COUNCIL WORKSHOP ITEM

ITEM: AT&T Broadband and Comcast Transfer
DATE: June 14, 2002
PREPARED BY: Douglas Kozlowski, Public Information Officer
PURPOSE: Review of Transfer Of Control From AT&T Broadband To AT&T Comcast Corporation

DISCUSSION:

In March 2002, AT&T Broadband filed FCC Form 394 with the Village requesting consent to change control of the parent corporation of the franchisee which provides broadband services in Downer Grove. Section 14 of the Village CATV Franchise Ordinance 3961 stipulates that prior written consent from the Village is needed by the Company to assign or transfer the franchise. In Downers Grove the franchise is held by Media One Acquisitions of Northern Illinois Inc. (the "Franchisee").

As described in the preamble letter to the Form 394 filing, "…. following an internal restructuring, AT&T Corp. will spin off its cable system assets and simultaneously merge them with Comcast , forming a new company AT&T Comcast Corporation." Comcast Cable is the country's third largest provider of cable services and is publicly traded on the NASDAQ exchange. Primary control of Comcast is in the hands of the Roberts family and a group of associates through a holding company called Sural, LLC., a Pennsylvania Corporation. Presently Sural, LLC controls 86.6 percent of Comcast Stock.

This transaction will not change the holder of the franchise; the franchise will continue to be held by the same legal entity (Media One Acquisitions of Northern Illinois Inc.) after the merger is complete. The new indirect parent company of the Franchisee will be AT&T Comcast Corporation.

As provided for in Section 617 of the Cable Act, Local Franchising Authorities (LFAs) have 120 days in which to review the terms and conditions of a transfer based on the legal, financial, and technical wherewithal of the proposed new entity. Because no single LFA has the staff expertise and resources to conduct such a review independently, the Metropolitan Mayors Caucus organized the Due Diligence Project. Retained by the Caucus to direct a study of the transaction was Dr. Barry Orton and Mr. Stuart Chapman (the "Consultants") both are highly regarded experts in the field of municipal telecommunications regulations. The deadline for considering this request is Friday, July 5, 2002.

Since beginning the due diligence study in March 2002, the Consultants have reviewed the FCC Form 394 along with multiple Securities and Exchange Commission documents regarding the transfer. Over the course of the past three months the Consultants have requested additional information pertaining to the FCC 394 filing. On May 20, 2002 they filed their report with participating members in the Due Diligence Project and on June 6, 2002 local officials met to discuss the findings.

ATTACHMENT:
Attached for your review please find a copy of the Executive Summary of the AT&T – Comcast Due Diligence Project: Final Report. A copy of the complete 16-page report is available for your review.

Also attached are copies of the Change of Control Agreement and the Resolution Consenting To The Change Of Control Of The Cable Television Franchisee From AT&T Corporation To AT&T Comcast Corporation.

RECOMMENDATION:

Based on their review of the FCC Form 394 and the subsequent responses by the Company to their requests for additional information the Consultants recommend consent by the LFAs of the transfer of control from AT&T Broadband to AT&T Comcast Corporation.

The execution of this transaction will have no immediate impact on subscribers in Downers Grove. Comcast enjoys an excellent reputation throughout the industry for the efficiency of its management structure. It is widely anticipated that the Comcast style will be a marked improvement to the often problematic customer service of AT&T Broadband.

Without questions stockholders will bear the brunt of the risk associated with the transaction that will create the largest cable television provider with approximately 22 million subscribers, projected revenue of $18 billion per year and the assumption of $30 billion in debt ($20 billion from AT&T and $10 billion from Comcast). The merger of these giants is designed to create a national broadband service company that will provide cable, high-speed data, and digital telephony.

At this time there are no outstanding franchise violations or issues upon which the Village can deny the transfer of control. Although there are many on-going issues with respect to unburied cables and the ever increasing cable rates, according to the rules governing transfers within the Cable Act such issues cannot be used solely as the basis to block such a transaction.

In light of the Consultants findings and in anticipation of the Company's agreement to the safeguards outlined in the Change of Control Agreement staff recommends that the Village Council consent to the change of control of the Cable Television Franchisee from AT&T Corporation to AT&T Comcast Corporation.

Please contact me, if I may provide any additional information or clarification.

TRANSFER OF CONTROL FROM AT&T BROADBAND TO AT&T COMCAST CORPORATION

MAY 20, 2002

Dr. Barry Orton
Stuart Chapman, Municipal Services Associates, Inc.

