



Village of Cooperstown

22 MAIN ST. P.O. BOX 346 COOPERSTOWN, NY 13326 (607) 547-2411 • FAX (607) 547-5487

February 18, 2010

Re: Franchise Amendment - Village of Cooperstown and Time Warner Cable

Ms Jaclyn A. Brilling, Secretary to the Commissioner
New York State Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Dear Ms Brilling,

Please find enclosed a copy of the Resolution that the Board of Trustees for the Village of Cooperstown, adopted at their regular meeting held on October 19, 2009, following a public hearing held earlier that evening and the affirmative action taken by the Board along with verification from the Village Clerk of the Resolution. Also, enclosed is a copy of the certified proof of publication of notice for the amendment of the Renewal Agreement. Copies of three (3) correspondences to Time Warner from the Village of Cooperstown and one (1) correspondence from Time Warner to the Village of Cooperstown are enclosed along with a copy of an e-mail dated August 24, 2009 from Mr. David Whalen, Vice President of Time Warner Cable, agreeing with the below listed amendments to the Renewal Agreement.

The Resolution amends the franchise agreement between the Village of Cooperstown and Time Warner Cable as follows:

- SECTION 1 – DEFINED TERMS

- (i) "Gross Revenues" means all revenues received by Time Warner both directly and indirectly from the provision of cable television service within the Village of Cooperstown. This includes, but is not limited to, revenue from regular and recurring subscriber charges plus revenue from installations, pay-per-view, advertising and home shopping. Not included are revenue from late fees or from Road Runner high speed online or Digital Phone service.

- SECTION 4 - FRANCHISE TERM

- The term of this Franchise shall be Ten (10) years from the date of approval by the municipality.

- SECTION 18 - FRANCHISE FEES

- (d) Time Warner Cable shall pay the Municipality a penalty of \$25.00 per day on any late payment of franchise fees. The aforementioned penalty shall not be passed through to cable subscribers.

2010 FEB 25 PM 2:33



February 23, 2010

Village of Cooperstown

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On behalf of the Board of Trustees for the Village of Cooperstown, we respectfully request that this amendment be considered for approval by the New York State Public Service Commission.

If you require further information or have any questions, please contact me at 607-547-8558, ext 100.

Thank you,

Mary Ann Henderson
Treasurer
Village of Cooperstown
Enclosure (7)



Village of Cooperstown

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RESOLUTION TO AMEND FRANCHISE AGREEMENT BETWEEN TIME WARNER CABLEVISION, INC. AND THE VILLAGE OF COOPERSTOWN

TRUSTEE RESOLUTION NO. 9 – 2009

RESOLVED, that the board of Trustees of the Village of Cooperstown hereby approves an amendment to the current franchise agreement between the Village of Cooperstown and Time Warner Cablevision, Inc. by amending the following sections of the agreement:

- SECTION 1 – DEFINED TERMS

(i) "Gross Revenues" means all revenues received by Time Warner both directly and indirectly from the provision of cable television service within the Village of Cooperstown. This includes, but is not limited to, revenue from regular and recurring subscriber charges plus revenue from installations, pay-per-view, advertising and home shopping. Not included are revenue from late fees or from Road Runner high speed online or Digital Phone service.

- SECTION 4 - FRANCHISE TERM

The term of this Franchise shall be Ten (10) years from the date of approval by the municipality.

- SECTION 18 - FRANCHISE FEES

- (d) Time Warner Cable shall pay the Municipality a penalty of \$25.00 per day on any late payment of franchise fees. The aforementioned penalty shall not be passed through to cable subscribers.

