



CITY OF POMONA COUNCIL REPORT

March 5, 2018

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted By: Mark J. Gluba, Deputy City Manager

Subject: Second Reading and Adoption of an Ordinance Reauthorizing City Ordinance No. 4111 Pertaining to Collection of Public, Educational and Government (PEG) Access Support Fees and Amending Section 54-102 to Add Automatic Reauthorization

OVERVIEW

Recommendation – That the City Council adopt at second reading the proposed Ordinance reauthorizing Ordinance No. 4111 pertaining to the collection of Public, Educational, and Governmental access support fees (PEG Fees) on state video franchisees operating within the City and amending City Code Section 54-102 to include a provision for automatic reauthorization for future State renewed franchises

Fiscal Impact – The use of PEG Fees paid to the City is restricted primarily to fund costs related to production of educational and governmental programming and making the community cable channel available to the public.

Previous Council Action – On February 26, 2018, the City Council adopted an urgency Ordinance reauthorizing Ordinance No. 4111 establishing certain provisions of the California Digital Infrastructure & Competition Act (DIVCA) of 2006 and introduced for first reading an Ordinance Reauthorizing City Ordinance No. 4111 pertaining to the collection of PEG fees and amending Section 54-102 of the City Code to add automatic reauthorization.

EXECUTIVE SUMMARY

Under the regulatory structure established by the State, the State has the authority to grant video franchises for a term of ten years. Charter Communications has had its ten-year charter renewed by the State, and the City must reauthorize the PEG fee in order to continue to collect this revenue stream as originally authorized under City Ordinance 4111. Since the fee authority has expired, an urgency ordinance was adopted at the February 26, 2018 Council Meeting to make the reauthorization effective immediately. The Council also simultaneously presented an ordinance for first reading which included Code Amendments providing for automatic reauthorization along with the urgency ordinance.

Adoption of An Ordinance at Second Reading, Reauthorizing Ordinance No. 4111 and Amending Sec. 54-102 to add Automatic Reauthorization

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BACKGROUND

In 2006, the California Legislature adopted the Digital Infrastructure and Video Competition Act (DIVCA), which established a regulatory structure whereby the authority to grant and renew video service franchises resides with the State. In 2008, in accordance with DIVCA requirements, the City adopted Ordinance No. 4111, which allowed the City to impose a PEG Fee on state franchise holders within the City. The PEG fees collected are limited to use in support of PEG channel facilities. The City's existing PEG Fee ordinance is intended to apply to all franchisees operating in the City. State law provides for reauthorization of the PEG Fee upon the expiration of an approved franchise. While State law does not state the method for reauthorization, Charter Communications (Charter) requested reauthorization of the previously adopted Ordinance No. 4111 to continue collection of PEG Fees within the City. According to California Public Utilities Commission statutes, City DIVCA Ordinances expire concurrently with the expiration of State Franchises.

Charter Communication's State franchise expired and was renewed on January 2, 2018. Pursuant to DIVCA, the City should reauthorize the PEG Fee established by Ordinance No. 4111 in order to avoid any claim as to whether the City can continue to collect the PEG Fee from Charter. The proposed ordinance will reauthorize the City's PEG Fee, and therefore preserve continued funding in support of PEG programming facilities and activities.

DISCUSSION

City staff was just recently made aware of the Charter's state franchise renewal by a Government Affairs representative at Charter. Because the City depends upon the PEG Fee for capital costs relating to PEG channel facilities, which are essential to providing City residents with important civic programming including emergency alerts and community and government news, an Urgency Ordinance is necessary to ensure continuance of the PEG Fee from Charter without lapse and, thus, the immediate preservation of the public peace, health and safety. The Urgency Ordinance became effective immediately upon adoption. As a matter of best practices, the proposed ordinance was also introduced for first reading.

In addition to reauthorizing the PEG Fee, the proposed ordinance adds a provision to Section 54-102 to allow for automatic reauthorization of Ordinance No. 4111 when a state franchise expires in the future. Ordinance No. 4111 shall so renew until such time that the City Council takes formal affirmative action to cease the renewals.

CONCLUSION

Adoption, at second reading of the proposed ordinance will ensure that the City continues to receive the PEG Fee from Charter Communications.

Attachments: Ordinance