



CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2013 NOV 21 PM 2: 12

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Karen Boyd

SUBJECT: Expenditure/Allocation of
Telecommunications Fund (1760)
Revenues and Future KTOP Staffing;
Positions and Roles of Staff Funded
with 1760 Funds

DATE: November 19, 2013

City Administrator
Approval

Date

11-21-13

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that Council accept this informational report and possible action establishing criteria for future KTOP staffing and expenditure/allocation of Telecommunications Fund (1760) revenues, including a full report regarding KTOP operations, including identification of all positions currently funded out of Fund 1760 and the function of each staff position in the day-to-day operations of KTOP.

EXECUTIVE SUMMARY

At the September 24, 2013, Finance & Management Committee meeting, staff was directed to return with a report for possible action regarding the establishment of criteria for future expenditure/allocation of Telecommunications Fund (1760) revenues and funding of KTOP staff. As requested, this report also identifies the City staff positions currently funded out of Fund 1760 and describes the function of each staff position in the day-to-day operations of KTOP.

In a recent legal opinion, the City Attorney's Office opined that as of January 2008, there is no legal restriction on revenues received as Cable Television Franchise Fees. Said fees are kept in the Telecommunications Reserve Account. Nevertheless, the FY2013-15 Adopted Policy Budget authorizes use of the Telecommunications Reserve for "operation of the City's cable television station (KTOP) and other telecommunications-related operations," including use of the funds for a number of specified positions - Information Systems Supervisor, Systems Programmer II, Assistant to the City Administrator, Cable Operations Technician, Cable TV Operations Chief Engineer, Cable Operations Technician, Cable TV Operations Chief Engineer, Cable TV Production Assistant, Cable TV Production Assistant (PPT), Public Information Officer II, and Special Assistant to the Mayor." (City of Oakland, California, Fiscal Year 2013-15, Proposed Policy Budget, Financial Summaries, p. D-19.)

Item: _____

Finance & Management Committee
December 3, 2013

OUTCOME

The purpose of this report is to provide the Council with information and policy alternatives for discussion and to receive direction for possible future action.

BACKGROUND/LEGISLATIVE HISTORY

In January 2008, the City Council authorized the extension of a Franchise Agreement with Comcast (Franchisee) to provide cable services to City residents (LegiStar File #: 07-0923). The Franchise Agreement is in effect until December 2017; it lists a number of requirements, including: payment to the City of an annual franchise fee of five percent (5%) of gross revenues; payment of an additional one-percent (1%) of gross revenues for funding of PEG channel capital expenditures; continued access to the City's three PEG channels; and free cable service for all City and school buildings.

Telecommunications Reserve Fund (1760)

In 1983, the City Council adopted Ordinance No. 10399, requiring the franchisee to pay an annual franchise fee of five percent (5%) of gross revenues and specifying that two percent (2%) of the franchise fee should be placed in a separate "Telecommunications Account" (formerly known as Fund 141, currently Fund 1760, referred to as the Telecommunications Reserve Fund). According to the Ordinance, the two percent (2%) was to be designated for "*cable-related non-regulatory activities, including, but not limited to funding public, educational, and government access programming.*" The remaining three-percent (3%) of the annual franchise fee was recognized as General Purpose Fund revenue.

Subsequently, in January 2008, the City Council passed Ordinance No. 12861 eliminating the restrictions for use of two percent (2%) of the annual five percent (5%) cable franchise fee. This ordinance was a "complete restatement" of the original franchise granted under Ordinance No. 10399 C.M.S., and did not include any restrictions on the annual five percent (5%) cable franchise fee.

Therefore, the City Attorney has advised us that the City is no longer obligated to allocate two-percent (2%) of the annual cable franchise fee to the Telecommunications Reserve Account, and there are no funding restrictions associated with the expenditure of funds within the Telecommunications Reserve Account.

It should be noted that unrestricted revenues are subject to the three percent (3%) Set Aside¹ calculations of the City's contributions to Kid's First funding. Therefore, the entire five percent (5%) cable franchise fee is currently subject to the Kid's First Set Aside.

