

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE REPORT

MONDAY, DECEMBER 14, 2009

Present: Ald. Coletti (Chair), Salvucci, Parker, Freedman, Schnipper, Gentile, Johnson and Lennon

Also Present: Ald. Linsky and Swiston; Ald.-Elect Shapiro, Rice and Fuller

City Staff: David Wilkinson (Comptroller), Chris Rogers and Marisa Batista (Sullivan & Rogers), Fred Russell (Utilities Director Public Buildings), Bob Kelly (New TV), Susan Burstein (Chief Budget Officer), Clint Schuckel (Traffic Engineer), Nick Parnell (Commissioner Public Buildings), Jim Reardon (Treasurer/Collector), Arthur Cabral (Budget & Project Specialist Public Buildings Department), Alice Ingerson (Community Preservation Manager) and Nancy Grissom (CPC)

#269-09 COMPTROLLER submitting FY2009 Budgetary Basis Annual Financial Report.
[09/01/09 @ 4:45 PM]

HELD 6-0 (Schnipper not voting) on 10-14-09

ACTION: REFERRED TO 2010-2011 BOARD 8-0

NOTE: Chris Rogers, Sullivan and Rogers joined the Committee for discussion on this item. Mr. Rogers reviewed with Committee members the Management Letter dated June 30, 2009, this was attached to the agenda.

Mr. Rogers indicated two major concerns remain in order for the auditors to complete their work. These are individual bank account reconciliations and the water/sewer consumption reports. Once these concerns are resolved, a report will be issued.

The Management reported the following comments and recommendations in these two departments:

Accounts Receivable Reconciliations

Comments: Sullivan and Rogers indicated consistent with prior years, procedures are not in place to reconcile the Collector's detailed accounts receivable balances to the general ledger timely. Effective internal controls require the timely reconciliation of detailed accounts receivable balances to the general ledger. Failure to perform these tasks timely inhibits the safeguarding of assets and does not provide for accurate and timely financial reporting.

Although the City performed procedures to resolve some of the variances between the accounts receivables records of the Comptroller and Treasurer/Collector that were identified in the prior year, approximately thirteen variances still remain at June 30, 2009.

Recommendation: Sullivan and Rogers recommends the following 1) that formal procedures be implemented to reconcile Collector's detailed accounts receivable balances to the general ledger no later than 30 days after the end of the previous month. 2) that the Treasurer/Collector and Comptroller approve each accounts receivable reconciliation. 3) that the Comptroller and Treasurer/Collector investigate and resolve the variances in the management letter.

Water and Sewer Billings

Comments: Sullivan and Rogers identified the following deficiencies related to the City's water and sewer billing system: 1) many water and sewer bills are based on estimates. Some accounts had as many as twenty-five consecutive estimates. 2) many water and sewer bills were based on "false reads", resulting from a faltering meter system.

During fiscal year 2009, the Water and Sewer Department issued approximately \$8,600,000 in abatements. The cause of a substantial amount of these abatements is as follows:

1. Overestimates approximately \$4,200,000
2. False Readings approximately \$4,100,000

Recommendation: The City is currently in the process of replacing all the City's meters and implementing a new metering process that will allow the City to remotely obtain a reading from City Hall at any time. The implementation of this new system should significantly reduce the need for substantial abatements (once the system is fully operational) since estimates will no longer be required and the ability to identify false readings will be enhanced. Sullivan and Rogers recommend that the new metering system be implemented as soon as possible.

The IT Department is currently working with Public Buildings Department on their billing issues.

The Management letter also reflects the auditor's comments and recommendations in these areas:

- Inspectional Services
- Accounting for the Newton Community Development Authority
- Capital Asset Accounting
- Documentation of Department Control Activities
- Treasurer's Office – Retirement System Disbursement Bank Account
- Treasurer's Office – Unauthorized Bank Accounts and Authorized Signatory
- Position Control
- Parking Meters
- Student Activity Funds
- Old Outstanding Checks
- Collective Bargaining Agreements
- Disaster Recovery Plan
- Financial Policies and Procedures Manual
- Risk Assessment and Monitoring
- New Accounting and Financial Reporting Requirements for Fund Balances

Ald. Coletti made the motion to refer this item to 2010-2011 Board in hopes the audit financials are completed before February for them to be included in the prospectus of the bond filing. The Committee voted in favor 8-0.