EXECUTIVE SUMMARY

INTRODUCTION

In March 2002, the Metropolitan Mayors Caucus, a regional organization of elected officials, retained Dr. Barry Orton and Mr. Stuart Chapman (hereafter "Consultants") to direct a due diligence study of the legal, technical, and financial qualifications of AT&T Comcast Corporation, a new company to be formed out of Comcast's acquisition of the AT&T Corporation cable spin-off, AT&T Broadband. The purpose of the AT&T Comcast Due Diligence Project is to provide a common base of information for the participating Local Franchise Authorities ("LFAs") to utilize in making an informed decision on approval of the change of control of the parent company of the entity holding each municipality's cable television franchise.

Section 617 of the Cable Act (47 U.S.C. §537) provides a timetable and procedure by which franchising authorities have 120 days to consider the transfer of ownership or control of a cable system from an incumbent cable operator to an acquiring operator. The AT&T Comcast Due Diligence Project has been able to obtain sufficient information regarding the legal, financial, and technical qualifications of the proposed corporation within this time frame. In addition, the Due Diligence Project is providing participating LFAs with template Transfer Resolutions, Transfer Agreements, and Ordinances.

LEGAL, FINANCIAL AND TECHNICAL QUALIFICATIONS

On December 19, 2001, AT&T announced the acceptance of a bid offer worth $72 billion from Comcast for AT&T Broadband. A formal request for consent to transfer of control of AT&T Broadband to AT&T Comcast Corporation (FCC Form 394) was distributed to Chicago-area LFAs in early March 2002.

The Consultants reviewed the FCC Form 394 and multiple related Federal Securities and Exchange Commission Form 10-K, S-4, S-4A, and 425 filings. Consultants sent AT&T Broadband two successive Requests For Information (RFI) seeking a focused range of information pertaining to financial, legal, and technical issues arising from the FCC 394 filing, and reviewed two sets of detailed responses. These documents are provided in the Appendix. Dr. Barry Orton also reviewed confidential exhibit and schedule documents related to the merger.

Consultants also had consulting engineer David Devereaux-Weber, PE review the state of the Chicago-area cable system architecture. Adam Simon and Stewart Diamond of Ancel, Glink, Diamond, Bush, DiCianni, and Rolek, Chicago, provided legal review of the Form 394, RFIs, and RFI responses and drafting assistance with the Resolution, Ordinance and Agreement documents. This range of information, has, in total, provided a sufficient level of information needed in order to advise the participating LFAs regarding the legal, financial, and technical qualifications of AT&T Comcast Corporation.

Overall, AT&T Broadband and Comcast Corporation have adequately demonstrated that AT&T Comcast Corporation will satisfy legal, financial, and technical qualifications required by the municipalities and counties participating in the AT&T-Comcast Regional Due Diligence Project. The participants should be confident that the creation of AT&T Comcast Corporation will have the resources and the commitment to correct system deficiencies and improve service. Therefore, it is recommended that the LFAs approve the transfer of control from AT&T Broadband to AT&T Comcast Corporation. We recommend that LFAs now served by AT&T Broadband approve the transfer of control, subject to the conditions contained within the Resolutions, and Transfer Agreements that follow.

RESOLUTION NO. __________

A RESOLUTION CONSENTING TO THE CHANGE OF
CONTROL OF THE CABLE TELEVISION FRANCHISEE
FROM AT&T CORPORATION TO AT&T COMCAST CORPORATION

WHEREAS, Media One Acquisitions of Northern Illinois Inc, (the Franchisee") is the holder of a franchise (the "Franchise") to provide cable television service in the Village of Downers Grove (the "Municipality") pursuant to a franchise agreement between the Franchisee and the Municipality, dated August 1997 (together with any amendments, the "Franchise Agreement") and the Municipality's Ordinance No. 3961 (the "Cable Ordinance"). The Franchise Agreement and the Cable Ordinance are collectively referred to as the "Franchise Documents"; and

WHEREAS, the AT&T Corp. ("AT&T) and Comcast Corporation ("Comcast") jointly submitted to the Municipality their application on Federal Communications Commission ("FCC") Form 394, dated February 25, 2002 (the "Application"), requesting that the Municipality approve the Change of Control of the Franchisee from AT&T to AT&T Comcast Corporation ("AT&T Comcast") as more fully described therein (the "Change of Control").

