Minneapolis is moving forward with a plan to allow a single private company to own and operate a citywide wireless network. The City would be an anchor tenant on the network, paying for communications services for city departments, schools and libraries.

This decision was made with virtually no public input.

No feasibility study was done that considered other ownership models, such as public or non-profit ownership. This is both surprising and disturbing, given that over 100 other U.S. cities have successfully created municipally owned high-speed information networks.

A city can own a network without offering services. Cities own roads but doesn't operate trucking companies. Cities own roads but don't operate trucking companies. Cities routinely own physical infrastructure. A publicly owned network would not be a monopoly. Indeed, given the increasingly concentrated nature of our telecommunications industry, and the willingness of the federal government to allow private companies to unilaterally decide who can use their networks and at what price, a publicly owned network available to all providers on equal terms may be the only way to ensure competition.

Public ownership would save the City money on its own substantial purchases of information and communications services. It would ensure that the City does not find itself in another long-term relationship similar to the adversarial and harmful one it has had with its cable franchisee.

The City should commission a feasibility study comparing the costs and benefits of a publicly owned network with those of a privately owned network. And it should seek public input before moving any further down the privatization path.

This matter is urgent. We are making a decision that will affect city businesses and residents for a generation. Recently, the City selected two finalists without a vote in the City Council. It appears the City will move into final contract negotiations without any public input unless something is done, now.

Background

- In 2003, the Park Board was pursuing a plan to allow a private company to use Park Board facilities to set up a wireless network. Originally, the Park Board issued a Request for Proposal (RFP) without City involvement. The concept was expanded to include the City, with the city's Business Information Services (BIS) department taking the lead.
  See "Wi-Fi Talking Points" at http://www.newrules.org/info/mplscouncilarchive.

- In January 2004, the City Council passed a resolution making BIS the central organizing agency for all activities related to deployment of citywide wireless. In November 2004, the City Council delegated all responsibility for all activities related to citywide wireless to BIS.
  See the archive of Council actions on the citywide wireless initiative at http://www.newrules.org/info/mplscouncilarchive

- In April 2005, BIS announced a Request for Proposals (RFP) from private companies willing to finance, build, own and operate a citywide wireless network. The City would be an anchor tenant on the network, paying for wireless services as well as wired information

and communications services for city departments, schools and libraries. In addition to exclusive rights to the City's business, he private partner would have the non-exclusive right to place wireless equipment on and in city facilities, and would build out the city's wired infrastructure as necessary to support the city's need for wired and wireless services. The City expects to receive a percentage of revenue from sales of wireless services to residents and businesses.
See the City's RFP at http://www.newrules.org/info/minneapolis

- Also in April, after more than a decade of conflict, the City filed a lawsuit against Time Warner Cable alleging that the company had violated the terms of the franchise agreement by itself using capacity that was to have been set aside for public use.

- In October 2005, BIS announced that two finalists, Earthlink and U.S. Internet, had been selected from the nine proposals submitted. The selection of finalists was not presented to the Council for consideration.

- To date, there have been no public meetings, nor public hearings on the initiative. There were several internal working groups, consisting of representatives from city departments and the Park, Library and School Boards. The only external working group consisted of representatives of the business sector. The questionnaires completed by these working groups did not include any mention of ownership models.

- A consortium of groups, including Community Computer Access Network and the Alliance for Metropolitan Stability, is planning community meetings to discuss how the benefits of citywide wireless may be brought to all communities and residents. The meetings are planned as discussions of what kind of community benefits agreement can be negotiated with the owner of the network, not as discussions of who should own the network.

- No feasibility or cost-benefit study has been done that compares different ownership structures. Other cities have, at minimum, created a publicly available document laying out the rationale for a citywide network and alternatives for ownership and operation. The latest example is Saint Louis Park. Indeed, Saint Louis Park's feasibility study specifically refers to and compares itself to the Minneapolis RFP:

  "Earlier this year, the City of Minneapolis, MN issued a request-for-proposal (RFP) for the construction and operation of a citywide wireless and fiber network. The business model that Minneapolis chose to pursue is quite a bit different from the one outlined in this report. According to the RFP, Minneapolis is seeking a vendor that will build and operate a wireless network, and in return, the City agrees to buy service from the selected provider. This type of arrangement is similar to a cable franchise arrangement, in which one provider owns the infrastructure and is also the exclusive service provider. The City will have no ownership or control over the network, and therefore has no control over the service or pricing. Under the model proposed in this report, the City of St. Louis Park will own and operate the network. The City will set price levels and ensure reliable service."