The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

	<u>AYES</u>	<u>NOES</u>
Carol Waller, Mayor	<u>X</u>	_____
Jeff Katz, Trustee	<u>X</u>	_____
Eric Hage, Trustee	<u>X</u>	_____
Lynne Mebust, Trustee	<u>X</u>	_____
Neil Weiller, Trustee	<u>X</u>	_____
Joseph Booan, Jr., Trustee	<u>X</u>	_____
Willis Monie, Jr., Trustee	<u>X</u>	_____

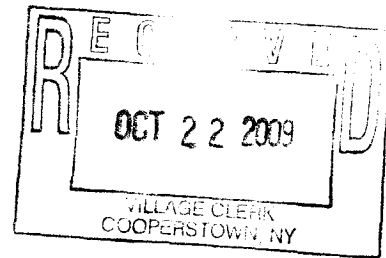
The foregoing resolution was thereupon declared duly adopted.

Date: December 21, 2009

Teri Barown

Village Clerk of the Village of Cooperstown

STATE OF NEW YORK
COUNTY OF OTSEGO, SS



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Trustees of the Village of Cooperstown will hold the following public hearing in the Village Office Building, 22 Main Street, Cooperstown, New York on Monday, October 19, 2009 to discuss the following

8:00 p.m. Proposed Local Law #5 and Proposed Local Law #6 - Amendment to Parking Regulations pertaining to the loading zone and time limits for parking on Pioneer Street.

8:30 p.m. Time Warner Cable - Amendment of the television franchise agreement by and between the Village of Cooperstown and Time Warner Cable.

Proposed changes to the agreement are as follows:

Section 1 - Defined Terms

- (i) "Gross Revenues" means all revenues received by Time Warner both directly and indirectly from the provision of cable television service within the Village of Cooperstown. This includes, but not limited to, revenue from regular and recurring subscriber charges plus revenue from installations, pay-per-view, advertising and home shopping. Not included are revenue from late fees or from Road Runner high speed or Digital Phone Service.

Section 4 - Franchise Terms

The term of this Franchise shall be Ten (10) years from the date of approval by the municipality.

Section 18 - Franchise Fees

- (d) Time Warner Cable shall pay the Municipality a penalty of \$25.00 per day on any late payment of franchise fees. The aforementioned penalty shall not be passed through to cable subscribers.

Any resident of the Village Cooperstown is entitled to be heard upon said proposed applications at such public hearing. At such public hearing, all persons will be given an opportunity to be heard. Written and oral statements will be taken at that time. Time limitations may be imposed for each oral statement, if necessary. Disabled citizens, who require assistance in attending said public hearings, or in furnishing comments or suggestions, should contact the Village Clerk to request assistance. A copy of proposed local law #5 and proposed local law #6, and the Time Warner Franchise agreement and proposed changes are available for public inspection during normal business hours at the Village Clerk's office, 22 Main Street, Cooperstown, New York.

Dated: October 6, 2009

By order of the Village Board
Village of Cooperstown

Jennifer Truax, Deputy Village Clerk

Diane Belsky of West Laurens NY,
in said County, being duly sworn,
deposes and says that she is an
Accounting Clerk for the newspaper
called The Daily Star, printed and
published in Oneonta NY aforesaid,
and that the advertisement of which
the annexed is a printed copy has
been published in the said newspaper
on the

9th, 17th & 19th
Day(s) of *October*
2009

Diane Belsky

Sworn to before me the *20th*
Day of *October* 2009

[Signature]
NOTARY PUBLIC

Notary Public
Qualified in New York State
Commission Expires 10/10/10



Village of Cooperstown

22 MAIN ST. P.O. BOX 346 COOPERSTOWN, NY 13326 (607) 547-2411 • FAX (607) 547-5487

December 29, 2008

RE: Amend Agreement

David Whalen
Time Warner Cable
120 Plaza Drive, Suite D
Vestal, NY 13850-3681

Dear David Whalen,

This is to advise you that the Board of Trustees for the Village of Cooperstown has instructed me to give notice to Time Warner that the Village of Cooperstown plans to proceed with the process to amend the recent PSC approved agreement.

Due to the extensive period of the agreement, 15 years, the Board of Trustees feel that they need to address and receive the maximum franchise fees and change some of the language in the agreement.

If you require further information, please contact me at 607-547-8558, ext 110.

