Resolution No. 31450

A RESOLUTION authorizing commencement of cable franchise contract renewal proceedings in accordance with the provisions of 47 U.S.C. § 546, and written request from Comcast

Related Legislation File:

Date Introduced and Referred: 5-6-13	To: (committee): Public Safety, Civil Rights, and Technology
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 5/20/2013	Date Presented to Mayor: 5/21/13
Date Signed by Mayor: 5/28/13	Date Returned to City Clerk: 5/29/13
Published by Title Only ✓	Date Returned Without Concurrence:
Published in Full Text	

LAW DEPARTMENT

The City of Seattle – Legislative Department

Resolution sponsored by: Bruce A. Harrell

Committee Action:

Date	Recommendation	Vote
5/15/2013	adopt	BH, NL
~~5/20/2013~~	~~adopted~~	~~9-0~~

This file is complete and ready for presentation to Full Council.

Full Council Action:

Date	Decision	Vote
5/20/2013	adopted	9-0

CITY OF SEATTLE
RESOLUTION 31450

A RESOLUTION authorizing commencement of cable franchise contract renewal proceedings in accordance with the provisions of 47 U.S.C. section 546, and written request from Comcast.

WHEREAS, Comcast Of Washington I, Inc. and Comcast Of Washington IV, Inc. currently provide cable services in Cable Franchise District I, District II, Districts III, Central Business Franchise District (CBFD), and Central Cable Television Franchise District 1A (CAFD 1A), in accordance with a franchise agreement authorized by Ordinance No. 122089 which expires on January 20, 2016; and

WHEREAS, Comcast of Washington I, Inc. and Comcast of Washington IV, Inc. are both wholly owned by Comcast Cable Communications Holdings, Inc. and are together also known as Comcast; and

WHEREAS, Section 626 of the Cable Communications Act of 1984 (Cable Act), 47 U.S.C. § 546, establishes both formal and informal procedures that govern the franchise renewal process; and

WHEREAS, the City of Seattle is the franchising authority for cable services within its city limits; and

WHEREAS, Section 626(a) of the Cable Act provides that, during the six-month period which begins with the 36 months before franchise expiration, the franchising authority shall, at the request of the cable operator, commence proceedings which afford the public in the franchise area appropriate notice and participation, for the purpose of identifying the future cable-related community needs and interests and reviewing the performance of the cable operator under the franchise during the then current franchise term; and

WHEREAS, in a letter (Attachment A) received by the Office of Cable Communications on February 27, 2013, Comcast formally requested that the City commence formal renewal proceedings in accordance with the requirements of Section 626(a-g) of the Cable Act but also indicated its desire to reach a mutually satisfactory franchise renewal agreement with the City through informal negotiations as per Section 626 (h) of the Cable Act; NOW, THEREFORE,

2013 CITY CLERK

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR CONCURRING, THAT:

Section 1. Comcast's letter formally requesting the commencement of renewal proceedings under Section 626 of the Cable Act was submitted in a timely manner and is hereby acknowledged.

Section 2. The Mayor or his designated representative is authorized to implement the necessary processes and procedures to enable the City to comply with all of its obligations under Section 626 of the Cable Act.

Section 3. The City hereby commences proceedings to afford the public in the franchise areas appropriate notice and participation for the purpose of identifying future cable-related community needs and interests, and reviewing the performance of Comcast under the franchise during the current franchise term.

Section 4. Pursuant to the request by Comcast, the Mayor or his designated representative is authorized to study the feasibility of an informal franchise renewal process pursuant to Section 626(h) of the Cable Act, while reserving the City's right to implement the formal processes outlined by Section 626(a-g) of the Cable Act.

2013 CITY CLERK

Adopted by the City Council the 20th day of May, 2013, and signed by me in open session in authentication of its adoption this 20th day of May, 2013.

President _____ of the City Council

THE MAYOR CONCURRING:

Michael McGinn, Mayor

Filed by me this 30th day of May, 2013.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments

Attachment A: Comcast Letter Requesting Franchise Renewal

DPS CITY CLERK

Comcast Cable
15815 25th Ave West
Lynnwood, WA 98087

February 19, 2013

Certified Mail – Return Receipt Requested

Mr. Tony Perez
Office of Cable Communications
City of Seattle
700 Fifth Avenue, Suite 2700
P.O. Box 94709
Seattle, WA 98124-4709

Subject: FRANCHISE RENEWAL

Dear Mr. Perez:

We at Comcast of Washington I, Inc. and Comcast of Washington IV, Inc. appreciate the opportunity to serve the citizens of Seattle. It is our credo that *we will be the company to look to first for the communications products and services that connect people to what's important in their lives.* In living our credo, we look forward to providing broadband services to our customer in Seattle for many years to come. Therefore, we are taking this step to ensure the renewal of our franchise with you.

The Cable Communications Policy Act of 1984 ("the 1984 Cable Act") encourages franchisors and cable operators to reach renewal agreements at any time through an informal process of discussion. However, Section 626 of the 1984 Cable Act also provides for commencement of a formal renewal procedure. To preserve our statutory rights to this formal procedure, this letter is our official notice to you invoking that provision.

This letter is not intended to introduce a new formality into our discussions, nor is that the intention of the 1984 Cable Act. In fact, we prefer to reach a mutually satisfactory agreement through informal negotiations, thus making many of the 1984 Cable Act's formal procedures unnecessary.