Re-appointment by His Honor the Mayor

#285-09 EDWARD GOURDEAU, JR., 81 Dalby Street, Newton, re-appointed as a Constable for a term to expire November 1, 2012. [09/08/09 @ 9:20 AM]

ACTION: **APPROVED 8-0**

NOTE: Attached to the agenda this evening was a copy of Mr. Gourdeau's resume, bond, application and CORI report. Since this was a reappointment, the Committee did not require Mr. Gourdeau to appear this evening.

Without debate, Ald. Gentile made the motion to approve Mr. Gourdeau's reappointment as a Constable for the City of Newton and the Committee voted in favor 8-0.

#370-09 ALD. BAKER AND SWISTON and Newton residents of the NewTV Board of Directors seek Board approval of a resolution to support the passing of the Community Access Preservation (CAP), H.R. Bill 3745, as written and respectfully request that our state and federal legislators support the CAP Act as well and that a copy of this resolution be forwarded to each of their offices accordingly. [10/27/09 @ 1:08 PM]

ACTION: **APPROVED 8-0 SUBJECT TO 2ND CALL**

NOTE: Bob Kelly, NewTV joined the Committee for discussion on this item.

Mr. Kelly provided Committee members with additional documents (attached to this report). He indicated there are twenty-two states, which have statewide franchising in America. According to this Act, franchising is discontinued in the twenty-two states. He said Massachusetts does not have statewide franchising.

Mr. Kelly provided Committee members with a summary of the Community Access Preservation Act (CAP). The CAP Act responds to four immediate threats to Public, Educational and Government Funds (PEG). The four threats with the solutions are as follows:

- Unnecessary limits on the use of (PEG) funds – Solution: The bill amends the Cable Act to ensure the PEG fees can be used for any PEG purpose.
- Discriminatory Treatment of PEG Channels – Solution: The bill re-affirms that operators must deliver PEG channels to subscribers without additional charges and via channels whose quality, accessibility, functionality, and placement is equivalent to local commercial television stations.
- Preservation of PEG Support and Localism – Solution: Immediate action is needed to preserve PEG to permit Congress to review the impact of these changes on local programming. The FCC is directed to investigate and to report to Congress on the impact of State video service franchising laws since 2005 on PEG. To ensure PEG is preserved, each cable operator must provide the channels and critical facilities it had been providing historically. Operators must

make ongoing PEG support payments equal to the greater of the cash payment required under State law, or the value of the PEG support it historically provided.

- Definition of Cable System – Solution: The Act is amended to ensure it is technologically neutral. Providers using wired facilities in the rights of way are treated similarly and are subject to similar PEG requirements.

Mr. Kelly is requesting this resolution be accepted by the City of Newton. Ald. Coletti asked when this resolution needs to be completed. Mr. Kelly said he anticipates the state will be discussing this in late February or early March.

Ald. Coletti made the motion for approval. The Committee voted in favor 8-0, Subject to 2nd call pending receiving a copy of the legislation.

REFERRED TO PUB. SAFETY & TRANSPORTATION & FINANCE COMMITTEES

#174-08(2) PUBLIC SAFETY/TRANSPORTATION COMMITTEE proposing changes to the rate structure and/or enforcement hours for parking meters as well as installation of additional meters citywide. [06-18-08 @ 8:00 PM]

PUBLIC SAFETY & TRANSPORTATION APPROVED AS AMENDED 4-0 on 12-10-09

ACTION: APPROVED 5-1-2 (Ald. Parker opposed, Johnson and Schnipper abstaining)

NOTE: Mr. Schuckel, Traffic Engineer joined the Committee for discussion on this item.

