direction from Boyce Town Council and would advise County staff as to its participation in the joint public hearing.

4. Adjournment

At 7:06 pm, Chairman Weiss adjourned the Clarke County Board of Supervisors' Work Session.

At 7:06 pm, Mayor Dickinson adjourned the Council of the Town of Berryville Work Session.

ATTEST: September 13, 2016

David S. Weiss, Chair

David L. Ash, County Administrator

Minutes Recorded and Transcribed by:
Lora B. Walburn, Deputy Clerk, Board of Supervisors