WHEREAS, pursuant to the information requests of the Municipality, the Franchisee supplemented the Application with additional documents and information; and

WHEREAS, the Franchisee has made various representations in the Application and supplemental information thereto; and

WHEREAS, the Municipality and the Franchisee have negotiated an agreement regarding certain conditions of this consent (the "Change of Control Agreement"), a copy of which is attached as Exhibit A and is incorporated by reference.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois as follows:

SECTION 1. In reliance upon the representations and information submitted in the Application and supplemental information thereto and subject to the conditions set forth in the Change of Control Agreement, hereby consents to the Change of Control of the Franchisee from AT&T to AT&T Comcast as described in the Application and supplemental information thereto.

SECTION 2. That the Municipality's consent is subject to the Franchisee executing and delivering to the Municipality a Change of Control Agreement in the form of the attached

Exhibit A by no later than 60 days from the date the Municipality sends a certified copy of this consent Resolution to the Franchisee.

SECTION 3. That by this consent, the Municipality does not agree to any renewal or extension of the Franchise. Any pending or future renewal or extension of the Franchise shall be subject to applicable federal, state and local laws, and the Franchise Documents.

SECTION 4. That the Mayor of Downers Grove is hereby authorized and directed to execute and deliver the Change of Control Agreement in substantially the form of the attached Exhibit A.

SECTION 5. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

SECTION 6. That this Resolution shall be in full force and effect from and after its passage as provided by law.

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Mayor

Passed:

Attest: ____________________________
Village Clerk

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CHANGE OF CONTROL AGREEMENT

Agreement among the Village of Downers Grove, Illinois (the “Municipality”) and Media One of Northern Illinois Acquisitions, Inc.(the “ Franchisee”).

A. The Franchisee is the holder of a franchise to provide cable service in the Municipality (the “Franchise”), subject to the provisions of a franchise agreement between the Municipality and the Franchisee dated August 4, 1997, (together with any amendments, the “Franchise Agreement”) and subject to Ordinance No. 3961 of the Municipality (the Cable Ordinance”). The Franchise Agreement and the Cable Ordinance are collectively referred to as the “Franchise Documents.”

B. AT&T Corp. and Comcast Corporation jointly submitted to the Municipality their application on Federal Communications Commission (“FCC”) Form 394, dated February 25, 2002, (the “Application”) requesting that the Municipality approve the change of control of the Franchisee from AT&T Corporation to AT&T Comcast Corporation (the “Change of Control”). The Franchisee desires that the Municipality grant that approval.

C. Pursuant to the request of the Municipality, the Franchisee has provided supplemental information in support of the Application, including representations that, as a result of the Transaction, the Change of Control is not expected to result in an increase in cable television subscriber rates in the Municipality or reduce the quality of customer service or cable service in the Municipality.

D. Pursuant to the proposed Change of Control, as described in the Application and the supplemental information thereto, the ultimate parent company of the Franchisee will change from AT&T Corp. to AT&T Comcast Corporation, but Franchisee will remain the holder of the Franchise upon consummation of the Change of Control.

E. The Municipality has enacted or will enact a Resolution granting its approval of the Change of Control subject to the condition that the parties enter into this Change of Control Agreement.

F. The Municipality has determined that, in light of the facts available to it, it would not be appropriate to approve the Change of Control absent certain agreements by the Franchisee, including certain promises to ensure compliance with the provisions of the Franchise Documents.

NOW THEREFORE, the Municipality and the Franchisee agree as follows:

ARTICLE I. INCORPORATION OF RECITALS.

1.1 Part of Agreement. The above Recitals are incorporated into and constitute a part of this Change of Control Agreement.

ARTICLE II. AFFIRMATION OF FRANCHISE OBLIGATIONS.

2.1 Affirmation. The Franchisee acknowledges and agrees that: (a) after the Change of Control, the Franchisee will continue to be bound by all of its commitments, duties and obligations under the Franchise Documents; and (b) neither the Change of Control nor the Municipality's approval of the Change of Control shall in any respect relieve the Franchisee of any responsibility it may have for past acts or omissions, whether known or unknown, relating to the Franchise. The Franchisee hereby reaffirms that it will be liable for, and accept the consequences of, any responsibility it may have for such acts and omissions, including for any accrued but unfulfilled obligation to the Municipality under the Franchise Documents and applicable law, to the same extent as if the Change of Control had not taken place.

ARTICLE III. ADDITIONAL AGREEMENTS OF THE PARTIES.

3.1 Municipalities Reliance on Representations. The Franchisee acknowledges the Municipalities' representation that its consent to the Change of Control is made in reliance on the information provided by the Franchisee, AT&T Corp. and Comcast Corporation in connection with the Application and supplemental information thereto.

