

May 3, 2006

For City Council Meeting
of May 9, 2006

**Introduction of an Ordinance Relating to Interconnection of Public, Educational,
and Government Broadcasts on Cable and Open Video Systems**

Recommendation

Introduce the Ordinance and waive full reading

Background

In December the City Council approved a new cable television regulatory ordinance governing cable and open video system franchises in the City of Hermosa Beach. The ordinance did not contain interconnection provisions. As there are two companies that will be providing subscription video services, the issue of interconnection is of greater importance than it had been in the past to ensure that the public, educational, and government programming is broadcast by all providers.

Analysis

Cable television services in the City of Hermosa Beach are currently being provided by Adelphia Communications. The City's franchise with Adelphia expired in October 2004 and they have continued to operate under the terms of the expired franchise while in bankruptcy. The City Council approved a second franchise for cable service with Verizon Communications in December 2005. That service is tentatively scheduled to begin August 1, 2006.

Currently the PEG channels are broadcast on Adelphia cable through the head end located at the Adelphia site on Valley Drive. The City's franchise with Verizon includes interconnection provisions that require them to broadcast the PEG channels on their system by obtaining an interconnection agreement with Adelphia. Or in the alternative, Verizon will connect directly at City Hall to broadcast the City Council and Commission meetings on the government channel. At this point Adelphia has not agreed to interconnect their system with Verizon.

Adopting this amendment to the cable ordinance will require any provider of video service to interconnect with all others who may be operating in the City. This ordinance would apply to Adelphia (or Time Warner) once the franchise is renewed. The ordinance would not apply to Verizon until they renew their franchise. However, at this time Verizon's existing franchise already includes interconnection provisions that are adequate to ensure that Verizon carries the City's PEG programming.

Respectfully submitted:



Michael Earl
Personnel & Risk Management Director

Concur:



Stephen Burrell
City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HERMOSA BEACH
AMENDING CHAPTER 5.16 OF THE HERMOSA BEACH
MUNICIPAL CODE REGARDING INTERCONNECTION OF
PUBLIC, EDUCATIONAL, AND GOVERNMENT BROADCASTS
ON CABLE AND OPEN VIDEO SYSTEMS.

THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY ORDAIN AS
FOLLOWS:

Section 1. Findings.

A. The City has historically been served by a single cable television franchisee; due to changes in technology, telecommunications companies are entering the field and competing directly with traditional cable television providers.

B. It is of important public interest that the public, educational, and government programming created by the City and other local agencies be carried to all subscribers of all video franchisees of the City, regardless of the franchisee chosen by individual customers to provide the customer with video service;

C. The heavy competition in the provision of video services may make franchisees reluctant to cooperate with each other in ensuring all subscribers receive the public, educational, and government programming of the City, and the public interest in distributing such programming should not be impaired by the competitive goals of various franchisees.

Section 2. Chapter 5.16 of Title 5 of the Hermosa Beach Municipal Code is amended by adding thereto a new Section 5.16.075 to read as follows:

"5.16.075 Interconnection

a. To properly serve the City's interest in public, educational, and governmental programming and to serve each Franchisee's requirement to provide such programming in accordance with its Franchise, any new or renewed Franchisee must interconnect its cable system with any other cable system serving the Franchise Service Area ("Other System"). Such interconnection may be accomplished by direct cable, microwave link, satellite or other reasonable method of connection. The interconnected systems must enable the City's public, education, and government programming to reach all subscribers in the City of all Franchisees by allowing the City to broadcast or feed its signals into a single point designated by the City.

1. Failure to negotiate for and provide an interconnection as required by this section is a material breach of a Franchise, and any Franchisee that fails to negotiate or provide an interconnection will be subject to fines, penalties, liquidated damages, suspension, revocation, and termination in accord with this Chapter.

b. Interconnection Procedure. Within 30 days of a grant of Franchise (including a Franchise renewal), or within 30 days of receiving written notice from the City that another franchisee has received a Franchise from the City, a Franchisee must begin negotiations with the owner(s) and operator(s) of the Other System(s) to determine their equitable share of costs for both construction and operation of the interconnection link. Franchisee shall negotiate in good faith with Other System operator(s) respecting reasonable, mutually convenient, cost-effective, and technically viable interconnection points, methods, terms and conditions. The construction costs and ongoing expenses of interconnection shall be fairly shared between all Franchisees. All Franchisees must

negotiate the precise terms and conditions of an interconnection agreement. All interconnections must be operational within 180 days of the start of the negotiations required by this section, unless extended by the City Council in its sole discretion.

c. Relief. If the Franchisees are unable to reach agreement on the terms of interconnection, including, but not limited to, compensation and timing, the dispute shall be submitted to the City Council or its designee for resolution. Franchisees may be granted reasonable extensions of time to interconnect, within the sole discretion of the City Council or its designee. If the City Council determines in its sole discretion that the cost of interconnection would be unreasonable, interconnection is not technically feasible or would cause an unacceptable increase in Subscriber rates, or determines an Other System operator will not agree to reasonable terms and conditions of interconnection, the interconnection requirement of this Section may be waived and a separate, direct access to a Franchisee's system for broadcast or transmission of public, education, and government programming may be substituted in place of the interconnection."

Section 3. Section 5.16.120.B.4.b. of Chapter 5.16 of the Hermosa Beach Municipal Code is amended to read as follows:

"b. The open video system operator must comply with Section 5.16.075 of this Code and ensure that all subscribers receive all public, educational, and governmental access channels within the franchise service area in which the City's subscribers are located. An open video system operator is considered a Franchisee for the purposes of compliance with Section 5.16.075."

Section 4. Notice of Adoption. The City Clerk of the City of Hermosa Beach shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under Section 36033 of the California Government Code.

Section 5. This Ordinance shall become effective thirty (30) days after the date of its adoption.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2006.

MAYOR

ATTEST:

CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF HERMOSA BEACH)

I, _____, City Clerk of the City of Hermosa Beach, do hereby certify that the foregoing Ordinance was duly adopted by the City Council of the City of Hermosa Beach at a regular meeting thereof, held on the _____ day of _____, 2006 by the following vote of Council:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

CITY CLERK