  See Saint Louis Park's feasibility study at
  http://www.stlouispark.org/Publications/ConsultantWireless.pdf

Public Ownership is a Valid Option

The three main justifications offered by the City of Minneapolis for excluding the possibility of public ownership are: 1) the City lacks the financial resources; 2) the City needs to avoid lawsuits; 3) building an information network is outside of the City's core competencies; 4) the City has already invested considerable resources in getting to this point and any delay will inhibit the introduction of high speed broadband.

To the first point, $20 million for an information network is a relatively small bond issue. For comparison purposes, consider that the government's investment in light rail is 35 times as much. Light rail serves less than 2 percent of the population, while a telecommunications highway will serve as much as half the population now, and nearly everyone in the future. Moreover, the investment will create a revenue source that, based on the experience in other cities, will easily pay off the bonds.

To the second point, the City's duty is to choose the form of ownership that is best for its citizens, not the form that is best for a private company trying to protect its market share. The City is well within its legal rights to build a municipal network. Minnesota law does not restrict municipal telecommunications utilities in any way, except to require a two-thirds majority approval in a referendum if the city intends to provide telephone service. We might remember, on the other hand, legal battles by private companies held up construction of the Minneapolis cable system for 4 years. And the recent RFP was intended, in part, to build a high-speed network to which the City already believed it was legally entitled under the cable franchise agreement.

That the City had to resort to a lawsuit against Time Warner indicates how little influence the City has over a private network once it has entered into a long-term contract. Adding insult to injury, in November 2005, a U.S. Circuit Court granted Time Warner's motion to dismiss the case, primarily on the ground that the City's authority over its cable franchisee is preempted by federal law.

To the third point, over 100 other cities have found that it is within their competencies – indeed, within their responsibilities as caretakers of their cities' futures – to own high-speed information networks that serve residents and businesses. In Minnesota, this includes Buffalo, Chaska, Windom (which has a municipal fiber-to-the-home network), and Moorhead. Hundreds more have found it within their competencies to own the networks that carry data traffic for municipal services and/or other public entities, such as schools.

As noted above, the City need not be a service provider; it may lease capacity on its network to competing service providers. The city need not even manage the network; it may contract network management to another entity.

It is worth noting that other cities that have eventually chosen to allow a privately owned wireless networks have gotten better deals from their private partners if they first own the most valuable portion of the network – the fiber backbone. It is important to keep in mind that wireless is only the last piece of an information system. It is a convenience that enables mobile usage. Many cities already own fiber networks. In fact, Minneapolis already owns a limited fiber network, which was installed by the city's Business Information Systems department. By maintaining ownership and expanding the network, they have much more leverage with private companies interested in installing a wireless system. Once the fiber backbone is in place, adding wireless is relatively

inexpensive. In Tempe, for example, a private company has installed parallel wireless networks using city facilities, and with access to the city's fiber network. In exchange, the city is getting free wireless for all municipal services. Corpus Christi owns both its fiber backbone and its wireless network, which are currently used only for municipal services. Private companies are now seeking to pay the city to provide services over the municipal network.

As for possible delays, taking the time for proper analysis and public discussion will cause a small delay in building a wireless network. But there are ways to begin extending high-speed information access to all City residents immediately without relinquishing control over our information future. The cost of activating wireless hotspots in neighborhoods with low rates of broadband subscriptions is in the thousands of dollars, not millions. This has been demonstrated with Wireless Community Networks in Chicago and Champaign-Urbana, where free and low-cost wireless is available through small-scale networks based out of community centers. It was also demonstrated when wireless networks were set up quickly and inexpensively in the aftermath of hurricane Katrina. The City should not tie itself to a long-term relationship to a privately owned network to solve a problem that has other solutions.

Finally, public ownership provides an opportunity to take advantage of benefits of scale through intercommunity cooperation. Consider the Utah Telecommunications Open Access Infrastructure (UTOPIA). UTOPIA is a fiber-to-the-home network that will, when completed, serve 14 cities ranging in population from 2,400 to 84,000. The project is governed by an inter-local agreement. Private companies pay to provide services over the network, and their fees go to pay off revenue bonds. Five service providers already have contracts with the network, including AT&T as well as locally owned and operated MSTAR. The latter sells a "triple play" combination of phone (with unlimited long distance), basic cable and a 15-megabit per second internet connection for $85 per month. Digital cable is just $20 per month more.

