

EXTRA INFO. 10/3/06-①

**John Murray**

**From:** Frits Riep  
**Sent:** Tuesday, September 26, 2006 7:35 PM  
**To:** Board of Selectmen  
**Cc:** John Murray; Don Johnson  
**Subject:** Cable Advisory Committee Negotiating Team recommendation on on-going Negotiations with Verizon.

Dear Board of Selectmen,

For the record, the negotiating team from the Cable Advisory Committee has recommended that the Verizon License be approved subject to the three open items last requested of Verizon.

- Verizon providing its number of subscribers along with the quarterly payment of 5% of gross revenues (agreed to)
- Verizon agreeing on the audit reimbursement amount of \$10,000 with Cost of Living adjustment.(agreed to except COL adjustment and limitation on timing of audits)
- Payment of \$550K of PEG capital per the payment schedule agreed (agreed to)
- Other terms as agreed in the last draft proposal from Verizon.

This is as a result of our best efforts and our best judgment given the good faith efforts of Verizon and the negotiating team. In all areas of substance, the negotiating team feels this license is as favorable as or more favorable than any other town with comparable numbers of subscribers. Although we could hold out for more, the reality is that in the near future our negotiating position will very possibly be dramatically undermined due to pending Federal legislation which may well pass in a lame duck session of Congress as well as potential unfavorable changes at the state level at the Dept of Telecommunications and Energy. Verizon has successfully engineered statewide licensing in a number of states and is very actively pursuing federal legislation to preempt town licensing. It is likely that any Federal legislation would not include the payment of any PEG capital, nor many of the other provisions which we have negotiated and which are in the current draft, including service to all town residents.

If, at some point in the near future, Verizon believes that the regulatory environment will change to their advantage, it may create a major incentive for them to change their negotiating position and materially reduce the offer to the town. We believe this is a very real risk and the benefits of asking for more are outweighed by the risks of losing it all.

We are also concerned the entire Board of Selectmen may not be aware of this recommendation of the negotiating team, nor aware of the substantial risks the team sees from not reaching agreement in the near future. In particular, the attached proposed request of sponsorship of a Country and Western weekend appears totally unrelated to the terms of the Telecommunication Act or state cable legislation, requested in a vacuum outside of a considered evaluation of whether the funding as proposed is appropriate. It could well be used as an example by Verizon of why Federal preemption of Cable Licensing is warranted, and certainly undermine our ability to prevail at any potential future hearing at the Department of Telecommunications and Energy. Frankly, the team would like to disassociate itself from the request for sponsorship of a Country and Western weekend and believes that any negotiating position with respect to license and its financial terms should be the product of the Board of Selectmen's consideration and determination.

Through the Town Manager's office, the negotiating team has been trying to make our position clear to the Selectmen, by trying to set up briefing sessions with the Selectmen, but it has been a challenge given the pace of the negotiations and tight schedules.

Respectfully,

Frits Riep

Chair, Acton Cable Advisory Committee

Please feel free to call me at my cell, 978-973-8392.

10/3/2006