

Bill Blazek wants to have another Hillbilly Auction sometime in the future. All felt that when there is another sale that more local publicity was needed.

Motion by Denny Sickles to approve payment to McClure Engineering for expenses on the Fire Station Project in the amount of 782.76. Seconded by Kenneth Perry. Carried

Motion by Denny Sickles to adjourn. Seconded by Gene Jacobsen. Carried.

Ralph D. Means, Mayor

Attest: Evelyn M. Rohner, Clerk

Ralph D. Means

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Fontanelle, Iowa
March 12, 1983

The City Council met in Special Session at the City Hall at 7:30 p.m. with Mayor Ralph D. Means presiding. Council Members present were: Harold Veatch, Robert Edwards, Gene Jacobsen, and Denny Sickles. Absent: Kenneth Perry.

Motion by Denny Sickles to approve the agenda as posted. Seconded by Gene Jacobsen. Carried.

Council Member Denny Sickles introduced an Ordinance #117 for its final adoption and moved for its final passage. Council Member Gene Jacobsen seconded the motion to finally adopt the Ordinance.

Roll was called and the following voted: AYE: Harold Veatch, Kenneth Perry, Robert Edwards, Denny Sickles and Gene Jacobsen. NAYS: None

Whereupon the Mayor declared the Ordinance duly adopted as:

ORDINANCE No. 117

AN ORDINANCE AMENDING THE FONTANELLE MUNICIPAL CODE BY ADDING A CHAPTER REGULATING FRANCHISES FOR CABLE TELEVISION SERVICE IN THE CITY OF FONTANELLE, IOWA, INCLUDING THE PLACING OF POLES, WIRES, AND OTHER FIXTURES TO SUPPLY CABLE SERVICES TO THE INHABITANTS THEREOF; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF A FRANCHISE; PROVIDING FOR THE REGULATION AND USE OF THE FRANCHISE AND SYSTEM; PRESCRIBING PENALTIES FOR THE VIOLATION OF THE FRANCHISE PROVISIONS; AND, REPEALING ORDINANCES OR PORTIONS THEREOF INCONSISTANT WITH THIS ORDINANCE.

BE IT ORDAINED by the City Council of the City of Fontanelle, Iowa:

Section I

The City of Fontanelle, Iowa Municipal Code is amended by the addition of a new chapter entitled "CABLE TELEVISION" for the purpose of regulating cable television franchises that may be granted to companies or individuals (hereinafter referred to as The Grantee) by the City, in which the Grantee may be permitted to erect buildings in the City and to construct, maintain and operate in the present and future streets, alleys, and public places in the City of Fontanelle, Iowa, towers, poles, lines, cables, necessary wiring and other apparatus for the purpose of receiving, amplifying and distribution of television and radio signals to said City and the inhabitants thereof.

Section II

The Grantee shall install the cables underground with the least possible damage to streets, alleys and sidewalks. The location of all pedestals, poles, towers, or other structures, and the placement of cable shall be fixed with the approval of the City of Fontanelle, Iowa as to such location giving consideration to the reasonable operation of the same; providing further, that such location shall not be a vested interest, and the same shall be removed by the Grantee whenever the same restrict or obstruct the operation or location of streets, alleys and public places.

SECTION III

The Grantee shall not make use of any towers, pole or poles anywhere within the City of Fontanelle, Iowa, which may be owned by the City of Fontanelle, Iowa, which may be owned by the City of Fontanelle, Iowa or by another with whom the City of Fontanelle, Iowa may now or hereafter have a joint-use contract, which is by reference made a part hereof, without compensation by prior agreement with owner or owners of said towers or poles, in the event of the joint use of existing poles. The Grantee shall pay to the City of Fontanelle, Iowa for the privilege of affixing its cables, amplifiers, conduits and other facilities to such poles said sum as shall be mutually determined to be appropriate at the time of said construction, provided that there shall be not charge to the Grantee for the use of said facilities, as such use be made, for the first year from the date of construction.