¹ Oakland City Charter section 1300 ". . . the KIDS First! The [sic] Oakland Fund for Children and Youth ("Fund") shall receive revenues in an amount equal to three percent (3.0%) of the City of Oakland's annual actual unrestricted General Purpose Fund (Fund 1010) revenues and appropriated as specified in this Act each year,

The City Attorney further advises that: "Although the 2008 cable franchise ordinance does not place any restrictions on use of the fee, the Administration must use the fees only for the purposes expressed by the City Council when the Council passed the Budget... The Council demonstrated its intent to use the Telecommunications Reserve funds to fund the listed positions through passage of the budget... The Budget states that the Telecommunication Reserve is for 'operation of the City's cable television station (KTOP) and other telecommunications-related operations.' So long as an expenditure fits within that stated purpose, the expenditure is a proper use of the money."

ANALYSIS

KTOP-TV10 strives to provide high-quality programming that encourages people in Oakland to get involved in the community, promotes civic pride, and showcases the cultural diversity that makes our city a unique and exciting place to live and work. The station provides gavel-to-gavel coverage of City Council, Council Committee, and other legislative meetings. In addition, it broadcasts original and acquired programming that connects and engages viewers with their City government, fellow citizens and the world at large.

Operation of a government access television station is a unique role in City government; KTOP operates two shifts per day, 7 days a week, 24-hours a day. Oakland's Sunshine Ordinance requires the City Council, Board of Port Commissioners, and many boards, commissions and task forces established by the City Council or City Charter to "make a visual and audio recording of every open meeting." (OMC § 2.20.160.B.) KTOP has been the keeper of these legislative recordings and public records; staff has spent 1,540 staff hours in this capacity this year alone. In addition to the meetings aired live, each meeting is required to be played back in its entirety seven (7) days from the original air date.

Last year KTOP aired a total of 933 hours of live City Council and Council Committee meetings, 389 hours of live City board and commission meetings, and 2,644 hours of replays of the above-mentioned meetings. In addition 180 staff hours were spent recording meetings that do not air but are maintained in archives as public records, including the Medical Cannabis Hearings, Taxicab Hearings, and meetings of the Measure Z Commission; Successor Agency Oversight Board; Housing, Residential Rent and Relocation Board; Civil Service Board; Chizens Police Review Board and Community Policing Advisory Board. As stewards of public records, KTOP is responsible for managing video and audio archives of legislative recordings and replays, producing copies of these meetings and responding to public records requests, which in the past year totaled more than 1,500 requests.

Expenditure/Allocation of Telecommunications Fund Revenues and Future KTOP Staffing

In FY 2013-14, the five percent annual franchise fee is projected to generate \$3.7 million in revenue; the FY 2013-15 Adopted Policy Budget allocates \$1.5 million to the Telecommunications Reserve Fund and \$2.2 million to the General Purpose Fund.

The Telecommunications Reserve Fund is the primary source of funding for KTOP operations. For FY 2013-15, KTOP operations are staffed by 10.24 PTEs with a total budget of approximately \$1.5 million each fiscal year.

A five-year history of KTOP operations funding and the current-year allocation are presented in Table 1.

Table 1: Five-Year History of KTOP Operations Funding

Fund	FY 2008-09 (actual)	FY 2009-10 (actual)	FY 2010-11 (actual)	FY 2011-12 (actual)	FY 2012-13 (actual- unaudited)	FY 2013-14 (Budget)
General Fund (1010)	\$2,656 0.2%	\$90	\$90	--	--	--
Telecomm Fund (1760)	\$1,344,833 99.8%	\$1,414,507 78%	\$1,408,307 77%	\$1,539,200 100%	\$1,475,774 100%	\$1,575,000 100%
Redevelopment (7780)	--	\$405,650 22%	\$417,980 23%	--		
TOTAL	\$1,347,489	\$1,820,247	\$1,826,377	\$1,539,200	\$1,475,774	\$1,575,000

It should be noted that KTOP was allocated approximately \$400K in Redevelopment Agency funding each fiscal year from FY 2009 through FY 2011. As the result of the statewide dissolution of Redevelopment Agencies in January 2012, Redevelopment funds were no longer available for KTOP operations, resulting in the elimination of four of 12 staff positions: Station Manager, Producer/Program Director, Operations Technician and Production Assistant. Staff from the City Administrator's Office was assigned part time to provide oversight of KTOP.

