



MEETING DATE: 6/19/06
ITEM NO.

6

COUNCIL AGENDA REPORT

DATE: JUNE 5, 2006
TO: MAYOR AND TOWN COUNCIL
FROM: DEBRA J. FIGONE, TOWN MANAGER 
SUBJECT: ADOPT RESOLUTION OPPOSING AB 2987 AND ENDORSING LEAGUE OF CALIFORNIA CITIES TELECOMMUNICATIONS REFORM PRINCIPLES

RECOMMENDATION:

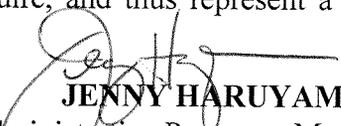
Adopt resolution opposing AB 2987 and supporting League of California Cities Telecommunications Reform Principles.

BACKGROUND:

Technological advances have made it possible for cable, telephone, Internet providers, electric utilities, and other companies to expand the range of telecom services they can offer consumers. The new opportunities for consolidating services will displace the multiple subscriptions customers have for cable or satellite TV, "land-line" and/or cell phone service, and broadband and/or wireless Internet service. However, for cities the convergence of telecom technologies poses both fiscal challenges and concerns about preserving local control and protecting citizens' interests.

According to the League of California Cities, throughout the nation, millions of dollars are being spent by telephone and cable companies to influence members of Congress and state legislators that today's telecommunications innovations make local franchise agreements, currently required of cable television service providers, no longer an effective regulatory tool. These renewable local franchises require franchise fees to use the public right-of-way and provide a means by which municipalities are able to mandate specific service levels; guarantee access to and funding for public, educational, and governmental (PEG) access television; and secure cable providers' support for these efforts. Telephone companies, who are seeking to break into the video (cable) market, argue that local franchises take too long to acquire, and thus represent a barrier to competition and expanded

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Reviewed by: JS Assistant Town Manager OK Town Attorney Clerk Administrator
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Revised: 6/12/06 3:35 pm

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customer service. As a result, legislation is being introduced at the state and federal level providing blanket video service agreements to telephone companies, eliminating the need for phone companies, such as AT&T to negotiate franchise agreements with local municipalities. Concurrently, cable television providers are lobbying state and federal legislators to include amendments that would make the proposed legislation applicable to cable operators.

DISCUSSION:

In California, reform efforts now focus on AB 2897 (Nunez and Levine) that would create a new statewide franchise for cable and video service providers. The franchise would be issued by the California Department of Corporations, creating the need for a new bureaucracy within state government at an agency with no prior experience in this area. The League of California Cities is opposed to AB 2987 and has requested that cities adopt the attached resolution (Attachment No.1) opposing the proposed legislation and supporting League Telecommunication Reform Principles that would protect the interest of consumers and preserve local government control and revenue. Adoption of the resolution would also authorize the Town of Los Gatos to join the League's "No on AB 2897" Coalition.

Although the bill was recently amended, the amendments only address marginal concerns and do not resolve core issues for cities. According to the League, the bill in its current form would impact the Town of Los Gatos and other communities in the following ways:

Build Out of Telecommunication Services. The bill in its current form would allow telecommunications providers to selectively pick and choose parts of the community that receive new services. Providers should work with local government and consumer groups to establish reasonable standards to permit the deployment of these services in an equitable manner. Under current law, the Town determines the deployment of video services to ensure that all areas of a community are served.

Public, Educational, Government (PEG) Channels and PEG Support/Institutional Networks (INETS). The bill in its current form fails to adequately protect the community's public, education and governmental (PEG) channels and development of INET services. The bill would impact the ability of local agencies to participate in decisions about the number of PEG channels to support the community's needs and the funding needed to support PEG stations. If AB 2987 passes, the Town's ability to secure PEG grant funding through franchise agreement and renewal processes would be eliminated. Other impacts include a lack of protection to preserve institutional networks, whereby schools and other governmental agencies receive telecommunications network services, including free use of cable and/or internet services. Under the current bill, these protections would be ignored.

Consumer Protection and Customer Service. The bill in its current form would not allow cities to enforce customer service standards adopted by the Federal Communications Commission (FCC) and continue to enact stricter customer service standards when desired.

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Public Rights-of-Way. The proposed bill fails to adequately protect the public right-of-way. Local agencies would not be able to retain full control over access to the public right-of-way, resulting in reduced local government oversight of construction activities, such as trenching and video equipment aesthetic and placement concerns.

Revenues. Under the bill, local government revenue from franchise fees are in jeopardy. In its current form, the bill is defined as a tax under the constitution of the state. This definition would allow the state at any time, to legally collect and keep the franchise fee revenue. The bill also narrows the definition of "gross revenues" which is the basis for calculating the franchise fee revenues is likely to result in a loss of revenue. The Town receives an estimated \$300,000 annually in local cable television franchise fee revenue from Comcast. Depending on how the bill is implemented, the Town could lose between \$30,000 to \$300,000 annual in franchise fee revenue.