SECTION IV

The cable television system herein authorized shall be installed and maintained in accordance with accepted standards of the industry, to the effect that subscribers shall receive the highest accepted service, and so as not to interfere with radio and television reception of persons who are not subscribers of the Grantee, and so as not to interfere with the use and quiet enjoyment of public and private property.

SECTION V

The City Council of the City of Fontanelle, Iowa shall have written approval rights over all construction plans prior to the commencement of construction.

SECTION VI

The Grantee may enter into an agreement with any persons or corporation, including telephone company and other utility companies now authorized to install and maintain underground wires or cables, for the purpose of sharing those facilities, subject to all existing and future resolutions and regulations of the City of Fontanelle, Iowa and other provisions of this Ordinance.

SECTION VII

All streets, sidewalks, and other surfaces, towers, poles, and other property, of whatever kind or nature, disturbed or damaged in the construction or maintenance of said cable lines and other apparatus shall be promptly repaired by the Grantee at its expense and to the satisfaction of the City of Fontanelle, Iowa.

SECTION VIII

The Grantee shall be subject to all Ordinances in force or that may be hereinafter enacted relative to the use of the streets and alleys of the City of Fontanelle, Iowa

SECTION IX

The Grantee shall hold the City of Fontanelle, Iowa harmless from any and all claims for damages arising out of the construction, maintenance or operation of said cable lines or other apparatus.

SECTION X

The grantee shall, concurrently with its acceptance of this franchise, file with the City Clerk and at all times thereafter maintain in full force and effect for the term of the franchise or any renewal thereof, at Grantee's sole expense, a corporate surety bond in a responsible company licensed to do business in Iowa, in the amount of \$10,000.00 renewable annually, and conditioned upon the faithful performance of Grantee and compliance by Grantee with all provisions of this Ordinance and upon further condition that in the event Grantee shall fail to comply with any of or more of the provisions of this Ordinance, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the City as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, said condition to be a continuing obligation for the duration of the franchise and any renewal thereof and thereafter until the Grantee has liquidated all of its obligations with the City that may have arisen from the acceptance of the franchise or renewal by the Grantee or from its exercise of any privilege or right granted. The bond shall provide that at least 30 days prior written notice of intention not to renew, cancellation, or materials change, be given to the City by filing the same with the City Clerk. Notwithstanding the above provisions of this Section, the City Council may in its sole discretion waive said bond or reduce the required amount thereof after three years of operation of CATV under a franchise, by the Grantee, which the City Council shall find to have been satisfactory.

SECTION XI

The Grantee shall, at all times during the term of the franchise, carry and require its contractors to carry:

Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment, or appliance. The amount of such insurance shall be not less than \$100,000 as to any one person \$300,000 as to any one occurrence for injury or death to persons, and \$100,000 for damages to property, with so-called umbrella coverage of at least \$1,000,000.

Workmen's Compensation Insurance as provided by the laws of the State of Iowa as amended.

Automobile Insurance with limits of not less than \$100,000/300,000 103
of public liability coverage and automobile property damage insurance
with a limit of not less than \$100,000 covering all automotive equipment,
with so-called umbrella coverage of at least \$1,000,000.

All of said insurance coverage shall provide a ten (10) day notice
to the City in the event of material alteration or cancellation of any
coverage afforded in said policies prior to the date said material
alteration or cancellation shall become effective.

Copies of all insurance policies required hereunder shall be
furnished to and filed with the City prior to the commencement of operations
or the expiration of prior policies, as the case may be.

The Grantee shall pay all reasonable expenses incurred by the City in
defending itself with regard to all damages, penalties or other claims
resulting from the acts of the Grantee, its assigns, employees, agents,
invitees, or other persons. Said expenses shall include all out-of-pocket
expenses such as attorney's fees, and shall include the value of any
service rendered by the City Attorney or any other officers or employees
of the City.