Thank you,

Mary Ann Henderson
Treasurer/Tax Collector
Village of Cooperstown



Village of Cooperstown

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February 18, 2009

David Whalen
Time Warner Cable
120 Plaza Drive, Suite D
Vestal, NY 13850-3681

Dear David Whalen,

This is to advise you that the Board of Trustees of the Village of Cooperstown has instructed me to give notice to Time Warner Cable and the Public Service Commission (PSC) that the Village of Cooperstown plans to proceed with the process to amend the recent PSC approved agreement.

We respectfully request the following list of amendments, by the Village of Cooperstown's Board of Trustees, to be implemented into an amended agreement with Time Warner Cable.

- SECTION 1 - DEFINED TERMS

- (i) "Gross Revenues" means all revenues, without exclusion, received by Time Warner Cable from the provision of Cable Television Service within the Municipality.

- SECTION 4 - FRANCHISE TERM

The term of this Franchise shall be Ten (10) years from the date of approval by the municipality.

- SECTION 17 - ADDITIONAL SUBSCRIBER SERVICES

- (i) Time Warner Cable will provide multiple free outlets of basic and standard cable, along with Road Runner and/or wireless network service to all owned Village buildings, at no charge.

- SECTION 18 - FRANCHISE FEES

- (b) There shall be applied as a credit against the Franchise Fee the aggregate of: (i) any taxes, fees or assessments of general applicability imposed on Time Warner Cable or any subscribers, or both, which are discriminatory against Time Warner Cable or any subscribers, (ii) any non-capital expenses incurred by Time Warner Cable in support of the PEG access requirements of the Franchise and (iii) any fees or assessments payable to the NYSPSC which when combined with all other fees and credits would exceed 5% of gross revenues. Time Warner shall waive its right to apply franchise fees paid as a credit against special franchise assessments pursuant to Section 626 of the New York State Real Property Tax Law.



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- (c) Payment of the franchise fee shall be due quarterly with in thirty (30) days of the end of the company's quarter. Time Warner Cable shall submit to the municipality, along with the payment of said fees, a report showing in reasonable detail the basis for the computation thereof.
- (d) Time Warner Cable shall pay the Municipality interest, compounded monthly, on any late payment or underpayment of franchise fees at a rate equal to the prime rate plus three percent (3%). The aforementioned interest shall not be passed through to cable subscribers.

Please have the above amendment requests reviewed by the appropriate committee and advise the Village of Cooperstown of their findings.

If you have any questions, require further information or documentation, please feel free to contact me at (607) 547-8558, extension 110.

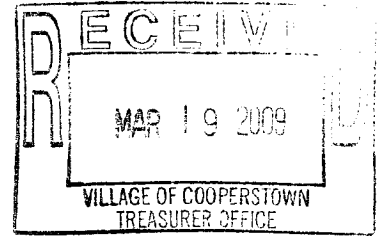
Thank you,

Mary Ann Henderson
Village Treasurer
Village of Cooperstown

Cc: Public Service Commission

120 Plaza Drive, Suite D, Vestal, NY 13850
P.O. Box 2086
Binghamton, NY 13902
Tel: (607) 844-0025 ext 57312
Fax: (607) 584-9524
David.Whalen@twcable.com

David Whalen
Vice President
Public and Governmental Affairs



March 17, 2009

Ms. MaryAnn Henderson, Treasurer
Village of Cooperstown
22 Main Street
Cooperstown, New York 13326

Re: Your letter of February 18, 2009

Dear Ms. Henderson,

I have reviewed the areas addressed within your letter.

Section 1 Defined Terms I am okay with all revenues, but will exclude late fees as the amount we charge does not even cover the expenses of the additional notices and calls that we are required to make.

Section 4 Shortening the franchise term length to 10 years would be acceptable.

Section 17 I will provide standard cable service to any Village owned building situated within 200 feet of our current line, and which requires a standard installation. Current free Road Runner services to the municipality will be maintained, but I am prohibited from adding any additional free Road Runner service.