CONCLUSION:

Given its significant impact on consumer rights, customer service standards, continued support of PEG access, and local control and revenue, it is recommended that the Council adopt the attached resolution supporting the League of California Cities Telecommunications Reform Principles and Opposing AB 2987.

FISCAL IMPACT:

Should the AB 2987 be adopted by the state legislature, the Town's cable television franchise fees would be at risk. The Town currently receives an estimated \$300,000 in franchise fees from Comcast. However, under the bill, the Town may lose between \$30,000 - \$300,000 in revenue, depending on how the bill is implemented. Additional fiscal impacts include an inability to secure future PEG funding through the cable television franchise renewal process.

Attachments:

Attachment No. 1: Resolution Opposing AB 2987 and Supporting the League of California Cities Telecommunications Reform Principles

RESOLUTION NO.

RESOLUTION OF THE TOWN OF LOS GATOS OPPOSING AB 2987 AND ENDORSING LEAGUE TELECOMMUNICATIONS REFORM PRINCIPLES

WHEREAS, technological advances in telecommunications services are outpacing the current state and federal regulatory framework for those services; and

WHEREAS, the new telecommunications services will be vital to the businesses, households and the public safety of local communities; and

WHEREAS, the California state Legislature is considering AB 2987 (Nunez/Levine), legislation that would establish a statewide franchise for new entrants into the telecommunications market, and

WHEREAS, fair, level playing-field competition among telecommunications providers is important to delivering telecommunications services at the best price for our citizens, the consumers; and

WHEREAS, telecommunications industry services to a local community such as Public Education and Government (PEG) channels, INET services to local schools and other agencies, and E-911 and 911 public safety services to local citizens are important services to maintain;

WHEREAS, financial resources that cities receive under the current regulatory framework for telecommunications services are vital to support local public services such as public safety and transportation; and

WHEREAS, the taxpayers have a financial interest to protect in the public's right-of-way; and

WHEREAS, the Town of Los Gatos is opposed to AB 2987 in its present form, because as currently written it would fail to ensure that build out of telecommunications services would fairly and equitably provide service to all businesses and residents of the Town of Los Gatos within a reasonable timeframe, it does not guarantee community access to PEG channels, INET services and E-911 and 911 public safety services, it does not protect the city's financial resources and it does not protect the public's right-of-way.

THEREFORE, BE IT RESOLVED, the Town of Los Gatos does hereby join the League of California Cities "No" on AB 2987 coalition, urge the state and federal legislature to work for reform that guarantees fair competition in telecommunications services, and adopt the attached principles (Exhibit A) for the state legislature to consider in its debate over a new telecommunications regulatory framework.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the _____ day of _____, 2006 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS

LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE

TOWN OF LOS GATOS

LOS GATOS, CALIFORNIA

**EXHIBIT A
LEAGUE OF CALIFORNIA CITIES
TELECOMMUNICATION REFORM PRINCIPLES**

REVENUE PROTECTIONS

- Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
- Regulatory fees and/or taxes should apply equitably to all telecommunications service providers.
- A guarantee that all existing and any new fees/taxes remain with local governments to support local public services and mitigate impacts on local rights-of-way.
- Oppose any state or federal legislation that would pre-empt or threaten local taxation authority

RIGHTS-OF-WAY

- To protect the public's investment, the control of public rights-of-way must remain local.
- Local government must retain full control over the time, place and manner for the use of the public right-of-way in providing telecommunications services, including the appearance and aesthetics of equipment placed within it.
- Existing telecommunications providers and new entrants shall adhere to local city policies on public utility undergrounding.

ACCESS

- All local community residents should be provided access to all available telecommunications services.
- Telecommunications providers should be required to specify a reasonable timeframe for deployment of telecommunications services that includes a clear plan for the sequencing of the build-out of these facilities within the entire franchise area.

PUBLIC EDUCATION AND GOVERNMENT (PEG) SUPPORT

- The resources required of new entrants should be used to meet PEG support requirements in a balanced manner in partnership with incumbent providers.
- For cities currently without PEG support revenues, a minimum percentage of required support needs to be determined.

INSTITUTIONAL OR FIBER NETWORK (INET)

- The authority for interested communities to establish INET services and support for educational and local government facilities should remain at the local level.

PUBLIC SAFETY SERVICES

- The authority for E-911 and 911 services should remain with local government, including any compensation for the use of the right-of-way. All E-911 and 911 calls made by voice over internet protocol shall be routed to local public safety answering points.
- All video providers must provide local emergency notification service.

CUSTOMER SERVICE PROTECTION

- State consumer protection laws should continue to apply as a minimum standard and should be enforced at the local level. Local governments should retain the authority to assess penalties to improve customer service