The UTOPIA cities are not contiguous. In fact, the network runs 325 miles north to south – farther than Minnesota is wide. This is a model that could pave the way to world-class information and communication services in Minnesota. It would allow Minneapolis to leverage its market size to benefit not only its own citizens, but also citizens of smaller Minnesota cities. And it gives some idea of what is possible when the public is put in control of our information future. Think big.

Next Steps for the Council

It is not too late for the City to reconsider the current plan for a privately owned network.

- The City should hold public meetings that include a discussion of ownership before making any further decisions regarding the wireless initiative.

- The City Council should initiate a feasibility study that considers public ownership of a high-speed information network, similar to those done by Saint Louis Park and other cities.

- The City Council should not enter contract negotiations with a single bidder until such a study has been completed and the results made available for public comment.

- The City should explore the possibility of a multi-city effort.

- The City Council should assume responsibility for approving all decisions on the project moving forward. This is an issue that will affect Minneapolis residents and businesses for at least a decade. Our elected representatives should be the ones making this decision.

As these steps will delay network deployment by several months, the City Council, in conjunction with the Park and Library Boards, may want to consider installing Wi-Fi hot spots in selected neighborhoods. This is an inexpensive way to begin addressing the digital divide without making a long-term commitment to a privately owned network.

What Your Group Can Do

- Send a letter to the city council. Use our sample letter directly or modify it to reflect your organization's own discussion of the issue.

- Contact your council representative directly. Tell her/him you think the City should reconsider its decision to facilitate a privately owned information network.

- Co-sponsor, with the New Rules Project, a neighborhood meeting about the citywide wireless proposal. Invite your council member to come to a neighborhood meeting and explain her/his position on ownership of a citywide wireless network.

- Ask your constituents to write letters to the editor of local newspapers.

Sample Letter

Dear Council Member _____;

The decision you will soon be making regarding the future ownership structure of a citywide high speed information system will be one of the most important you make during your time in office. So far the City Council has approved a plan for a privately owned citywide wireless network. That decision can and should be reversed.

That decision was made with virtually no public input. There was an open and public process involved in developing Minneapolis' Ten Year Transportation Action Plan. Why no similar effort to develop its Ten Year Information Action Plan?

We write to urge you to reconsider your vote in favor of a privately owned network, and to follow the example of a growing number of other cities that have determined broadband is infrastructure and should be publicly owned. Over 100 cities have successfully implemented publicly owned information infrastructure. In Minnesota, this includes Buffalo, Chaska, Moorhead, and Windom (which has a municipal fiber-to-the-home network).

Public ownership can manifest itself in a number of ways. One way is for the city to own and operate the network, as Chaska and Windom have done. Another is for the city or a non-profit entity to own the physical infrastructure in the same way that the city owns the roads or the water pipes, then lease space to private entities to provide services over that network. Corpus Christi, Texas, and the UTOPIA project in Utah have chosen this model.

We request the Council consider the following actions:

- The City should hold public meetings that include a discussion of ownership before making any further decisions regarding the wireless initiative.
- The City Council should initiate a feasibility study that considers public ownership of a high-speed information network, similar to those done by Saint Louis Park and other cities.
- The City Council should not enter contract negotiations with a single bidder until such a study has been completed and the results made available for public comment.

As these steps will delay network deployment by several months, the City Council, in conjunction with the Park and Library Boards, may want to consider installing Wi-Fi hot spots in selected neighborhoods. This is an inexpensive way to begin addressing the digital divide without making a long-term commitment to a privately owned network.

Sincerely,

Your Group

Act Now for a Publicly Owned Wireless Network

Controlling Our Information Future

Ten Myths About a Publicly Owned Network, and the Facts

New Rules Project • www.newrules.org/info/minneapolis

Myth #1: *The City doesn't have the expertise to manage a network.*

Fact: Chaska, Buffalo, Windom, and hundreds of cities across the country have discovered they do have the expertise to manage a high-speed information network.

Although many other cities have shown themselves capable of managing an information network, the City could own the network without being a service provider or even a manager. Day-to-day operations could even be contracted out to a private service provider.

Myth #2: *It doesn't matter who owns the network if there's a good contract.*

Fact: The advantage of a municipally owned network is that if the City is displeased with how the network is run, it can renegotiate the management contract or seek other bidders to manage its network.