Section 18 I am unable to waive our right to the Section 626 credit. Our system is set at 60 days for the payment of franchise fees and that is very reasonable considering the vast number that we pay each quarter.

Payment of Interest - No, I will consider some form of payment in this regard, but an actual fee as opposed to a calculation involving the prime rate plus a percentage.

The municipality would need to hold a public hearing, with appropriate legal notices, to discuss any potential changes to the document. The Public Service Commission does require this action.

I have discussed these concerns with Kathleen Hope at the PSC, and have copied her on this letter. Please feel free to contact me at any time should you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "David J. Whalen", written in a cursive style.

David J. Whalen
Vice President
Public & Governmental Affairs

DJW/e
xc: Kathleen Hope, NYSPSC



Village of Cooperstown

22 MAIN ST. P.O. BOX 346 COOPERSTOWN, NY 13326 (607) 547-2411 • FAX (607) 547-5487

April 21, 2009

RE: Your letter of March 17, 2009

David Whalen
Time Warner Cable
120 Plaza Drive, Suite D
Vestal, NY 13850-3681

Dear David Whalen,

The Board of Trustees reviewed your letter and are pleased that you are amenable with the amendment of Section 1 – Defined Terms, as it relates to Revenues, along with Section 4 – Franchise Term, the shortening of term length to 10 years instead of 15.

They are very appreciative of the free Road Runner service provided by Time Warner Cable and standard cable access, where necessary.

In regards to Section 18 - Franchise Fees, The Board of Trustees are under the impression that you waived this right to Section 626 credit for the Towns of Union & Chenango, along with the Village of Johnson City. Considering those items, the Board of Trustees feels that in this economic time, it is imperative that the Village receive its revenues in a timelier manner. Since a Payment of Interest has not been established between the Village and Time Warner Cable, the Board of Trustees is recommending that 30 days after the end of the quarter be a sufficient amount of time for payment. Time Warner Cable would submit to the Village, along with payment, a report showing reasonable details for the computation

In lieu of the suggested payment of interest, a penalty could be set at \$25.00 per day on any late payment or underpayment of franchise fees. The penalty would not be subject to a pass through to cable subscribers. The need for such a penalty is highlighted by the circumstances we currently find ourselves. As you know, a claim for past underpaid franchise fees was filed with your office on September 22, 2008. To date, Computel Consultants (our authorized representative), has not received a single communication from Time Warner regarding the matter. As a result, the Village believes it is necessary to include a penalty clause in order to give Time Warner the incentive to be responsive to similar matters in the future.

Once we have found an amicable agreement of Section 18, the Village will hold a public hearing, with appropriate legal notices, to discuss any potential changes to the contract.

I also have discussed these concerns with Kathleen Hope at the Public Service Commission and have copied her on this letter. If you require further information, please contact me at 607-547-8558, ext 110.

Sincerely,

Mary Ann Henderson
Treasurer/Tax Collector
Village of Cooperstown

cc: Kathleen Hope

Mary Ann Henderson

From: "Whalen, David" <david.whalen@twcable.com>
To: "Mary Ann Henderson" <cooperstowntreasurer@stny.rr.com>
Sent: Monday, August 24, 2009 10:29 AM
Subject: RE: Your letter of July 21, 2009
Mary Ann. This will work for me. Dave

From: Mary Ann Henderson [mailto:cooperstowntreasurer@stny.rr.com]
Sent: Tuesday, August 18, 2009 2:10 PM
To: Whalen, David
Subject: Re: Your letter of July 21, 2009

Dave,

Here's is the language I've come up with for the public hearing... Is this acceptable?

- SECTION 1 – DEFINED TERMS

- (i) "Gross Revenues" means all revenues received by Time Warner both directly and indirectly from the provision of cable television service within the Village of Cooperstown. This includes, but is not limited to, revenue from regular and recurring subscriber charges plus revenue from installations, pay-per-view, advertising and home shopping. Not included are revenue from late fees or from Road Runner high speed online or Digital Phone service.

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Thanks,
Mary Ann