



## Town of Atherton

### **CITY COUNCIL STAFF REPORT – PUBLIC HEARING**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**THROUGH: GEORGE RODERICKS, CITY MANAGER**

**FROM: THERESA DELLASANTA, DEPUTY CITY MANAGER/CITY CLERK**

**DATE: FOR THE MEETING OF JANUARY 17, 2018**

**SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING SECTION 13.10.070 OF THE ATHERTON MUNICIPAL CODE FOR PUBLIC, EDUCATIONAL AND ACCESS SUPPORT FEES FROM VIDEO SERVICE PROVIDERS**

#### **RECOMMENDATION**

Introduction of ordinance amending Section 13.10.070(b)(1)(B) of the Atherton Municipal Code to reauthorize fee to be paid by video service providers for Public, Educational and Government (PEG) access support.

#### **BACKGROUND**

In 2000, the Town entered into a Joint Exercise of Powers Agreement in which the City of Palo Alto, as administering agency, oversees a cable television franchise to TCI Cablevision of California, Inc. (Comcast). The JPA gives the City of Palo Alto the sole authority to grant and administer the cable franchise process on behalf of its members. The JPA members continue to rely on Palo Alto for such activities as franchise and PEG fee collection, PEG oversight, customer service and the like with respect to all state franchise holders.

The Digital Infrastructure and Video Competition Act of 2006 (DIVCA) went into effect on January 1, 2007. DIVCA established a state franchising system administered by the Public Utilities Commission for video service providers. DIVCA allows the Town to exact a fee from video service providers with state-issued franchises for Public, Education, and Governmental channel purposes. Pacific Bell Telephone Company dba SBC Pacific Bell Telephone Company dba AT&T California (AT&T) operates within the Town under California Video Franchise

Certificate Number 0002. Comcast Cable Communications Management LLC, dba Comcast operates within the Town under California Video Franchise Certificate Number 0021.

In 2008, the Council adopted an ordinance, amending Chapter 13.10.070 of the Atherton Municipal Code, to establish a PEG fee of \$0.88 per residential subscriber per month for its franchise video service providers (AT&T and Comcast).

DIVCA requires the Town to reauthorize the \$0.88 PEG fee by ordinance at the expiration and renewal of each state video franchise. The term of a state franchise is 10 years. Comcast is set to expire in January of 2018. Additionally, AT&T expired on March 30, 2017 however the AT&T franchise has been renewed by the State of California as of the same date until March 30, 2027.

The City of Palo Alto designated the MidPeninsula Media Center to operate and manage its PEG channels and to promote PEG access. The City of Palo Alto collects the PEG fees for all of the JPA Members from both AT&T and Comcast. The fees are then forwarded to the Media Center to support PEG access. In 2017, the City of Palo Alto has collected and forwarded to the Media Center, PEG fees amounting to approximately \$14,800 on Atherton's behalf.

### **ANALYSIS**

AT&T's State Video Franchise expired on March 30, 2017. Comcast State Video Franchise expire on January 2, 2018. DIVCA requires the Town to reauthorize the PEG fee by ordinance at the expiration and renewal of each state video franchise.

A notice of public hearing was published in the Almanac at least ten (10) days prior to the hearing. Publication notice was December 27, 2017.

### **POLICY FOCUS**

The Town utilizes MidPeninsula Media Center to program its City Council meetings on the local government access channel for Atherton residents.

### **FISCAL IMPACT**

None.

### **ATTACHMENT**

Draft Ordinance Amendment

**ORDINANCE XXX**

**ORDINANCE OF THE COUNCIL OF THE TOWN OF ATHERTON  
AMENDING SECTION 13.10.070 OF THE ATHERTON MUNICIPAL CODE  
REGARDING PUBLIC EDUCATIONAL AND GOVERNMENTAL (PEG)  
ACCESS SUPPORT FEES**

The City Council of the Town of Atherton does hereby resolve as follows:

**Section 1.** Amendment of Code

Section 13.10.070(b)(1)(B) is hereby amended to read as follows:

“(B) Upon the expiration of the Comcast Franchise or its earlier termination pursuant to Section 5840(o)(3) of the California Public Utilities Code, every state franchisee operating within the jurisdictional boundaries of the Town shall, pay a ~~new~~ reauthorized PEG support fee to the Town in the amount of eighty-eight cents (\$0.88) per month per subscriber in the Town.”

**Section 2.** If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or enforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

**Section 3.** The City Council hereby finds that this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the California Environmental Quality Act Guidelines, because it can be seen with certainty that there is no possibility of significant environmental effects occurring as a result of the adoption of this ordinance.

**Section 4:** This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this 17<sup>th</sup> day of January, 2018.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the \_\_\_\_\_, by the following vote:

Ayes:	Council Members:
Noes:	Council Members:
Abstain:	Council Members:
Absent:	Council Members:

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Cary Wiest, MAYOR  
Town of Atherton

ATTEST:

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Theresa N. DellaSanta, City Clerk

APPROVED AS TO FORM:

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Bill Conners, City Attorney