ORDINANCE 95-24

ADOPTING PROCEDURES FOR ISSUING REQUESTS FOR RENEWAL OF CABLE FRANCHISES

WHEREAS, the franchise agreement between the City of Bloomington and TCI of Indiana, Inc. will expire in September, 1995; and

WHEREAS, the City of Bloomington wishes to initiate formal procedures to request from TCI of Indiana, Inc. a proposal for franchise renewal; and

WHEREAS, the City of Bloomington wishes to expedite the procedures for generating requests for renewal of franchises;

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. Section 3.02.020 of the Bloomington Municipal Code Definitions shall be amended to add the following (in the proper alphabetic sequence):

"RFRP" means the document entitled "Request for Refranchising Proposals" for Cable Communications franchises, as approved by Resolution of the Board of Public Works.

SECTION II. Chapter 3.02 of the Bloomington Municipal Code shall be amended to add the following:

3.02.041 Procedures governing the renewal of existing franchises:

(a) Cable operators may make a written request for formal renewal procedures pursuant to the provisions of 47 U.S.C. 546.

(b) The Board shall, with input from the Telecommunications Council and the Common Council, issue an "RFRP." The Board may establish a date by which proposals in response to the "RFRP" shall be submitted. The "RFRP" may, consistent with the provisions of 47 U.S.C. 544, contain any other requirements and requests for information and material the Board deems necessary, including proposals for an upgrade of the system.

(c) Upon submission by a cable operator to the Board of a proposal for the renewal of a franchise, the Board shall provide prompt public notice of such proposal and, during the four-month period which begins on the date of the submission of the cable operator's proposal, hold at least one (1) public hearing on the proposal. During this four-month period, the Board shall decide, with input from the TCC (1) whether to renew the franchise, or (2) issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, to consider whether:

(1) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;

(2) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in light of community needs;

(3) the operator has the financial, legal and technical ability to provide the services, facilities and equipment as set forth in the operator's proposal; and

(4) the operator's proposal is reasonable to meet the future cable-related needs and interests, taking into account the cost of meeting such needs and services.

(d) In any proceeding under 3.02.041(c), the cable operator shall be afforded adequate notice and the cable operator and the Board, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.

(e) At the completion of a proceeding under 3.02.041(c), the Board shall issue a written decision that the proposal for renewal should be granted or denied. The decision shall be based upon the record of a proceeding under 3.02.041(c). The Board shall transmit a copy of such decision to the cable operator and the Common Council. Such decision shall state the reasons for its conclusion.

(f) A decision by the Board that a contract for renewal of a franchise should be granted shall be presented to the Common Council in the form of a resolution recommending a refranchising contract for action pursuant to 3.02.130 "Council action on recommended contracts."

(g) Any denial of a proposal for renewal that has been submitted under 3.02.041(b) shall be based on one or more adverse findings made with respect to the factors outlined in 3.02.041(c)(1)-(4), pursuant to the record of the proceeding under 3.02.041(c).

SECTION III. Section 3.02.130 of the Bloomington Municipal Code, Council action on recommended contracts., shall be amended as follows:

A. The phrase "or refranchising" shall be added after the phrase "franchising" wherever such appears in the section.

B. The phrase "or refranchise" shall be added after the phrase "franchise" wherever such appears in the section.

C. The phrase "ten thousand dollars ($10,000)" shall be deleted and replaced with "twenty thousand dollars ($20,000)".

SECTION IV. Severability. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 19 day of April, 1995.

Iris Kiesling

IRIS KIESLING, President
Bloomington Common Council