



City of Huntington Beach

File #: 19-541

MEETING DATE: 5/6/2019

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Fred A. Wilson, City Manager

PREPARED BY: Antonia Graham, Assistant to the City Manager

Subject:

Approve for Introduction Ordinance No. 4180 repealing Ordinance No. 4130 and adding Chapter 3.50 to the Huntington Beach Municipal Code relating to State Video Franchises

Statement of Issue:

On January 22, 2019, the City Council voted to authorize the City Manager to execute a six (6) month Notice of Intent to Terminate the City's membership from the Public Cable Television Authority (PCTA).

Financial Impact:

This action will enable the cable television providers to directly remit approximately \$605,000 in Public, Educational, Governmental (PEG) fees effective July 1, 2019, and will provide the opportunity to pursue more cost-effective means of securing public access audio-visual services. The City will also receive approximately \$3 million in cable franchise fees directly from the franchisees, instead of being passed through PCTA.

Recommended Action:

Approve for introduction Ordinance No.4180, "An Ordinance of the City Council of the City of Huntington Beach Repealing Ordinance No. 4130 and Adding Chapter 3.50 to the Huntington Beach Municipal Code Relating to State Video Franchises."

Alternative Action(s):

If the City does not rescind this Ordinance, the funds will continue to be remitted to PCTA directly.

Analysis:

Local governments have traditionally received compensation for the use of the public right-of-way by cable television companies for the provision of video services in the community. The City currently receives 5% of the gross revenues from Frontier Communications (former Verizon) and Spectrum/Charter (formerly Time Warner Cable) through its membership in PCTA. PCTA annually collects approximately \$605,000 in PEG fees from Huntington Beach ratepayers and withholds \$152,000 in franchise fees from the ratepayers to fund its administrative budget.

In September 2006, then Governor Schwarzenegger signed Assembly Bill 2987, "Digital Infrastructure and Video Competition Act of 2006" also known as DIVA which established a statewide franchising system for wireline video service providers, thus eliminating the need for individual franchises with local jurisdictions or JPAs. DIVCA Section 5870 states that the fee to support PEG channel facilities, "may be reauthorized upon the expiration of the state franchise," but does not explicitly require local agencies to reauthorize these fees via an ordinance. Because Section 5870 refers to an ordinance elsewhere - and because PCTA previously had argued that the funding could be lost, Rutan & Tucker (the law firm that represents PCTA) required PCTA member cities to proceed with reauthorized via an ordinance. Which is why the City would present to City Council ordinances that effectively "turned over funds" to PCTA and why on March 6, 2017, the City Council approved Ordinance No. 4130 re-establishing the collection of Public, Educational, and Government Access (PEG) fees from our cable providers and remitting them to the Public Cable Television Authority (PCTA).

On January 22, 2019, the City Council approved and authorized the City Manager to give a written "Notice of Termination from the Public Cable Television Authority." Part of the exit and transition from PCTA necessitates the need to rescind Ordinance No. 4130 in order for the City to direct the telecommunication providers to remit PEG and franchise fees directly to the City. It is expected that the City will begin receiving these funds directly beginning the 1st Quarter of Fiscal Year 2019/20.

Environmental Status:

Not Applicable

Strategic Plan Goal:

Enhance and maintain high quality City services

Attachment(s):

1. Ordinance No. 4180, "An Ordinance of the City of Huntington Beach Repealing Ordinance No. 4130 and Adding Chapter 3.50 to the Huntington Beach Municipal Code Relating to State Video Franchises."