

places of the City of Dubuque in accordance with the terms of a proposed ordinance. And, Whereas, the votes cast at such election were canvassed by the City Council of October 12th, 1954 at a special meeting of said City Council called into session for said purpose and the result found to be as follows:

Yes 4554. No 1057, Rejected 113. Total 5724.

And, Whereas, it appears from such canvass that a majority of all of the electors, voting at said special election voted in favor of the above proposition.

Now, Therefore, Be It Resolved by the City Council of the City of Dubuque:

That in compliance with the wishes of the people expressed at the special election held on October 11th, 1954, the above public measure has been approved and the same is hereby declared to be passed.

Passed, adopted and approved this 12th day of October, 1954.

LEO N. SCHUELLER

Mayor

CLARENCE P. WELU

RAY F. KOLB

CHARLES A. KINTZINGER

Councilmen

Attest: J. J. SHEA,

City Clerk

Councilman Welu moved the adoption of the resolution. Seconded by Councilman Kolb. Carried by the following vote:

Yeas — Mayor Schueller, Councilmen Kintzinger, Kolb, Welu.

Nays—None.

Absent—Councilman Austin.

ORDINANCE NO. 58-54

Community Television Franchise

An Ordinance granting to Dubuque-Jerrold Television Cable Corporation, an Iowa Corporation, its successors and assigns, the right to erect, maintain and operate transmission and distribution facilities and additions thereto, in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges, and other public places in the City of Dubuque, and subsequent additions thereto, for the purpose of transmission by cable and distri-

bution of television impulses and television energy for sale to the inhabitants of said City, and other purposes, for a period of ten years, and regulating the same; and providing terms and conditions of said Franchise, presented and read. Mayor Schueller moved that the reading just had be considered the first reading of the ordinance. Seconded by Councilman Kintzinger. Carried by the following vote:

Yeas — Mayor Schueller, Councilmen Kintzinger, Kolb, Welu.

Nays—None.

Absent—Councilman Austin.

Mayor Schueller moved that the rules be suspended requiring an ordinance to be read on three separate days. Seconded by Councilman Kintzinger. Carried by the following vote:

Yeas — Mayor Schueller, Councilmen Kintzinger, Kolb, Welu.

Nays—None.

Absent—Councilman Austin.

ORDINANCE NO. 58-54 COMMUNITY TELEVISION FRANCHISE

An Ordinance granting to Dubuque-Jerrold Television Cable Corporation, an Iowa corporation, its successors and assigns, the right to erect, maintain and operate transmission and distribution facilities and additions thereto, in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges, highways, and other public places in the City of Dubuque, and subsequent additions thereto, for the purpose of transmission by cable and distribution of television impulses and television energy for sale to the inhabitants of said City, and other purposes, for a period of 10 years, and regulating the same; and providing terms and conditions of said Franchise.

Be It Ordained By The City Council Of The City Of Dubuque, Iowa:

Section 1. In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the right is hereby granted to Dubuque-Jerrold Television Cable Corporation, a corporation organized under the laws of the State of Iowa, its successors and assigns, hereinafter referred to as the "Company" the right to erect, maintain, and operate television transmission and distribution facilities and additions thereto in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges, and other public places in the City of Dubuque, and subsequent additions thereto, for the purpose of transmission and distribution of television impulses and television energy in accordance with the laws and regulations of the United States of America and the State of Iowa, and the Ordinances and regulations of the City of Dubuque, for a period of ten (10) years, following the fulfillment of Section 23 hereof:

Section 2. Whenever used in this Ordinance the word "television" shall mean a system for simultaneous

transmission of audio signals and transient visual images by means of electrical impulses.

Section 3. The poles used for the company's distribution system shall be those erected and maintained by the Northwestern Bell Telephone Company, or the Interstate Power Company, when and where practicable, providing mutually satisfactory rental agreements can be entered into with said Company.

Section 4. The Company's transmission and distribution system, poles, wires and appurtenances, shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any improvements the City may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges or other public property.