3.2 Compliance With Franchise. The Franchisee agrees that it will continue to be bound by the lawful obligations of this Change of Control Agreement and the Franchise Documents.

3.3 No Waiver. The Franchisee agrees that by its consent to the Change of Control and execution of this Change of Control Agreement, the Municipality is not waiving any of its rights or prospective rights with respect to the enforcement or obtaining redress with respect to Franchisee's compliance with the terms, conditions, requirements and obligations set forth in the Franchise Documents, including without limitation:

(a) Renewal of Franchise. The Franchisee acknowledges and agrees that the Municipality has made no agreement hereby that the Franchise will be renewed or extended; any renewal or extension of the Franchise shall be pursuant to applicable federal, state and local laws, and the Franchise Documents.

(b) Qualifications. The Municipality's consent to the Change of Control is made without prejudice to, or waiver of, any right of the Municipality to fully investigate and consider Franchisee's financial, technical and legal qualifications and any other lawful considerations during any pending or future franchise renewal or transfer process.

(c) Future Transfers/Assignments. The Franchisee acknowledges and agrees that, by its consent to this Change of Control, the Municipality does not approve of or consent to: (1) any other transfer or change of control of the Franchisee, (2) any pending or future transfer of the Franchise, or (3) any pending or future assignment or delegation of any of the Franchisee's rights or duties under the Franchise, to the extent that any such transfer, assignment or change of control would be subject to the consent of the Municipality pursuant to applicable federal, state, or local law, including the Franchise Documents.

(d) Past Defaults. The Franchisee shall not contend that the Municipality is barred, by reason of its consent to the Change of Control, from considering or raising any claim based on the Franchisee's past or present failure to comply with any term or condition of the Franchise Documents or any other agreements between the Franchisee and the Municipality or any of its departments or applicable law, including, without limitation: any unpaid franchise fees due the Municipality from the Franchisee, any unpaid support for public, educational, or governmental access channels, any known and unresolved consumer complaints, any construction, security or facility requirements of the Franchise Documents that are unsatisfied, and any unpaid pole rental fees or charges due Municipality or any of its departments.

(e) Franchisee's Compliance. The Municipality's consent to the Change of Control shall in no way be deemed a representation by the Municipality that the Franchisee is in compliance or not in compliance with its obligations under the Franchise Documents or any other agreements between the Franchisee and the Municipality or any departments thereof. The Municipality makes no representation concerning the Franchisee's status of compliance.

(f) Defenses. Except as otherwise provided for herein, this section is without prejudice to AT&T Comcast's and Franchisee's rights to defend any claim of default or non-compliance with the Franchise Documents on the basis that such default or non-compliance has been cured or from raising any other defense.

ARTICLE IV. MISCELLANEOUS.

4.1 Binding Agreement. This Change of Control Agreement shall be binding upon and inure to the benefit of the parties and their anticipated and permitted successors and assigns.

4.2 Assignment. The rights and obligations of any party under this Change of Control Agreement may not be assigned or delegated without the prior written approval of the other party, except as otherwise specifically provided for herein.

4.3 Waiver. No waiver of any provision of this Change of Control Agreement shall be deemed to be a waiver of any other provision of this Change of Control Agreement nor shall any waiver be deemed to be a continuing waiver except as otherwise expressly stated in writing by the waiving party.

4.4 Severability. If any provision of this Change of Control Agreement or any application thereof shall be held to be unenforceable, the Change of Control Agreement shall be construed to excise the unenforceable provision and remain enforceable for all other applications thereof, and the rights and obligations of the parties shall be construed and enforced accordingly.

4.5 Governing Law. This Change of Control Agreement shall be governed by the internal laws (without reference to conflict of laws) of the State of Illinois.

4.6 Drafting. This Change of Control Agreement is a product of common negotiation among the parties and shall not be construed against any party on grounds relating to drafting, revision, review or recommendation by any agent or representative of such party.

4.7 Time of the Essence. Time is of the essence to this Change of Control Agreement.

4.8 Authority. Each signatory to this Change of Control Agreement represents that he or she has the authority to enter into this Change of Control Agreement.

4.9 Effective Date. This Change of Control Agreement may be executed in multiple counterparts and shall be deemed effective as of the closing of the Change of Control transaction. Each counterpart shall be deemed an original, but all separate counterparts shall constitute the same agreement.

Date:__________________ VILLAGE OF DOWNERS GROVE

By:______________________, Its ______________
(Name) (Title)

Date:__________________

[FRANCHISEE]

By:______________________, Its ______________
(Name) (Title)