As stated above, the current Telecommunications Reserve Fund has been unrestricted since 2008. It is currently being used for "*cable-related non-regulatory activities, including, but not limited to funding public, educational, and government access programming*" per Ordinance #10399, which was established in 1983. This restriction was superseded by Ordinance #12861, passed by Council in 2008. In the City Attorney's opinion, this fund is now no longer restricted.

It is a policy decision of the City Council to determine if the City continues to allocate 2% of the 5% cable franchise fee to the Telecommunications Reserve Fund, and what types of expenditures the Fund can be used for. There are two primary policy options for Council's consideration, each with pros and cons:

- 1) **Unrestricted Fund:** Continue using the fee without restrictions on any portion of the five percent cable franchise fee revenue, or

- 2) **Restricted Fund: Reinstate restrictions on the Telecommunications Reserve Fund to provide a dedicated funding source for telecommunications-related activities.**

These options are described in more detail below.

Policy Option 1--Unrestricted Fund:

Maintain the status quo: continue with no restrictions on any portion of the five percent (5%) cable franchise fee, which makes it unrestricted General Purpose Fund revenue.

This is the policy option recommended by staff because it preserves the most flexibility for the Council in establishing funding priorities and needs. This is especially important now when demands on the General Purpose Fund continue to exceed the availability of GPF revenues, with few options available to increase those revenues.

Because the Telecommunications Reserve Fund is no longer restricted, funds within it are unrestricted General Purpose Fund revenue and subject to the Kids First! Set-Aside. The financial impact of the Kids First! Contribution for December 2007 to the present is estimated to be \$297,000 (December 17, 2007, was the effective date of Ordinance No. 10399, passed in January 2008, that restricted the 2% annual cable franchise fee to the Telecommunications Reserve Fund). The ongoing annual contribution to Kids First! attributable to the cable franchise fee is estimated to be about \$47,400.

Pro:

- By not imposing a restriction, the City Council will have greater flexibility to allocate this revenue towards various City needs and priorities during the budget process. This includes sustaining current expenditures and/or investing in emerging communication areas for government services.

Cons:

- Existing operational expenditures will be part of the General Purpose Fund and subject to competition with other Council priorities.
- The contribution to Kids First! would reduce the City's revenue for telecommunications-related positions, equipment, upgrades and other costs.

Policy Option 2--Restricted Fund:

Re-instate restrictions on the Telecommunications Reserve Fund to provide a dedicated funding source for telecommunications-related activities. This option requires adoption of the restriction policy by ordinance.

This policy option has two alternatives:

- a) Modernize the definition of telecommunications to recognize existing and emerging communications technologies and devices, along with a more current definition of "telecommunications;" or
- b) Recodify the 1983 ordinance, which includes a 30-year old definition of telecommunications, with a 2% set-aside for cable-related activities. These options are described in more detail below.

Alternative 2a: Modernize the definition of telecommunications to recognize existing and emerging communications technologies and devices, along with a more current definition of "telecommunications." Establish by Ordinance a flexible telecommunications set-aside expenditure policy to support City's ability to stay current with existing and emerging communications technologies.

Modern definitions of telecommunications include electronic communications devices and technologies such as the Internet which were not contemplated when telecommunications regulations and policies, including the City's 1983 Ordinance No. 10399, were developed.

Policy Alternative 2a would entail taking a comprehensive approach to securing resources for governmental information access, giving consideration to the advent of new technologies and avenues by which the public receives information about government programs and services.