The City Council, under reasonable regulations, reserves the right to require the Company to place its conductors underground and to designate the districts in which such work shall be performed, and also to order the removal or relocation of poles, wires and other appurtenances erected by the Company whenever, in the judgment of the City Council, such action is necessary in the public interest, and the Company shall forthwith comply with any and all instructions and directives in such matters at its own expense.

Construction and maintenance of the transmission distribution system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable ordinances and regulations of the City of Dubuque affecting electrical installations which may be presently in effect or may be enacted by the City Council of the City of Dubuque.

Installation and house drop hardware shall be uniform throughout the City except that the Company shall be free to change its hardware and installation procedure as the art progresses, provided such changes have been approved by the City Election Commission.

Section 5. In the maintenance and operation of its television transmission and distribution system in the streets, alleys and other public places, and in the course of any new construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places, made by the Company in the course of its operations, shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by red warning lights.

Whenever the Company shall take up or disturb any pavement, sidewalk, or other improvement of any street, avenue, alley, or other public place, the same shall be replaced and the surface restored in as good condition as before entry within forty-eight (48) hours after completion of the Company's work. Upon the failure of the Company to make such restoration within such time, or upon the Company's delay of more than twenty-four (24) hours in the continuation of a restoration begun, the City may serve upon the Company notice of the City's intent to cause the restoration to be made and, unless

the Company within twenty-four (24) hours after receipt of such notice begins or resumes the restoration, the City may cause the proper restoration to be made, including the removal of excess dirt, and the expense of same shall be paid by the Company upon demand by the City.

The Company shall at all times comply with any and all rules and regulations which the City has made or may make applying to the public generally with reference to the removal or replacement of pavements and to excavations in streets and other public places, not inconsistent with their use for the purposes contemplated in this Ordinance.

Section 6. The Company shall maintain its attachments on poles that the City now uses, or has been authorized by other franchises now in force or hereafter enacted to use, in such manner that it will not interfere with the use of such poles by the City.

Section 7. In consideration of the rights granted in Section 1 hereof, the Company agrees and binds itself to extend its lines and to serve any and all applications for television service whose dwellings or places of business are located in the City of Dubuque and who in good faith have entered into or signified their willingness to enter into a contract for such television service, except that the Company shall not be required to extend its line in order to serve any applicant if it requires the installation of additional poles in order to do so.

Section 8. The Company shall have the right to prescribe reasonable service rules and regulations for the conduct of its business not inconsistent with the provisions of this Ordinance and a copy of such service rules and regulations shall be kept on file at all times with the City Clerk.

Section 9. All rates, and charges exacted by the Company shall be fair, reasonable and just.

Section 10. The Company shall provide a minimum of five (5) channels available to its customers at any one time, provided satisfactory reception of a minimum of five channels is available in the area.

Section 11. The company shall maintain its service in accordance with such reasonable standards regarding uniformity of transmission, input-ports, noise levels, and channel signal voltages as the City Council shall, from time to time establish. For the purpose of implementing the terms of this Section the Company shall provide, without charge, adequate test equipment to perform periodic tests to determine whether such standards are being complied with and shall cooperate with the City, or its official representatives in conducting such tests. The company further agrees to pay such reasonable fees for such tests and for installation inspections as the City Council may from time to time establish.

Section 12. The Company's distribution system shall conform to the requirements of the Federal Communications Commission, particularly with respect to freedom from spurious radiation.

Section 13. The antenna and receiving equipment shall be installed and maintained so as to give a reasonably noise free picture on each channel.

Section 14. The installation and maintenance of equipment shall be such that no objectionable inter-modulation distortion will occur.

Section 15. Installation and main-

tenance of equipment shall be such that standard NTSC color signals shall be transmitted to any subscriber receiver without objectionable picture degradation.

