



Agenda Date: 12/19/2006
Agenda Placement: 6N

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Bennett Wilson - Chief Information Officer
Information Technology Services
REPORT BY: Bennett Wilson, CIO, 707 253-4829
SUBJECT: EXTENSION OF CABLE TELEVISION FRANCHISE HELD BY COMCAST

RECOMMENDATION

Chief Information Officer requests adoption of a resolution granting an extension of the non-exclusive cable television franchise held by Comcast Communications, Inc.

EXECUTIVE SUMMARY

New statewide video franchise rules were implemented with AB 2987, allowing telecommunications companies to receive a single statewide permit to deliver Internet and television services to homes and businesses instead of having to apply for individual permits with cities and counties.

The County currently has two franchises with Comcast; one expired in July 2006 and the other expires December 31, 2007. Comcast notified the County of their desire to renew the franchise on August 13, 2003. Subsequently, we have been working with the Cities of American Canyon and Napa to jointly renew our franchises with Comcast.

AB 2987 allows governments whose franchises had expired or would expire prior to the earliest effective date of any state franchise that could be granted to incumbent franchises (that date being January 2, 2008), could unilaterally extend the existing franchise until Jan. 2, 2008.

Extending the franchise allows the County to continue to negotiate for a local franchise while Comcast decides whether or not to opt for a state franchise.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The County received notification from Comcast Cable Communications, Inc. on August 13, 2003 of their desire to renew their cable franchise with Napa County.

On September 9, 2003, a Joint Exercise of Powers Agreement was entered into between the County of Napa (Agreement No. 6118) and the City of Napa (Agreement No. 8465) to obtain specialized services for the facilitation of the cable television franchise renewal process within the unincorporated area of Napa County. The City had already obtained these specialized services for its incorporated area through an existing contract with the Buske Group. The Joint Exercise of Powers Agreement effectively amended the contract to expand the scope of work to include provision of such services by the Buske Group to also fulfill the needs of the County. The County obtained these services at fee of \$20,000.

The Cable Communications Policy Act of 1984 ("Cable Act of 1984") encourages franchisors and cable operators to reach renewal agreements through an informal process. However, Section 626 of the Act provides for a formal renewal process as well. Comcast's notification of their desire to renew is the first step in the formal process. It preserves their rights under the Cable Act of 1984 should informal negotiations fail to reach an agreement.

The key elements of the informal renewal process as defined by federal law are:

- | Review performance of the cable operator
- | Conduct a "community" needs assessment
- | Negotiate a new franchise in light of the changing technological, economic and cultural conditions

The County has two franchises with Comcast; one of those franchises does not expire until December 31, 2007 while the other granted pursuant to Resolution 86-51 was for the "south" area and expired in July 2006. One of the goals for the County is to consolidate the two old franchises (originally held by different companies) into one franchise between the County and Comcast.

It is important that the county preserve any rights it has under the current franchise granted pursuant to Res. 86-51 until the "dust" clears on AB 2987. The bill specifically provided that local governments whose franchises had expired or would expire prior to the earliest effective date of any state franchise that could be granted to incumbent franchises (that date being January 2, 2008), could unilaterally extend the existing franchise until Jan. 2, 2008.

Section 5930(b) of AB 2987 states ;

(b) When an incumbent cable operator is providing service under an expired franchise or a franchise that expires before January 2, 2008, the local entity may extend that franchise on the same terms and conditions through January 2, 2008.....

The reason for this is to permit the local government and the incumbent operator to determine whether the incumbent operator would negotiate for a local franchise or opt for a state franchise. The County along with the cities of American Canyon and Napa have been negotiating with Comcast for several months. While much

progress has been made it is clear that an agreement will not be in place before the December 31, 2007 deadline.

Entities that do not have a franchise in place on January 1, 2007 (effective date of AB 2987) may apply for and get a state franchise issued and effective prior to January 2, 2008 (which is the earliest date an incumbent operator can have a state franchise become effective.) Thus, since the "south" franchise is expired, action to extend the franchise prior to January 1, 2007 preserves the continued negotiation process between the County and Comcast.

SUPPORTING DOCUMENTS

A . Extension Resolution

CEO Recommendation: Approve

Reviewed By: Karen Gratton