It is founded on the fact that technology is driving rapid change in the telecommunications arena. Since the Franchise Agreement was developed, the landscape of public, education and government access communication has forever changed. Information is now delivered across multiple platforms with cross-functionality of video, audio and text. The vast array of telecommunications channels and devices now widely available on the commercial market--most of which were not available when current telecommunications policies and ordinances were written--has fundamentally changed how people can access information about or obtain services from their government.

It has also increased the public's expectations of government transparency and immediate access to information. The demand for rapidly delivered information and visual content has never been higher. The public now expects to have immediate access to information 24/7 using the communications tools of their choice. Our community is not only using this vast array of technologies to stay informed and engaged, but they are demanding that their government keeps up with the times.

We now have multiple channels or tools to disseminate public, educational and government access programming. Information that was once limited to broadcast over cable access television can now also be delivered as streaming video content on the web site and through social media channels (Facebook, YouTube, Twitter) and web-based applications.

The result is that content produced and broadcast by our state-of-the-art cable television station now has a significantly expanded audience viewing that content over the Internet and via social media. People can watch City Council meetings as live broadcast on television, streaming on the City's web site or archived in an on-demand format. Members of the public watch the City's legislative meetings and provide a running commentary and analysis via Twitter, and video content is posted on Facebook. All of these tools are considered part of the evolving landscape of telecommunications technology.

The public is increasingly dependent upon mobile devices rather than desktop computers to access information or services from their government. And mobile devices such as smart phones with text messaging capability are helping bridge the "digital divide." Today's teenagers send more than 100 text messages per day; they live in a digital world of rapid, 24/7 exchange of information. And they are the constituents, customers and community leaders of the future.

The City's web site receives 100,000 unique visits per month; the public now expects to interact with the government online, and this trend will only accelerate and increase over time. Yet, the City is currently making no investment in the ongoing development of the web site and little investment in seeking new web-based applications which are the prevailing approach to enhancing service delivery via the Internet. Acknowledging how integrated our cable services and web site have become supports the need to think more broadly about this policy discussion.

If the Council elects to reinstate restrictions on the Telecommunications Reserve Fund revenue, it has an opportunity to adopt a modern understanding of telecommunications tools and technologies and leverage this change to invest in the City's future. The City has an obligation to tell the public how it spends taxpayer money and conduct City business in a transparent, open manner. We are also obligated to deliver services and information using tools that are used by our community and other governmental agencies.

If the Council wishes to re-establish a restriction from the annual Cable Franchise Fee for telecommunications development and support, staff recommends that the policy be flexible to accommodate a range of existing and constantly emerging technology, training and personnel needs: "Funds can be used for the planning, development and support of cable, telecommunications, web site, web-based applications and other communications, programming, upgrades, positions, equipment, software and related services and materials." Re-establishment of a policy and restriction of funds would require passage of an ordinance.

Pros:

- Modernizing our definition of telecommunications and establishing a designated funding source would secure the City's investment in transparency and public accountability.
- Ensures that the City's approach to telecommunications is consistent with emerging communications technologies and devices, and updated ways of providing government access.

- Invests in growth areas: online services, mobile technologies, web-based applications.
- Addresses the current lack of funding for development and maintenance of the City's web site, social media, translation for limited English speakers, and emerging civic engagement/public participation technologies.
- Recognizes how integrated our website and cable station are and allows for further synergy between the two.

Cons:

- This evaluation will take resources and time to develop.
- It would also restrict the Council's flexibility regarding General Fund revenues and limit funding to designated purposes.
- Even with a designated set-aside for telecommunications, if cable subscriptions continue to decline due to increasing consumer demand for streaming video delivered over the Internet, revenues in the Telecommunications Reserve Fund could also decline, reducing the revenue available to fund the City's telecommunications needs. The City will continue monitoring this trend and inform the Council accordingly.

Alternative 2b. Recodify the outdated 1983 ordinance, with 2% restricted for cable-related activities.

The Council could also elect to recodify the 1983 ordinance, superseded in 2008, and re-establish the 2% set-aside for cable-related activities.

Pro:

- Provides guaranteed funding for cable-related operations with funds restricted to support that use.

Cons:

- Restricts the City Council's flexibility regarding General Fund revenues and limits funding to cable-related television programming.
- Maintains a 30-year-old funding structure and definition of telecommunications that is no longer reflective of existing or emerging practices.
- Fails to account for or invest in current and emerging technologies used by the public to access their government.
- Misses the opportunity to invest in growth areas and embrace the spirit of public access to government through new technologies and communications avenues.
- Even with a designated set-aside for telecommunications, if cable subscriptions continue to decline due to increasing consumer demand for streaming video delivered over the Internet, revenues in the Telecommunications Reserve Fund could also decline, reducing the revenue available to fund the City's telecommunications needs. The City will continue monitoring this trend and inform the Council accordingly.

Item: _____

Finance & Management Committee

December 3, 2013

Positions and Roles of Staff Funded with Telecommunications Reserve (1760) Funds

For FY 2013-14 and FY 2014-15, the Telecommunications Reserve Fund (1760) funds 10.24 PTEs, assigned as follows and detailed in Table 2:

- 9 FTEs in City Administrator’s Office:
 - 0.3 PTE: KTOP supervisor
 - 7.7 FTEs: KTOP cable operations, production and engineering
 - 1.0 PTE: PIO support to KTOP; public information and government access
- 0.74 FTE in the Department of Information Technology
- 0.5 FTE in the Mayor’s Office

Table 2: Positions Funded by Telecommunications Reserve Fund by Department

Department	Position	Amount	FTEs
City Administrator's Office / KTOP	Cable Operations Technician	\$559,947	4
	Cable TV Operations Chief Engineer	\$153,184	1
	Cable TV Production Assistant	\$57,749	0.8
	Cable TV Production Assistant, PPT	\$130,488	1.9
	Assist. to the City Administrator	\$56,944	0.3
	Public Information Officer II	\$138,932	1
	Sub-Total:	\$1,097,244	9
Mayor	Special Assistant to the Mayor	\$49,856	0.5
	Sub-Total:	\$49,856	0.5
DIT	Information Systems Supervisor	\$63,859	0.4
	Systems Programmer II	\$40,503	0.34
	Sub-Total:	\$104,362	0.74
Total Personnel:		\$1,251,462	10.24

In the FY 2013-15 Adopted Policy Budget, the Council elected to use the Telecommunications Reserve Fund (1760) to fund “operation of the City’s cable television station (KTOP) and other telecommunications-related operations.” This is consistent with the spirit of Ordinance No. 10399, which specifies that the Telecommunications Reserve Fund is designated for “*cable-related non-regulatory activities, including, but not limited to funding public, educational, and government access programming.*”

Of the 10.24 FTEs funded by the Telecommunications Reserve Fund, 8 FTEs provide direct support to the day-to-day operations of KTOP. The specific job duties of these positions are described below, including their role in the day-to-day operations of KTOP.

