



REPORT TO CITY COUNCIL

DATE: FEBRUARY 22, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: LOUIS CELAYA, DEPUTY CITY MANAGER 

SUBJECT: ADOPTION OF AN URGENCY ORDINANCE AND INTRODUCTION OF A NON-URGENCY ORDINANCE OF THE CITY OF AGOURA HILLS, REAUTHORIZING THE CITY'S PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS SUPPORT FEE, AND ADOPT AN ORDINANCE OF THE CITY OF AGOURA HILLS, REAUTHORIZING AND READOPTING THE CITY'S PUBLIC, EDUCATIONAL, AND GOVERNMENTAL (PEG) ACCESS SUPPORT FEE

In accordance with state law, the City imposes a 1% Public, Educational, and Governmental ("PEG") access fee on all state franchised video service providers operating within the City to support PEG programming facilities. Unless this ordinance is reauthorized, the 1% PEG access fee will expire on March 30, 2017.

In 2006, the California Legislature adopted the Digital Infrastructure and Video Competition Act ("DIVCA"), which changed the manner in which video services are regulated by replacing local franchising with a state franchising system administered by the Public Utilities Commission. DIVCA requires state franchise holders to offer at least three PEG channels to each community in which they operate. DIVCA also authorizes cities to adopt an ordinance imposing a fee on state franchise holders to support PEG programming facilities. The City Council established such a fee on December 12, 2007 by adopting Ordinance No. 07-349 to require video service providers who have been issued state franchises to pay the City a PEG access fee of 1% of the video service provider's gross revenues.

DIVCA also provides, however, that any ordinance adopting a PEG access fee "shall expire, and may be reauthorized, upon the expiration of the state franchise" (Public Utilities Code section 5870). Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company d/b/a AT&T California ("AT&T") received a state video franchise to operate within the City on March 30, 2007. City staff was recently advised this franchise will expire on March 30, 2017. The City's PEG fee will therefore expire on March 30, 2017, unless the City Council reauthorizes the fee.

The proposed urgency ordinance and the (non-urgency) ordinance would reauthorize the City's PEG fee and, therefore preserve funding available to support PEG programming facilities. Staff believes that an urgency ordinance is necessary for the immediate

preservation of the public peace, health and safety because the City depends upon the PEG fee to support PEG access channel facilities, which are essential to providing City residents with important civic programming, including emergency alerts and community and governmental news. If this ordinance does not become effective immediately, but instead becomes effective thirty days after its second reading, funding for City PEG facilities could lapse, causing residents who rely on PEG channels for emergency broadcasts and news updates to lose a vital source of City information. Any lapse in funding may also lead to confusion among state video franchisees operating within the City regarding the payment of PEG access fee, leading the City to incur additional costs to recover any overdue fees.

The ordinances will reauthorize a 1% PEG access support fee that the City currently receives. If the City Council does not reauthorize the PEG access support fee, the City will not receive further PEG access fees from video service providers operating under state franchises within the City which equate to approximately \$24,000 from AT&T.

The proposed ordinances have been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff respectfully recommends that the City Council adopt (urgency) Ordinance No. 17-426U and introduce, read by title only, and waive further reading of (non-urgency) Ordinance No. 17-426 by the following actions:

1. **URGENCY:** Motion to read by title only and adopt urgency Ordinance No. 17-426U effective February 22, 2017.
2. **NON URGENCY:** Motion to introduce, ready by title only, and waive further reading of Ordinance No. 17-426.

Attachments: Ordinance No. 17-426-U and 17-426

ORDINANCE NO. 17-426U

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF AGOURA HILLS, CALIFORNIA,
REAUTHORIZING THE CITY'S PUBLIC, EDUCATIONAL,
AND GOVERNMENTAL (PEG) ACCESS SUPPORT FEE**

WHEREAS, Section 5870(n) of the Public Utilities Code, which was enacted as part of the Digital Infrastructure and Video Competition Act of 2006, authorized the City adopt an ordinance establishing a fee on state-franchised video service providers to support public, educational, and governmental ("PEG") access channel facilities; and

WHEREAS, on December 12, 2007, the City adopted Ordinance No. 07-349 establishing such a fee, which is codified in Section 6926.2 of the Municipal Code; and

WHEREAS, Section 5870(n) of the Public Utilities Code states that such an ordinance shall expire, and may be reauthorized, upon the expiration of a state franchise.