SECTION XII

The Grantee shall provide a map of the location of underground cable
to the City Clerk. In the event that a change by the City of Fontanelle
of streets, alleys, or sidewalks requires moving the underground cable,
the expense of such work shall be paid for, or performed by the Grantee.

SECTION XIII

The Grantee shall temporarily raise or lower its wires to permit the
moving of buildings. The grantee shall be given not less than 48 hours
notice to do the said work. Expenses of such temporary work shall be paid
to the said Grantee by the person, partnership, firm or corporation moving
the building.

SECTION XIV

Rates charged by the Grantee for service hereunder shall be fair
and reasonable and designed to meet all necessary costs of service,
including a fair rate of return upon properties devoted thereto under
efficient and economic management by the Grantee or its successors or assigns.
Grantee's initial rates are the following: (see schedule "A")

- (1) Monthly basic service for the first
receiver at any location, residential: \$10.00
- (2) Monthly service fee for each additional
outlet, single family dwelling: \$ -0-
- (3) Monthly service fee for optional
'Pay' or 'Movie' channel to first
television receiver, single family dwelling \$10.00

Grantee shall maintain this basic monthly charge for a minimum of
twelve months from the effective date of an ordinance granting a
franchise, excepting only increases or decreases brought about by
the inclusion of additional services to, or the exclusion of services
from the basic service as shown on Schedule "A".

For the purposes of this section, "basic monthly cable television
service" is the provision of television broadcast signals and access
and origination channels, if any, and does not include program
production services, per-channel or per-program charges to subscribers
("payCable"), rental of channels, sale of channel time, provision of
commercial services such as security systems, or any other services of
the systems, the rates and charges for which shall not require approval
of the City of Fontanelle, Iowa.

Grantee shall be authorized to charge a one-time installation fee
to users of the cable system, which fee shall include the first month's
basic service for each single family dwelling subscriber. The initial
fee shall be the sum of twenty-five (\$25.00) for one set, plus seven
dollars and 50/100 (\$7.50) per each additional set, to be adjusted as
necessitated by increases or decreases in the expense of installation.
This rate shall be applicable to single-family dwellings, others to be
negotiable between the Grantee and customer.

SECTION XV

In the event that the Grantee desires to change the basic monthly
subscriber rates and installation charges specified in Section XIV hereof,
the following procedure shall apply:

- a. The Grantee shall file with the City a written, verified application
for change of subscriber rates and charges which application shall state
the changes which the Grantee proposes to make in its subscriber rates
and charges, the reasons therefor and the proposed effective date thereof.

b. Upon the filing of said application, the City shall fix a date, time and place for hearing thereon and prescribe the notice to be given therefor.

c. Thereafter, the Grantee shall cause notice of said hearing to be given in the manner directed by the City.

d. At said hearing, the burden shall be upon the Grantee to establish by a preponderance of the evidence, that the proposed increase in subscriber rates and charges is in the public interest in order to allow the Grantee a fair rate of return on its investment.

e. At said hearing, the City may receive and hear such evidence for and against said application as it deems necessary and proper.

f. After said hearing, the City shall review the evidence presented at the hearing and, based thereon, it may grant, deny, or grant in part and deny in part, the proposed increase in subscriber rates and charges.

The Grantee shall pay all costs and expenses incurred by the City in connection with said application and hearing.

SECTION XVI

The Grantee shall complete the system and make it operational within one hundred eighty (180) days from the effective date of an ordinance granting a franchise.

SECTION XVII

Any franchise granted shall be a non-exclusive grant.

SECTION XVIII

Any franchise granted shall be for a period of fifteen (15) years. The franchise may be renewed by the Grantee, its successors and assigns, for an additional term of fifteen (15) years by written agreement between the Grantee and the City of Fontanelle, Iowa, and as further required by the laws of the State of Iowa.

SECTION XIX

The Grantee shall pay an annual franchise fee to the City of Fontanelle, Iowa, in the manner following, to wit:

A sum equal to three percent (3%) of the gross subscription Basic Cable Television service revenues (after programming and copyright fees and all taxes) attributable to the subscribers in the City of Fontanelle, Iowa.

The Grantee shall file with the City of Fontanelle, Iowa, within ninety (90) days after the expiration of any fiscal year during which this franchise is in force, a certified statement showing appropriate detail to the Basic Cable Television service revenues (after programming and copyright fees and all taxes) received from subscribers in the City of Fontanelle, Iowa during the preceding fiscal year. It shall be the duty of Grantee to pay to the City of Fontanelle, Iowa, within thirty (30) days after the time for filing such statements, the specified sum due for the fiscal year covered by such statement. A duly authorized representative of the issuing authority shall have the authority to examine the books and records of the Grantee relevant to service to the City of Fontanelle, Iowa, to verify the accuracy of the payments due hereunder, upon request.

SECTION XX

The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

SECTION XXI

The Grantee shall offer such additional and expanded services as it may deem practicable and feasible.

SECTION XXII

Should the Grantee at any time fail to comply with any terms and provisions of this resolution within a reasonable time after receiving written notice, sent by certified United States mail, return receipt requested, from the City of Fontanelle, Iowa, of a violation or default then said franchise may be terminated by the City of Fontanelle, Iowa upon thirty (30) days' notice thereof, sent by certified United States mail, return receipt requested, and the Grantee shall cease its operation and remove any and all above-ground level facilities, including wires, cables or poles installed by it or pursuant to this authorization.

SECTION XXIII

In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within sixty (60) days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

SECTION XXIV

If any section, provision or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION XXV

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

PASSED THE 22nd day of March, 1984, and APPROVED this 22nd day of March, 1984.

Ralph D Means

Ralph D. Means, Mayor

Evelyn M. Rohner

Attest: Evelyn M. Rohner,
City Clerk

SCHEDULE A

Off Air #1	WGN (Chicago)	Cable News Network
Off Air #2	WTBS (Atlanta)	Nashville
Off Air #3	ESPN (Sports)	Channel 17 (UHF Des Moines)
Off Air #4	USA	*Premium Service: HBO (Home Box Office)

Council Member Harold Veatch introduced an Ordinance for its final passage and moved for its adoption. entitled " ORDINANCE GRANTING C.R.O. SATELLITE SERVICES INC. TO OPERATE CABLE TV IN THE CITY OF FONTANELLE, IOWA" Council Member Kenneth Perry seconded the motion to adopt the Ordinance.

Roll was called and the following voted: AYES: Gene Jacobsen, Denny Sickles, Robert Edwards, Harold Veatch and Kenneth Perry. NAYS: None. Whereupon, the Mayor declared the Ordinance duly adopted as:

ORDINANCE NO. 118

AN ORDINANCE GRANTING TO C.R.O. SATELLITE SERVICES INC., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO USE AND OCCUPY THE STREETS, ALLEYS, AND OTHER PUBLIC PLACES OF THE CITY OF FONTANELLE, IOWA, FOR THE PURPOSE OF CONSTRUCTIN, MAINTAINING, AND OPERATING A CABLE T.V. SYSTEM WITHIN THE CITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FONTANELLE, IOWA:

SECTION 1. C.R.O. SATELLITE SERVICES, INC., a Missouri corporation, its successors and assigns are hereby granted the right to use and occupy the streets, alleys, and other public places of the City of Fontanelle, Iowa, for a term of fifteen (15) years from the effective date hereof, for the purpose of constructing, maintaining and operating a cable TV system within the City.

SECTION 2. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be possessed by or conferred upon the City, particularly a cable television regulatory ordinance, and others, without limitation, and the franchisee agrees to such regulation.

SECTION 3. The grantee shall complete and make the cable TV system operational within one hundred eighty (180) days of the effective date of this ordinance.