Section 16. The distribution system of the Company to be hereafter installed shall not be abandoned, either in whole or in part, without the consent of the City Council. In the event of the failure of the Company to render community television service to the City of Dubuque and the inhabitants thereof, as contemplated and provided for by this Ordinance, and particularly by Section 7 hereof, within a period of one year from the effective date of this Ordinance, the City Council shall have the right, on reasonable notice to the Company, to declare this Ordinance and the rights and franchise granted thereunder forfeited, provided, however, failure to comply with the terms of Section 7 hereof by reason of causes beyond the reasonable control of the company, which could not be anticipated at the time of the acceptance of its terms by the Company, shall not be sufficient grounds to declare a forfeiture.

Section 17. The Company shall indemnify and hold the City harmless, at all times during the term of this grant, from and against all claims for injury or damages to persons or property both real and personal caused by the construction, erection, operation or maintenance of any structure, equipment, appliance, or products authorized or used pursuant to authority of this Ordinance.

The Company shall carry insurance in such form and in such companies as shall be approved by the City Manager of the City of Dubuque to protect the City and itself from and against any and all claims for injury or damages to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any structure, equipment, appliance or products authorized or used pursuant to authority of this Ordinance and the amount of such insurance against liability due to damage to property shall be not less than One Hundred Thousand Dollars (\$100,000), as to any one person, and Two Hundred Thousand Dollars (\$200,000), as to any one accident, and against liability due to injury or death of persons One Hundred Thousand Dollars (\$100,000) as to any one person and Three Hundred Thousand (\$300,000) as to any one accident.

The Company, upon receipt of due notice in writing from the City, shall defend at its own expense any action or proceedings against the City of Dubuque in which it is claimed that the injury arose from the Company's activities in the operation of its television system.

Section 18. The Company shall grant to the City, free from expense, joint use of any and all poles owned by it for any proper municipal purpose acceptable to the Company insofar as may be done without interfering with the free use and enjoyment of the Company's own wires and fixtures, and the City shall hold the Company harmless from any and all actions, causes of action or damages caused by, accruing directly or indirectly by, or through the placing of the City's wires or appurtenances upon the poles of the Company. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of construction.

Section 19. Upon termination or forfeiture of this Franchise, in accordance with any of its terms, the Company shall, within a reasonable time, remove its cables, wires and appliances from the City streets, lanes, avenues, sidewalks, alleys, bridges, highways and other public places within the City and subsequent additions thereto.

In the event of the failure of the Company to perform the obligation of the first sentence of this Section, the City shall have the right to make a written demand on the Company for such performance and in the event of the failure of the Company to proceed to carry out the removal of such equipment within thirty (30) days from the date of such demand and to proceed with such removal expeditiously, the City shall have the right to remove the same and retain it as the City's property, without accounting therefor to the Company, and the expense of such removal shall be charged to and paid by the Company, without credit for the value, if any, of the equipment removed by the City. At the time this Franchise becomes effective the Company shall furnish a bond to the City in the amount of fifty thousand dollars (\$50,000) in such form and with such sureties as shall be acceptable to the City, guaranteeing the payment of all sums which may, at any time, become due from the Company to the City under the terms of this Franchise (except such sums as are covered by the insurance provided in Section 17 hereof) and also the repayment to the customers of the Company of the unearned value of any deposits or connection charges exacted by the Company.

Section 20. The Company, its stockholders, officers or relatives of said stockholders and/or officers, dealers, its affiliates, or the Jerrold Electronics Corporation of Philadelphia, Pennsylvania, its stockholders, officers or relatives of said stockholders and/or officers, dealers, or its affiliates, shall not engage in the sale or servicing of television sets or parts thereof within the City during the term of this Franchise.

Section 21. If the Company shall fail to comply with any of the provisions of this Franchise, or default in any of its obligations, except for causes beyond the reasonable control of the Company, as provided in Section 16 hereof, and shall fail, within thirty (30) days after written notice from the City to correct such default or noncompliance, the City Council shall have the right to terminate this Franchise and all rights of the Company hereunder.

Section 22. Should any Section, clause or provision of this Ordinance be declared invalid by a Court of record same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared invalid.

