



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: General Services
Department No.: 063
For Agenda Of: April 4, 2017 and April 11, 2017
Placement: Departmental Agenda for April 4, 2017 (first reading) and Administrative Agenda for April 11, 2017 (second reading)
Estimated Tme: 10 minutes on April 4, 2017
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: General Services Department Janette D. Pell, Director (805) 560-1011
Contact Info: Skip Grey, Assistant Director (805) 568-3083
SUBJECT: **An Ordinance Reauthorizing the County's Public, Educational and Governmental Access Fee on State Video Franchises**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors consider the following actions:

On April 4, 2017:

- a) Approve the introduction (first reading) of an Ordinance Reauthorizing the Public, Educational and Governmental Access (PEG) Fee on State Video Franchises Operating within the Unincorporated Area of the County of Santa Barbara;
- b) Read the title of the Ordinance and waive full reading of the Ordinance; and
- c) Continue the hearing to the Administrative Agenda of April 11, 2017 to consider recommendations, as follows:

On April 11, 2017:

- i) Consider and approve the adoption (second reading) of an Ordinance Reauthorizing the Public, Educational and Governmental Access (PEG) Fee on State Video Franchises Operating within the Unincorporated Area of the County of Santa Barbara; and
- ii) Determine that the proposed actions are not a "project" under the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(5) of the CEQA Guidelines, in that they are administrative activities that will not result in direct or indirect physical changes in the environment, and approve and authorize the Clerk to post the attached Notice of Exemption.

Summary Text:

This item is being brought to the Board in order to reauthorize the Public, Educational and Governmental Access (PEG) Fee on State Video Franchises Operating within the unincorporated area of the County of Santa Barbara. The County of Santa Barbara (County) collects Public, Educational and Governmental (PEG) access fees from state-franchised, video service providers operating in the unincorporated area of the County. The PEG fee, equal to 1% of each video service providers' gross revenues, was established by Ordinance 4785. The state franchise agreements for one of the County's video service providers (Cox Cable – South County) is renewing in April, 2017, and the other (Comcast – North County) is due to expire in 2021. As the service providers renew their franchises, staff is recommending the reauthorization of the PEG fee. The reauthorizing ordinance, if approved, would reauthorize the PEG fee for all state-franchised, video service providers in the unincorporated area of the County of Santa Barbara.

Background:

The California Legislature's passage of the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) changed, statewide, how cable and video services are regulated. DIVCA, codified in the California Public Utilities Code Section 5800, et.seq., transferred cable and video television franchising authority from local governments to the California Public Utilities Commission (CPUC). DIVCA did, however, include provisions enabling local governments to continue to collect two types of charges that had traditionally been included in nearly all local cable television franchise agreements.

First, video service providers are required to pay franchise charges, set at 5% of gross video revenues, to local governments as rent for the use of the public rights-of-way to place and maintain cable. Second, DIVCA allows, but does not require, local governments to establish and collect Public, Educational and Governmental (PEG) access fees from video service providers operating within their communities. By law, the PEG fee cannot exceed 1% of gross video revenues.

In April of 2011, an amendment to the County's cable television Franchise and License ordinances aligned the County's current cable franchise codes with the DIVCA. The County currently receives approximately \$80,000 each year in PEG fee revenue from Comcast and expects to begin receiving PEG revenue from Cox Communications as Cox's local franchise with the County expired in January, 2017 and Cox is now operating under a state franchise. Cox has applied to renew its franchise with the PUC for their existing service area and the renewal will be effective April 27, 2017. PEG revenue can only be used for capital expenditures to support PEG channel facilities. The County accumulates these funds and then allocates them to specific PEG-related capital expenditures.

The section of DIVCA that authorized the County to establish and collect PEG fees also states that "the ordinance shall expire, and may be reauthorized, upon the expiration of the state franchise." Ordinance 4785 enables the County to collect the PEG fee, and the ordinance currently before your Board reauthorizes that ordinance to allow the County to continue to collect that same fee. It does not establish a new fee or change the rate of the fee, nor does it affect the collection of the separate, franchise fees.

Fiscal and Facilities Impacts:

The adoption of the ordinance will facilitate timely payment of the one percent (1%) PEG fee and will continue to generate approximately \$80,000 annually from the Comcast franchise area (north County) and an estimated \$180,000 annually from the Cox franchise area (south County).

There are no facilities impacts.

Special Instructions:

- 1) The Clerk of the Board shall publish notice of the ordinance pursuant to Cal. Gov. Code Section 25124.
- 2) The Clerk of the Board shall send a copy of the signed and numbered ordinance and minute order to the General Services Department, attention Dawn Fargas.

Attachments:

- 1) Proposed Ordinance
- 2) California Video Franchise Certificate for Cox Communications issued by the California Public Utilities Commission
- 3) Notice of Exemption (CEQA)