I will be happy to discuss this matter with you, or provide any additional information that you may require. I look forward to meeting with you in the near future and to continuing a relationship that, we believe, benefits both the community and the residents of Seattle.

Sincerely,

Janet L. Turpen
Vice President of Government & Regulatory Affairs
Comcast – Washington Region

FEB 27 2013

Form revised: December 12, 2012

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
DoIT	Tony Perez, 386-0070	Jennifer Devore, 615-1328

Legislation Title A RESOLUTION authorizing commencement of cable franchise contract renewal proceedings in accordance with the provisions of 47 U.S.C. section 546, and written request from Comcast.

Summary of the Legislation:
The Resolution commences the City's formal cable franchise renewal proceedings with Comcast, and authorizes the implementation of processes to enable the City to comply with all of its obligations under federal law and the Cable Act of 1984, as amended.

Background:
Comcast's current franchise agreement with the City will expire on January 20, 2016. This Resolution allows the City to comply with a procedural requirement under federal law which provides that the franchise renewal period begins *three years before* expiration of a franchise.

The formal franchise renewal process is usually triggered when a cable operator provides written notification to the City that it wants to renew its franchise. The City received such notification from Comcast on February 27, 2013. Under federal law, the City must, within six months of receipt of such written notice, "commence a proceeding" which affords the public notice of their right to participate in identifying future cable-related community needs and interests, and a review of the cable operator's performance during the existing franchise terms.

Although there are no formal guidelines under federal law as to what constitutes an action that "commences a proceeding" this Resolution will clarify the City's intent and ensure that the City has complied with this initial procedural requirement. The Resolution also provides notice to the public and an opportunity for public comment.

Please check one of the following:

_X_ **This legislation does not have any financial implications.**

____ **This legislation has financial implications.**

Other Implications:
While this Resolution does not have direct financial implications, there will be financial implications when a new franchise agreement is reached with the Comcast. DoIT will present legislation to Council at that time, authorizing the new franchise agreement, and will include a fiscal note detailing financial impacts of the new agreement.

a) **Does the legislation have indirect financial implications, or long-term implications?** Yes, there are indirect financial implications. During the cable franchise renewal process, DoIT will have expenditures related to the review of Comcast's performance during the existing franchise terms, and the ascertainment of public input. DoIT anticipated this renewal process and has existing budgetary authority for these expenditures in the 2013 Adopted Budget and additional appropriations will be included in future budgets.

b) **What is the financial cost of not implementing the legislation?** There could be indirect costs of not implementing this Resolution, although difficult to quantify, because lack of Council Resolution could put the City at a disadvantage in its negotiations with Comcast.

c) **Does this legislation affect any departments besides the originating department?** No

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** The City and a cable provider may, at any time, agree on a renewal franchise through informal negotiations. However, if the City is unable to agree on renewal terms through those negotiations, it is prudent to have also clearly commenced the formal process by means of Council Resolution, allowing the City to invoke the formal renewal process prescribed under 47 U.S.C. 546.

e) **Is a public hearing required for this legislation?** No

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?** No

g) **Does this legislation affect a piece of property?** No

Other Issues:

List attachments to the fiscal note below: None

City of Seattle
Office of the Mayor

April 16, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Resolution that authorizes the commencement of formal cable franchise contract renewal proceedings with Comcast. The current franchise agreement with Comcast will expire on January 20, 2016, and federal law provides that the renewal process begins three years prior to expiration.

The beginning of the renewal period is usually triggered when the City receives written notification from a cable operator that it wants to renew its franchise. The City received such notice from Comcast on February 27, 2013. Under federal cable law, the City must now "commence a proceeding" which affords the public the opportunity to participate in identifying Seattle's future cable-related needs and interests. The three-year renewal period also allows for a review of Comcast's performance under the existing franchise. By adopting a Resolution, the City establishes a record showing compliance with this initial procedural requirement and that it has not waived any of its statutory protections.

Thank you for your consideration of this legislation. Should you have questions, please contact Tony Perez, Office of Cable Communications at 386-0070.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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Seattle, WA 98124-4749

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mike.mcginn@seattle.gov

STATE OF WASHINGTON -- KING COUNTY

--ss.

298537 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:31450&31454 TITLE ONLY

was published on

06/05/13

The amount of the fee charged for the foregoing publication is the sum of $49.50 which amount has been paid in full.

Subscribed and sworn to before me on

06/05/2013

Notary public for the State of Washington,
residing in Seattle

JENNIFER A. BORRERO NOTARY PUBLIC COMMISSION EXPIRES 10-24-15 STATE OF WASHINGTON

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on May 20, 2013, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar. Contact: Office of the City Clerk at (206) 684-8344.

RESOLUTION NO. 31450

A RESOLUTION authorizing commencement of cable franchise contract renewal proceedings in accordance with the provisions of 47 U.S.C. section 546, and written request from Comcast.

RESOLUTION NO. 31454

A RESOLUTION relating to the Department of Parks and Recreation; creating the Parks and Recreation Legacy Citizens' Advisory Committee to ensure citizen participation in the development of a potential ballot measure for funding operations, maintenance, development and acquisition of parks and recreation facilities and programs.

Date of publication in the Seattle Daily Journal of Commerce, June 5, 2013.

6/5(298537)