With a privately owned system, the City is locked into a relationship with the network's owner for the life of the network. In a public-private partnership of this kind, the partner that owns the physical assets has the most leverage.

This is clearly illustrated in the City's relationship with its cable franchisee. Time Warner has never lived up to the terms of its contract with the City. The City has tried all manners of recourse, finally resorting to a lawsuit in April 2005. A U.S. District Court judge dismissed that lawsuit in November, primarily on the grounds that federal law supersedes the City's authority over its cable franchisee.

Myth #3: *Information technology is rapidly evolving. A municipally owned network would be a risky investment.*

Fact: The technology is improving at a remarkable pace. But there is at least one thing that will not change – all high-speed information networks rely on fiber optic backbones. Other technologies may evolve to have the carrying capacity of fiber, but this will not make fiber obsolete. Windom, Minnesota is secure in the knowledge that its municipal fiber-to-the-home network will serve the city for decades.

Faster and higher quality wireless technologies will evolve incrementally. There is little chance that a system built with today's technology will be obsolete before it pays for itself.

Every project has its own risk. But the risk of physical infrastructure projects – like roads, sewers, water works, electricity networks, and information networks – is very low. Moreover, wireless networks have become surprisingly inexpensive to install. The cost to the City would be much less than City investments in a number of other projects.

Myth #4: *Private companies are more likely to upgrade the quality and speed of their networks.*

Fact: Private companies are more likely <u>not</u> to upgrade their networks, preferring instead to extract every last bit of profit out of existing equipment. Consider that the customers of the municipally owned network in Glasgow, Kentucky gained Internet access at speeds of 4 Mbps in 1995, and have 10 Mbps today. Time Warner and Qwest offered these speeds to standard residential customers ten years later.

Myth #5: *Money spent on a municipal broadband network is money that won't be spent on police and schools.*

Fact: The City is a huge consumer of information services. This is why the City has offered itself as an anchor tenant for a privately owned network. It will be paying for the network infrastructure, whether it is through annual service fees to a private company or payments on municipal bonds.

On the other hand, cost savings from a publicly owned network, and negotiations with competing service providers for the lowest price, will be passed on to police, fire, schools and libraries. Tempe, Arizona, for example, is receiving all of its public safety wireless communications services at no cost in exchange for access to city-owned facilities, including a fiber network.

Myth #6: *A City-owned network will be subsidized, leading to unfair competition with privately owned networks.*

Fact: A municipal network need not be subsidized. Chaska and other cities have shown that a wireless network can pay for itself through subscriptions. Ultimately the City's investment in a network must be driven by its institutional needs, and by its responsibilities to its citizens. If the City can provide services to itself at lower costs by using its existing infrastructure as the basis for a network, it is fiscally irresponsible not to do so.

Myth #7: *Union jobs are at risk if the city builds a network.*

Fact: Competition leads to increased investment in broadband networks, which means more jobs in the industry. A municipally owned network would not be a monopoly. The cable and phone companies would continue to operate their networks. Outsourcing and mergers are the greater threats to communications workers' contracts with their employers.

Myth #8: *The City has to rule out public ownership in order introduce a wireless network as soon as possible.*

Fact: There are ways to begin extending high-speed information access to all of the City's residents immediately without relinquishing control over our information future. The cost of activating wireless hotspots in neighborhoods with low rates of broadband subscriptions is in the thousands of dollars, not millions. The City should not tie itself to a long-term relationship to a privately owned network to solve a problem that has other solutions.

Myth #9: *The regulatory environment is hostile to municipal ownership.*

Fact: This is true. The federal government has consistently ruled that having a phone and cable information duopoly is an acceptable form of competition. In June, the Supreme Court paved the way for cable and phone companies to have the right to refuse access to their networks to competitors and those selling content they oppose. If the federal government refuses to regulate private sector monopolies, then a publicly owned, open access network is even more important.

Myth #10: *The City has learned from its mistakes in the cable franchise. A well-negotiated community benefits agreement will ensure the community has a seat at the table.*

Fact: There is an old saying, "Fool me once, shame on you. Fool me twice, shame on me."

The cable company's failure to live up to the terms of its agreements with the City is not related to the City's negotiation skills. Minneapolis is not the only city that has filed a lawsuit against its cable franchisee specifically over the company's failure to provide the promised institutional network. As cities have learned, what seems like a solid community benefits agreement today may leave citizens without promised services in five years.