WHEREAS, the first state franchise to include the City, California Video Franchise Certificate Franchise No. 0002 granted to Pacific Bell Telephone Co. d/b/a SBC Pacific Bell Telephone Co. d/b/a AT&T California will expire on March 30, 2017;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

Section 1. Urgency Findings. The City Council finds as follows:

(a) Currently, the City depends upon the PEG access fee to support PEG access channel facilities, which are essential to providing city residents with important civic programming including emergency alerts and community and governmental news. Pursuant to Public Utilities Code Section 5870(n), the City's PEG access fee codified in Section 6926.2 of the Municipal Code shall expire upon the expiration of a state franchise. The first state franchise to include the City, California Video Franchise Certificate Franchise No. 0002 granted to Pacific Bell Telephone Co. d/b/a SBC Pacific Bell Telephone Co. d/b/a AT&T California will expire on March 30, 2017. If this fee is not reauthorized immediately, the City will lose funding for its PEG programming facilities. Any loss of funding would jeopardize a trustworthy, reliable and immediate means by which the City communicates with its residents. Any lapse in funding may also lead to confusion among state video franchisees operating within the City regarding the payment of PEG access fee leading the City to incur additional costs to recover any overdue fees.

(b) Therefore, the City Council finds and determines that the immediate preservation of the public peace, health and safety requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect immediately upon adoption. If this Ordinance does not become effective immediately, but instead becomes effective thirty days after its second reading, funding for City PEG facilities could lapse causing residents who rely on PEG channels for

emergency broadcasts and news updates to lose a vital source of City information. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health and safety and its urgency is hereby declared.

Section 2. The City Council hereby reauthorizes the fee on state-franchised video service providers to support public, educational, and governmental channel facilities codified in Section 6926.2 of the Municipal Code, which fee shall remain unchanged and in full effect as to all state-franchised video service providers.

Section 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law.

Section 4. This Urgency Ordinance shall become effective immediately upon adoption.

PASSED, APPROVED, AND ADOPTED, this 22nd day of February, 2017, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney

ORDINANCE NO. 17-426

**AN ORDINANCE OF THE CITY OF AGOURA HILLS,
CALIFORNIA, REAUTHORIZING AND READOPTING THE
CITY'S PUBLIC, EDUCATIONAL, AND GOVERNMENTAL
ACCESS (PEG) SUPPORT FEE**

WHEREAS, Section 5870(n) of the Public Utilities Code, which was enacted as part of the Digital Infrastructure and Video Competition Act of 2006, authorized the City adopt an ordinance establishing a fee on state-franchised video service providers to support public, educational, and governmental ("PEG") access channel facilities; and

WHEREAS, on December 12, 2007, the City adopted Ordinance No. 07-349 establishing such a fee, which is codified in Section 6926.2 of the Municipal Code; and

WHEREAS, Section 5870(n) of the Public Utilities Code states that such an ordinance shall expire, and may be reauthorized, upon the expiration of a state franchise, and that a fee may be adopted at any time; and

WHEREAS, the first state franchise to include the City, California Video Franchise Certificate Franchise No. 0002 granted to Pacific Bell Telephone Co. d/b/a SBC Pacific Bell Telephone Co. d/b/a AT&T California will expire on March 30, 2017;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS
DOES ORDAIN AS FOLLOWS:**

Section 1. The City Council hereby reauthorizes and readopts the fee on state-franchised video service providers to support public, educational, and governmental channel facilities codified in Section 6926.2 of the Municipal Code, which fee shall remain unchanged and in full effect as to all state-franchised video service providers.

Section 2. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law.

Section 3. This Ordinance shall go into effect on the 31st day after its adoption.

PASSED, APPROVED, AND ADOPTED, this day of , 2017, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney