

CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2017 OCT 12 PM 4:14

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Stephanie Hom
Deputy City Administrator

SUBJECT: Public Access Channel

DATE: October 10, 2017

City Administrator Approval

Date:

10/12/17

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On Creating a Public Access Channel for Oakland.

BACKGROUND / LEGISLATIVE HISTORY

The City of Oakland established a local franchise agreement with Comcast per Ordinance No. 12861, effective December 18, 2007 and expiring on December 17, 2017.

The State Legislature adopted the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), set forth in Public Utilities Code (PUC) Section 5800. DIVCA creates a process for the state to grant video service franchises and establishes the California Public Utilities Commission (CPUC) as the sole franchising authority for new video service providers in the state. DIVCA dictates that there are no more city-by-city franchises and upon the expiration of the current local franchise agreement, only a State Franchise can be issued by the CPUC.

The Rules Committee, at its meeting on June 15, 2017, approved a request from Councilmember Gibson McElhaney to schedule an item titled: "Receive A Report With Possible Action From the City Administrator On The Cost, Process and Proposed Timeline For Creating A Public Access Channel for Oakland" for the Life Enrichment Committee on September 12, 2017. At the September 12, 2017 Life Enrichment Committee, staff presented a report titled, "An Informational Report On Creating a Public Access Channel for Oakland" (**Attachment A**) and the Life Enrichment Committee directed that the same topic return for discussion with additional information at its meeting of October 24, 2017.

EXECUTIVE SUMMARY

This is a follow-up informational report on creating an additional PEG (Public, Educational, Government) channel for Oakland. The business, financial, and legal implications of establishing a public access channel are complex. If City Council wishes to pursue an additional channel, staff recommends seeking professional consulting services to conduct a feasibility

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analysis of establishing and managing a public access channel in order that the City Council have appropriate information to make an informed decision. Such a feasibility analysis would require that staff return to the City Council to seek a budget appropriation.

ANALYSIS AND POLICY ALTERNATIVES

In Oakland, Comcast provides three (3) PEG channels – KTOP (City of Oakland), KDOL (Oakland Unified School District) and Peralta TV (Peralta Community College District). The operations of each of these channels is supported by PEG fees that constitute 1% of Comcast gross revenues and is shared amongst the three channels.

At the September 12, 2017 Life Enrichment Committee meeting, the Committee suggested that the City desires to pursue the creation of an additional PEG channel specific to public access. On the surface, as stated in the September 12, 2017 report, it appears that DIVCA sets certain conditions under which an additional PEG channel may be granted. More importantly, if a public access channel is to be established, the mechanics for the viable and fiscally sustainable operation of such a channel would need to be determined.

The business, financial, and legal implications of establishing a public access channel are complex. The City of Oakland operates the government channel, KTOP, which could contribute some knowledge and experience as part of this analysis. However, staff recommends seeking professional consulting services that have the esoteric knowledge and bandwidth needed to adequately and appropriately research and analyze the subject matter. It would be this research and analysis by which the City Council could make an informed decision.

Below is a list of sample questions that a professional consultant could address in determining the feasibility of creating a public access channel in Oakland, including those asked by Councilmember McElhaney:

1. Is Oakland eligible for an additional PEG (public, educational and governmental) channel?
2. If yes, what steps need to be taken to establish a public access channel?
3. What infrastructure needs to be put into place to operate and manage a public access channel?
4. How do other cities currently organize and manage their respective public access channels?
5. What are the financial, legal, and operational advantages and disadvantages of each structure used to manage a public access channel?
6. What types of financial, legal and operational challenges, if any, have other cities faced in managing a public access channel?
7. What public benefits have other cities had in managing a public access channel?
8. What costs (one-time and on-going) to the local government are associated with setting up and managing a public access channel?
9. What are eligible funding sources that can be used to set up and manage a public access channel?
10. Would a fourth PEG (public, educational and governmental) channel have any financial or operational impact on the existing channels (KTOP, KDOL, and Peralta)?
11. If Oakland is not eligible for an additional PEG channel, what criteria, cost, and process could Oakland undertake to become eligible for an additional channel?
12. What costs would be incurred to undertake such a process?
13. What are eligible funding sources that can be used to undertake such a process?

14. Could any of the existing PEG channels accommodate public access use; how would this be structured; and what are the financial, legal, and operational implications?

Staff could develop a Request For Qualifications (RFQ) to identify the appropriate professional services to engage a feasibility analysis, and return to the City Council with a cost estimate for conducting such a feasibility analysis.

FISCAL IMPACT

There is no fiscal impact associated with this informational report.

Per Oakland Municipal Code 5.17.210, and consistent with DIVCA, the City receives PEG fees of 1% of gross revenue that are fully allocated to support the operations of the three existing PEG channels – KTOP (City of Oakland), KDOL (Oakland Unified School District) and Peralta TV (Peralta Community College District).

The costs associated with conducting a feasibility analysis, as well as the implementation of a public access channel, would be identified later as the information becomes available.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for this informational report beyond the standard City Council agenda noticing procedures. Public outreach would be incorporated as part of the feasibility analysis to be conducted by a professional services consultant.

COORDINATION

No additional coordination was conducted for the drafting of this report beyond the standard City Council agenda coordination procedures.

SUSTAINABLE OPPORTUNITIES

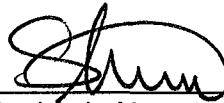
There are no economic, environmental, or social equity opportunities associated with this informational report.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive an informational report on creating a public access channel for Oakland.

For questions regarding this report, please contact Stephanie Hom, Deputy City Administrator, at (510) 238-7542.

Respectfully submitted,



Stephanie Hom
Deputy City Administrator
City Administrator's Office

Attachments (1)

- A. Informational Report On Creating a Public Access Channel for Oakland Heard at Life Enrichment Committee on September 12, 2017



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2017 AUG 31 PM 12: 25

Attachment A

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Stephanie Hom
Deputy City Administrator

SUBJECT: Public Access Channel

DATE: August 30, 2017

City Administrator Approval

Date: 8/31/17

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On Creating a Public Access Channel for Oakland.

BACKGROUND / LEGISLATIVE HISTORY

The City of Oakland established a local franchise agreement with Comcast per Ordinance No. 12861, effective December 18, 2007 and expiring on December 17, 2017.

The State Legislature adopted the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), set forth in Public Utilities Code (PUC) Section 5800. DIVCA creates a process for the state to grant video service franchises and establishes the California Public Utilities Commission (CPUC) as the sole franchising authority for new video service providers in the state.

The Rules Committee, at its meeting on June 15, 2017, approved a request from Councilmember Gibson McElhaney to schedule an item titled: "Receive A Report With Possible Action From the City Administrator On The Cost, Process and Proposed Timeline For Creating A Public Access Channel for Oakland" for the Life Enrichment Committee on September 12, 2017 and is the subject of this report.

ANALYSIS AND POLICY ALTERNATIVES

The City of Oakland established a local franchise agreement with Comcast per Ordinance No. 12861, effective December 18, 2007 and expiring on December 17, 2017. DIVCA dictates that there are no more city-by-city franchises and upon the expiration of the current local franchise agreement, only a State Franchise can be issued by the CPUC.

Under DIVCA, some authority is retained by local cities and counties, including the authority to collect franchise fees, to collect certain PEG fees (for public, educational and governmental channels) and to monitor compliance with state and federal customer service standards. In

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addition, the City is currently receiving cable TV at its public buildings at no cost but may be charged for this service upon expiration of the local franchise agreement.

PUC Section 5850 (a) states that, "The holder of a state franchise shall designate a sufficient amount of capacity on its network to allow the provision of the same number of public, educational, and governmental access (PEG) channels, as are activated and provided by the incumbent cable operator that has simultaneously activated and provided the greatest number of PEG channels within the local entity under the terms of any franchise in effect in the local entity as of January 1, 2007."

In Oakland, Comcast provides three (3) PEG channels – KTOP (City of Oakland), KDOL (Oakland Unified School District) and Peralta TV (Peralta Community College District).

Further, PUC Section 5850 (d) (1) states that, "The holder shall provide an additional PEG channel when the nonduplicated locally produced video programming televised on a given channel exceeds 56 hours per week as measured on a quarterly basis. The additional channel shall not be used for any purpose other than to continue programming additional government, education, or public access television." And that (2), "For the purposes of this section, "locally produced video programming" means programming produced or provided by any local resident, the local entity, or any local public or private agency that provides services to residents of the franchise area; or any transmission of a meeting or proceeding of any local, state, or federal governmental entity."

By definition, a public access channel is available for use by the general public. They are usually administered by the cable operator. Any further analysis to create a public access channel for Oakland would require additional resources in the form of consultant services knowledgeable of the subject matter, and an associated budget allocation.

FISCAL IMPACT

There is no fiscal impact associated with this informational report.

Per Oakland Municipal Code 5.16.540, and consistent with DIVCA, the City will continue to receive a franchise fee of 5% of gross revenue. Per Oakland Municipal Code 5.17.210, and consistent with DIVCA, the City will continue to receive PEG fees of 1% of gross revenue.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for this informational report beyond the standard City Council agenda noticing procedures.

COORDINATION

This report has been prepared in coordination with the City Attorney's Office.

SUSTAINABLE OPPORTUNITIES

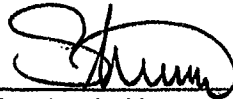
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