



Legislation Details (With Text)

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Title: Recommendation to authorize City Manager to allocate Public, Education and Government (PEG) fee revenue equally among the three categories of cable access providers, each receiving one-third of the total available. (Citywide)

Sponsors: Technology Services

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Attachments: 1. 042109-R-27sr&att.pdf, 2. 042109-R-27Handout - F. Alexander.pdf, 3. 042109-R-27Handout - O'Donnell.pdf, 4. 042109-R-27Handout - P. McColm.pdf, 5. 042109-R-27Handout - W. Wendy.pdf, 6. 042109-R-27Handout - R. Jackson.pdf, 7. 042109-R-27Handout - S. Long.pdf, 8. 042109-R-27Handout - J. Baker.pdf, 9. 042109-R-27Handout - K. La Mantia.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|------------------------|--------|
| 4/21/2009 | 1 | City Council | approve recommendation | Pass |

Recommendation to authorize City Manager to allocate Public, Education and Government (PEG) fee revenue equally among the three categories of cable access providers, each receiving one-third of the total available. (Citywide)

On December 16, 2008, the City Council directed City staff to conduct community outreach to obtain input and develop recommendations on the future use of Public, Education, and Government (PEG) fee revenues. In March 2009, City staff completed the outreach with community stakeholders and has developed a recommendation to equally disburse the funds collected by the City among the three PEG access categories.

Background

The enactment of the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) marked a major change in the regulation of video service providers in California. Essentially, DIVCA replaced the local franchising process with a State process under the authority of the California Public Utilities Commission. The legislation allowed incumbent cable operators, such as Charter Communications (Charter), to vacate their local cable franchises and begin operating under a State-issued franchise on January 2, 2008. Currently, the City of Long Beach is served by two State franchise holders: Charter and Verizon.

Under DIVCA, Long Beach retained its five percent franchise revenues and traditional control over the time, place, and manner in which public-rights-of-way are used in these matters. The legislation, however, brought significant changes. For example, it enabled the City to establish a fee levied on State franchise holders to support PEG channel facilities. In September 2007, the City Council adopted an ordinance that set the City's fee at 1.04 percent of the cable providers' locally generated gross revenues. The funds are restricted to capital uses and cannot be used for operational

expenses such as staffing and rent. If the funds are used for any activity other than capital, the local cable/video providers can deduct that amount from their franchise fee payments to the City. In Long Beach, the cable franchise fee is transferred to the General Fund to support traditional municipal services such as public safety, recreation, and libraries. As prescribed by DIVCA, the City collects the PEG fee revenues quarterly from the local cable/video providers. The providers are required to submit payment to the City within 45 days after the end of each quarter.

Another change from the legislation is that the incumbent cable operator is not required to provide public access facilities, equipment, and staff support for residents to produce their own cable programming. Pursuant to the old local cable franchise, Charter was obligated to provide public access television in Long Beach until January 1, 2009. Both Charter and Verizon are required, however, to provide a channel for public access programming as long as certain minimum hours of programming are met. The public access channel is dark today because there is no longer a way to transmit community programming to the cable operator, which was provided from Charter's Public Access studio facilities.

Community Outreach

As directed by the City Council, City staff conducted a community meeting in March 2009 to gather input from interested stakeholders on how PEG fee revenue (approximately \$600,000 annually) would be distributed in the future. Eleven individuals attended the meeting, representing the arts community, educational institutions, and public access producers.

The outreach meeting produced substantial conversation and various ideas about the future uses of the PEG funding. The topics generating the most conversation focused on the methodology for distribution (e.g., pooling of the funds, needs or project-based, annual percentage split), and the timing of the disbursement of funds. There was also lengthy discussion about the future of public access in Long Beach and how it can be provided in the long-term. Attachment 1 documents the discussion and ideas from the meeting.

Based on this discussion, City staff recommends allocating one-third of the total PEG fee revenues to each of the three PEG categories. Of the approximately \$600,000 anticipated annually, \$200,000 would be allocated to public access, education institutions (LBUSD, LBCC, and CSULB), and the City of Long Beach. The education institutions would divide their allocation equally. The majority of the attendees voiced support of this allocation approach.

Next Steps

Upon City Council approval of a PEG fee revenue allocation, the City will issue a Request for Proposals (RFP) for the long-term management and operation of the public access channel. The RFP is intended to identify a qualified, not-for-profit entity to operate the channel and oversee all facets of public access, including training, scheduling, program playback, generating operational funding, staffing, and facility and equipment maintenance. It should be noted that this RFP approach is consistent with other communities such as Los Angeles and San Francisco.

As part of the RFP, the City would be able to offer one-third of PEG fee revenue for capital needs to potential public access operators. Once a public access operator is selected, City staff will bring the recommendation to the City Council. In an effort to get public access programming back as quickly as possible, the selected public access operator could be the first to request and receive the available

PEG fee revenues.

This letter was reviewed by Deputy City Attorney Gary Anderson on March 26, 2009 and Budget and Performance Management Bureau Manager David Wodynski on March 27, 2009.

City Council action is requested on April 21, 2009 to establish the policy for allocation of PEG funds and facilitate the immediate release of an RFP for the provision of public access television in Long Beach.

The City of Long Beach expects to receive approximately \$600,000 in PEG revenues in calendar year 2009. These funds are collected from the local cable/video providers on a quarterly basis. The PEG fee, enabled via DIVCA, was enacted by the City Council in September 2007 to support PEG channel facilities. The funds are restricted for capital purposes, and cannot be used on any operational expenses. The PEG revenues will be reserved in the General Services Fund (IS 385) until such time as the first disbursement is made. As a result of this action, the City's government access channels would receive one-third, or approximately \$200,000, of the total funds.

Approve recommendation.

CURTIS TANI
DIRECTOR OF TECHNOLOGY SERVICES

NAME
TITLE

APPROVED:

PATRICK H. WEST
CITY MANAGER