City Administrator's Office/KTOP

- **Assistant to the City Administrator/Citywide Communications Director (0.3 FTE)**
Directs citywide communications and media relations; fields and responds to media inquiries; provides strategic communications guidance to elected and appointed City officials on a range of critical issues; develops and implements media relations strategies and messaging; supports public information efforts of City agencies and departments; coordinates internal communication to more than 4,000 City employees; manages the City's web site and online engagement strategies, including social media efforts; leads City's emergency public information team/efforts and serves as lead PIO during emergency responses. Oversees KTOP, the City's government access cable television station as one of the vehicles used to disseminate public information and provide government access to the public.
- **Cable Operations Technicians (4 FTEs)**
Organizes the technical aspect of video programs for broadcast on KTOP; advises and assists other City staff in technical video and audio operation. Directs and schedules crews, interns and production assistants. Sets up technical equipment for video programs. Handles all aspects of video production, including camera operation, lighting, staging, sound recording and editing. Coordinates equipment availability and taping of special events; monitors broadcast quality. Uploads live and archive videos of legislative meetings on Granicus.
- **Cable TV Operations Chief Engineer (1 FTE)**
Operates and maintains all KTOP technical facilities, including studio, remote and master control equipment and systems, as well as signal delivery to the Comcast/AT&T cable head end. Chief operator of microwave transmission equipment used in remote productions. Acquires and maintains FCC licenses for transmission frequencies. Ensures that productions and operations meet industry quality standards. Recommends capital equipment purchases and budgets.
- **Cable TV Production Assistant/Full Time and Permanent Part Time (2.7 FTEs)**
Assists in the production of television programming, writes brief scripts, operates a variety of video production and computer equipment and performs minor routine maintenance on equipment.

The Telecommunications Reserve Fund also funds 2.24 FTEs who provide ancillary telecommunications-related support to KTOP operations that are cable-related and include but are not limited to public and government access, in keeping with the Council's direction as defined in the FY 2013-15 Adopted Policy Budget: City Administrator's Office (1 FTE), the Mayor's Office (0.5 FTE) and the Department of Information Technology (0.74 FTE). The

specific job duties of these positions are described below, including their role in the day-to-day operations of KTOP.

City Administrator's Office

- **Public Information Officer II (IFTE)**

Working with the Citywide Communications Director, disseminates information to the press and public pertaining to City programs, services, activities and events. Conducts research, collects information and writes content (i.e., press releases, fact sheets, news and feature articles and scripts) that is distributed through multiple communications channels, including the news media, web site, social media and broadcast on KTOP. Co-directs the City's emergency public information team; provides communications support to various City departments, with a special focus on planning, building, zoning and development projects.

Mayor's Office

- **Special Assistant to the Mayor/Mayor's Communications Director (0.5 FTE)**

Promotes public understanding of the Mayor, her initiatives and goals; develops and implements a proactive media strategy for the Mayor, incorporating traditional and new media at the local, regional and national levels; works with the Citywide Communications Director to identify media relations challenges, opportunities and tools; fields and responds to media inquiries; pitches stories to the media; prepares and distributes news releases, advisories, op-eds, feature articles, speeches and talking points; coordinates Mayor's media events including news conferences, interviews and speaking engagements; monitors media coverage for accuracy, impact and trending stories; maintains effective communication with key City and elected officials. Produces press events, coordinates public service announcements and develops other content that is broadcast on KTOP amongst many other communications channels.

Department of Information Technology

- **Information Systems Supervisor (0.4 FTE)**

Provides technical support and consultation to City departments; supervises multiple concurrent information systems projects; coordinates access to designed databases; directs the analysis, design, documentation, programming and implementation of applications systems; develops and enforces information management standards; provides training and technical support to City departments. Provides overall support to KTOP regarding Web services, updates and support, development of new applications and overall supervision thereof.

- **Systems Programmer II (0.34 FTE)**

Reviews and analyzes new software or enhancements supplied by manufacturers to determine the best configuration to meet the City's needs; installs and maintains

Item: _____

Finance & Management Committee
December 3, 2013

computer operating systems and related software; analyzes and corrects production problems; documents changes in systems software; and writes special programs as needed. Provides overall support to KTOP regarding Web services, updates and support, development of new applications.

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

This report was developed in consultation with staff in the Budget Office, KTOP, the City Attorney's Office and the Department of Information Technology.

COST SUMMARY/IMPLICATIONS

This is an informational report. There are no fiscal impacts.

SUSTAINABLE OPPORTUNITIES

Economic: None.

Environmental: None.

Social Equity: None.

For questions regarding this report, please contact Karen Boyd, Assistant to the City Administrator, at (510) 238-6365.

Respectfully submitted,



KAREN L. BOYD
Assistant to the City Administrator
City Administrator's Office