



**County of Santa Cruz Board of Supervisors
Agenda Item Submittal**

From: Information Services Department
(831) 454-2030

Meeting Date: February 27, 2018

Recommended Action(s):

1. Consider approving in concept an Ordinance adding section 5.26.040 of the County of Santa Cruz Code to preserve the County's right to continue to collect Public, Educational, and Governmental (PEG) fees under state law.
2. Direct the Clerk of the Board to place the proposed ordinance on the agenda of March 13th for second reading and final adoption.

Executive Summary

Local cable and video TV operators are in process of renewing state-issued franchises with the California Public Utilities Commission (CPUC) and it is unclear as to whether local agencies need to reauthorize their local ordinances to continue to collect the PEG fees when a state franchisee renews its franchise with the State. This board item is to preemptively preserve PEG fees received by the County.

Background

The Digital Infrastructure and Video Competition Act of 2006 (DIVCA) went into effect on January 1, 2007. DIVCA established the CPUC as the sole franchising authority for video service providers preempting a local entity's right to franchise its cable and video TV operators. DIVCA allows local governments to establish and collect PEG access fees from the cable and video TV operators providing services in a County.

On March 18, 2014, the Board of Supervisors approved the addition of a new chapter to Title 5 of the Santa Cruz County Code by adopting Ordinance No. 5180 § 1, 2014 that authorized the collection of a PEG fee from video service providers with state-issued franchises, such as Charter and Comcast, that provide cable and video services within the unincorporated area of the County of Santa Cruz.

Analysis

Charter and Comcast received state issued franchises in 2007 and 2008, respectively. The state-issued franchises were given a term of 10 years that will expire in 2018. Charter has renewed its state-issued franchise and Comcast is expected to renew theirs in early 2018.

The section of DIVCA that authorized the County to create the PEG fee ordinance also states that "the ordinance shall expire, and may be re-authorized, upon the expiration of the state franchise." Currently, the law is unclear as to whether the expiration clause applies to local PEG fees when a state franchisee is renewing its franchise. Regardless of the interpretation of the law, County Staff is positioning to preserve the PEG fee through the actions outlined in this board memo.

Adopting an ordinance requires two steps: 1) an introduction of the proposed ordinance, 2) adopting the ordinance at a second reading during a future Board meeting. Adopting this ordinance is scheduled for the March 13, 2018 Board meeting. The ordinance would then go into effect 30 days later.

Failure to adopt an amendment to the ordinance may result in a loss of funding for equipment used to broadcast and produce programs on PEG channels including Community Televisions PEG channels. Staff recommends that the Board of Supervisors introduce an ordinance to re-authorize collection of the PEG fee.

Financial Impact

The PEG fee results in annual revenue of approximately \$880,000. These PEG fee revenues are recognized in a County PEG fund and can only be used for capital expenditures to purchase equipment for PEG channel programming, broadcasting, and for the production studio at Community Television.

Submitted by:

Kevin Bowling, Director

Recommended by:

Carlos J. Palacios, County Administrative Officer

Attachments:

- a Ordinance amending Chapter 5.26 SCCC