Section 23. This Ordinance having been approved by the voters of the City of Dubuque at an election held October 11th, 1954, shall take effect and be in force from and after its passage by the City Council, the acceptance of its terms by the Company, or its assigns, in writing, and its publication in the Telegraph-Herald, the official newspaper of the City of Dubuque.

Passed, adopted and approved this 12th day of October, A.D., 1954,
LEO N. SCHUELLER, Mayor
CLARENCE R. WELU
RAY P. KOLB
CHARLES A. KINTZINGER
Councilmen

Attest:

J. J. SHEA
City Clerk
Published, officially in The Telegraph-Herald newspaper this 22nd day of November, 1954.
J. J. SHEA City Clerk

It. 11-22

Mayor Schueller moved the adoption of the ordinance. Seconded by Councilman Kintzinger. Carried by the following vote:

Yeas — Mayor Schueller, Councilmen Kintzinger, Kolb, Welu.

Nays—None.

Absent—Councilman Austin.

Councilman Welu moved that the Judges and Clerks who served at the Community Television Cable Franchise Special Election held October 11th, 1954 be paid the amount of \$10.00 each for services rendered as such Judges and Clerks. Seconded by Councilman Kolb. Carried by the following vote:

Yeas — Mayor Schueller, Councilmen Kintzinger, Kolb, Welu.

Nays—None.

Absent—Councilman Austin.

Mayor Schueller speaking for the Council extended the well wishes of the Council to the Dubuque-Jerrold Corporation for a successful operation in the City of Dubuque. Mr. William H. Miller, Secretary-Treasurer of Dubuque-Jerrold Corporation replied that it had been a hard political fight but that political aspects are behind us now and they are in the City of Dubuque to do business and propose to construct the best TV cable system in the country and give Dubuque the best possible service.

Notice of Claim of Joe Fortman in an unstated amount for damages to his car and personal injuries received in striking a ditch in the street at the intersection of Asbury and Woodlawn Streets, presented and read. Councilman Welu moved that the Notice of Claim be referred to the City Solicitor for investigation and report. Seconded by Councilman Kolb. Carried by the following vote:

Yeas — Mayor Schueller, Councilmen Kintzinger, Kolb, Welu.

Nays—None.

Absent—Councilman Austin.

Communication of M Sugar Bell Television Inc. advising that if it is the wish of the City of Dubuque that they would submit a proposal using either RCA or Blonder Tongue Equipment for television reception, presented and read. Councilman Welu moved that the communication be received and filed. Seconded by Councilman Kintzinger. Carried by the following vote:

Yeas — Mayor Schueller, Councilmen Kintzinger, Kolb, Welu.

Nays—None.

Absent—Councilman Austin.

October 5, 1954

L. J. Schiltz, City Manager

City of Dubuque

City Hall

Dubuque, Iowa

Re: Schueller and Company, Dubuque, Iowa, to City of Dubuque.

Bond No. 12-540-724, \$10,635.15, Pennsylvania Avenue

Bond No. 12-540-725, \$63,289.28, Various Streets

Bond No. 12-540-726, \$15,525.09 Kane Street

American Surety Company of New York.

Dear Sir:

Please be advised as authorized licensed agent for the American Surety Company we are happy to comply with the request of our Principal on the above captioned bonds to extend relief of any of the obligations of these bonds so filed, for surety period of forty-five days.

Yours very truly,
M. P. Hogan,

Councilman Kolb moved that the communication be received and filed. Seconded by Councilman Welu. Carried by the following vote:

Yeas — Mayor Schueller, Councilmen Kintzinger, Kolb, Welu.

Nays—None.

Absent—Councilman Austin.

October 6, 1954

Re: Certified Cost of Sanitary Sewer in Shiras Street—Ordinance No. 66-53.

To the Honorable Mayor

and City Council

Dubuque, Iowa

Gentlemen:

Pursuant to the provisions of Ordinance No. 66-53 I hereby cer-