



CITY OF LONG BEACH

R-27

DEPARTMENT OF TECHNOLOGY SERVICES

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April 21, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the 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)

DISCUSSION

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.

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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.

TIMING CONSIDERATIONS

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.

FISCAL IMPACT

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.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



CURTIS TANI
DIRECTOR OF TECHNOLOGY SERVICES

CT:SPS:spc
Attachment

APPROVED:



PATRICK H. WEST
CITY MANAGER

Attachment 1

Public, Education & Government Funding Community Outreach Meeting Summary of Stakeholder Input

The bullets present the comments noted from participants at the March 5, 2009 community outreach meeting. The intent of the meeting was to obtain input on the future use of PEG funds. A listing of participants is included at the end of this document.

Input Provided By:

(P) = Public Access Producer

(E) = Education Access Provider (CSULB, LBCC, and LBUSD)

(G) = Government Access

(C) = Community Participant / Arts Community Representative

- PEG funds should be available sooner (than 2010) – no delay. (P)
- The money should be divided equally – not by project. (E)
- Public Access needs to be treated differently. (P)
 - Public Access is the only access provider without existing resources.
 - Playback can resume immediately with a \$70,000 advance.
 - Strongly recommend that we move forward now, if not, we'll lose producers and momentum.
 - Need to restore the voice of the people.
 - Fighting for survival.
- Are we locked into traditional PEG? Let's not lock into the traditional paradigm, but raise the bar and create alliances for education, economic development, and workforce development. (C)
- Don't agree with traditional view of Public Access and would like to see a network created throughout the city. Would love to see a non-profit that can integrate it all. (C)
- Public Access producers just want to bring back the old paradigm. Internet integration is important. Is there going to be an ascertainment of need to survey the landscape to find out what's going on? (C)
- Non-profit status for whoever operates Public Access is extremely important. (E)
- Need to re-envision Public Access: Access 2.0 (E)
- Support collaboration in operating Public Access. (E)

- Need new ways to deliver Public Access. (E)
- There has to be another way to do this. The group should be talking about where this should take us. We need a long-range goal. (C)
- Public Access has unique challenges. (P)
- Constraints – DIVCA needs to be used for all three access providers (P, E & G). (P)
- Group needs to see the actual needs/requirements for each of the PEG providers to be able to evaluate ideas. (P)
- Best we can hope for is an equal split (33 percent for each of the three). Tough for educational institutions to support all of the money going to one entity to share. (E)
- Public Access needs one channel. (P)
- Streaming video is wave of future. (E)
- It appears that the group is at an impasse. Not sure how we can achieve consensus. Mistake to diminish new media. (E)
- These new media are all part of Public Access' plan. (P)
- How can we achieve visions with existing capital restrictions? (E)
- There are Public Access content issues that make it problematic for E & G to operate public access. Maybe we go back to the equal split (33 percent each for P, E & G) because there's no money for operations. (P)
- Would love to see organizations such as the YMCA obtain equipment. (C)
- New paradigm needed for equipment purchase for Public Access. (E)
- Suggestion that everyone submit proposals for the money. (P)
- Another meeting is needed for all of us to come back together one more time. (P)
- Public Access should come up with another proposal to be able to stand on its own. (P)
- Equipment-wise it's not a problem. We can get good video inexpensively. (E)

- It would be useful to identify what role other groups want to play. (P)
- For the first five years, Public Access will need more than 1/3 of total PEG funds. (P)
- There is nothing preventing Public Access producers from forming a non-profit and putting together a proposal for the City. (E)
- If one of the three PEG entities gets more than the others, there will be hard feelings. (E)
- Individual favors equitable distribution instead of by project. (P)
- There was a second for the equitable distribution. Would also like to see Public Access and playback restored as soon as possible. (E)
- A management system for Public Access needs to be established before funds are allocated. (C)
- Public Access needs to know how much PEG money is available. (P)
- Two representatives from E access providers prefer to know how much money is allocated up-front. (E)
- Individual was interested in knowing the timing related to the RFP process and formation of a non-profit. (P)

Participants/Organization:

Judy Baker, Long Beach Community Television Producers Association
 Marc Coleman, Long Beach Community Television Producers Association
 Craig Gernaey, Long Beach Unified School District
 Mat Kaplan, California State University, Long Beach
 Karen LaMantia, Long Beach Community Television Producers Association
 Fred Rossmanner, Long Beach City College
 Antonio Ruiz, Creativity Network and Long Beach Arts Council
 Ahmed Saafir, Long Beach Community Television Producers Association
 Ray Sharp, Long Beach Unified School District
 Ryan Smolar, Long Beach Community Television Producers Association
 Ed Wode, Long Beach Community Television Producers Association

City Staff:

Curtis Tani, Director of Technology Services
 Stephen Scott, Manager of Customer Services
 Dean Smits, Video Communications Officer