SECTION 4. C.R.O. SATELLITE SERVICES, INC. shall, upon demand, pay the cost of publishing this ordinance and the regulatory ordinance for cable television systems and of holding the election hereinafter referred to.

SECTION 5. This Ordinance shall be in full force and effect and shall constitute a binding contract between the City of Fontanelle, Iowa, and C.R.O. SATELLITE SERVICES, INC. when the same shall have been approved by a majority of the electors of the City voting thereon, and when the provisions hereof shall have been accepted in writing and payment made as required by Section 4 by C.R.O. SATELLITE SERVICES, INC. and such acceptance file with the City Clerk.

PASSED the 22nd day of March, 1984 and APPROVED this 22nd day of March, 1984

Evelyn M. Rohner

Attest: Evelyn M. Rohner, Clerk

Ralph D Means

Ralph D. Means, Mayor

106 Council Member Harold Veatch introduced and placed on file a Resolution entitled "Resolution No. 84.2, RESOLUTION CALLING FOR AN ELECTION ON THE MATTER OF GRANTING A NON-EXCLUSIVE FRANCHISE TO OPERATE A CABLE TELEVISION SYSTEM WITHIN THE CITY OF FONTANELLE, IOWA AND ORDERING PUBLICATION OF NOTICE OF A MUNICIPAL ELECTION TO BE HELD ON APRIL 24, 1984" and caused the same to be read in full.

Council Member Harold Veatch moved for its adoption, seconded by Council Member Gene Jacobsen, and after due consideration thereof by said Council, the Mayor put the question on the passage and adoption of said Resolution, and the roll being called the following Council Members voted: AYE: Denny Sickles, Robert Edwards, Kenneth Perry, Gene Jacobsen and Harold Veatch. NAY: None.

Whereupon, the Mayor declared said Resolution duly passed and adopted and signed his approval thereto, said Resolution being as follows:

RESOLUTION NO. 84.2

WHEREAS, there has been presented to the City Council of the City of Fontanelle, Iowa, an Ordinance granting a franchise to C.R.O. SATELLITE SERVICES INC. of Kansas City, Missouri, to install and maintain a Cable Television in the City of Fontanelle, Iowa, which said Franchise has been passed as Ordinance No. 118, by the City Council of Fontanelle, Iowa and duly approved by the Mayor of said City and:

WHEREAS, the City Council of the City of Fontanelle deems it advisable to submit said ordinance and franchise to the qualified voters of said City in accordance with the statutes of the State of Iowa

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Fontanelle on its own motion that the question of granting said Franchise be submitted to the legal voters or the qualified voters of the said City at the April 24th election all in accordance with the provisions of Chapter 364 of the Code of Iowa.

AND BE IT FURTHER RESOLVED that the Mayor and Clerk of the City of Fontanelle be and they are hereby authorized to do each and everything necessary and advisable to carry this resolution into full force and effect, and that at said election the ballot be as by law provided, prepared and printed by the Commissioner of Elections and that the judges and Clerks of the Election be named by the Commissioners.

AND BE IT FURTHER RESOLVED that the notice of said election shall be published not less than four days or more than twenty days in the FONTANELLE OBSERVER, a newspaper of general circulation in the City of Fontanelle, Iowa.

PASSED AND APPROVED this 22nd day of March A.D. 1984.

Evelyn M. Rohner

Attest: Evelyn M. Rohner, Clerk

Ralph D. Means

Ralph D. Means, Mayor

An application for a cigarette permit had been filed with the Clerk and payment received from Darrell Dodge.

Motion by Denny Sickles to approve the application for a Cigarette Permit for Darrell Dodge dba "Dodger's". Seconded by Robert Edwards. Carried.

Motion by Denny Sickles to adjourn. Seconded by Robert Edwards. Carried.

Evelyn M. Rohner

Attest: Evelyn M. Rohner, Clerk

Ralph D. Means

Ralph D. Means, Mayor