Mr. Schuckel provided Committee members with a PowerPoint presentation (attached to the agenda) indicating Public Safety & Transportation Committee has held two public hearings on this item. The Public Safety & Transportation Committee approved as amended to increase parking meter fees from 50 cents an hour to 75 cents an hour for spaces with a time limit of 4 hours or less. Increase parking meter fees from 25 cents an hour to 50 cents an hour for spaces with a time limit of greater than four hours on December 10, 2009.

Mr. Schuckel stated he would be discussing the parking meter rates and would not be discussing adding or removing parking meters in a particular location.

Parking meter revenue is about 2 million dollars of which 1.2 million is in revenue and \$900,000 from ticket revenue. It costs the City approximately \$200,000 for cost (3 salaries, vehicle, parts, and coin processing). A good portion of parking meter money comes from tickets written for expired meters and our revenue expense is about 15%.

Mr. Schuckel said in the report from the Citizens Advisory Group (CAG) Revenue Report was to recommend the increase in rates by a quarter an hour, lengthen the hours of operation, pay-on-foot, and install more meters. Surrounding municipalities stop enforcing at 6 PM. Boston and Somerville meters generally go until 8 PM and some of them become resident only at 6 PM. In a count done by the City, it was found that two-thirds of the parking lots were taken up primarily in areas of the City that have village centers with restaurants. Labor costs for adding personnel to enforce the meters from 6 PM to 8 PM came out to approximately \$54,000 (not including vehicle costs). The approximate annual revenue for 1,764 spaces would be approximately

\$120,000. Net revenue is approximately \$66,000 assuming the current rate structure. Saturday revenue is approximately \$6,200 for the year.

Mr. Schuckel stated in terms of parking meter rates, Newton is in the middle of what other cities and towns now charge. Boston and Cambridge have been \$1.00 an hour for a long time, Somerville recently went to \$1.00 an hour, and Brookline went up to 75 cents. CAG's recommendation was to match the Brookline rates. Rates in Newton have been 25 cents per hour for long-term meters, generally furthest from commercial centers and 50 cents per hour for short-term meters, generally closest to commercial centers. Mr. Schuckel stated the City's new trial commercial parking program has brought the City additional revenue of approximately \$54,000 in the past seven months.

The estimated new revenue is approximately \$360,000 to \$600,000 increasing hourly rates, \$66,000 increasing enforcement hours and \$150,000 to \$240,000 with the additional 366 new meters. Long-term revenue will be approximately \$582,000 to \$912,000 if all plans are implemented. Mr. Schuckel said the pricing alternatives could be low tech (commercial permits or MBTA commuter permits), or high tech (multi-space pay stations in municipal lots or on street and meters that take plastic). The pricing alternatives are congestion pricing (charge more based on time of day or charged on space occupancy), changeable time limits, and parking promotions. Mr. Schuckel indicated ticket revenue goes to the general fund or special appropriations to maintain and improve existing collection system, maintain municipal lots, safety improvements, signal and sign upgrades, traffic calming, and village center improvements. Site-specific changes to new meter locations will be heard through Traffic Council.

Ald. Gentile moved approval of this item to increase parking meter fees from 50 cents an hour to 75 cents an hour for spaces with a time limit of 4 hours or less. Increase parking meter fees from 25 cents an hour to 50 cents an hour for spaces with a time limit of greater than four hours. Committee voted in favor 5-1-2, Ald. Parker opposed, Johnson and Schnipper abstaining.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#70-09(9) **HIS HONOR THE MAYOR** requesting an amendment to the FY10 Water revenue budget to three million one hundred sixty thousand dollars (\$3,160,000) from Water Reserve to offset the reduction in anticipated Water Revenue.
[11/10/09 @ 5:57 PM]

**PUBLIC FACILITIES APPROVED 5-0-1 (Lappin abstaining) on 11-18-09
HELD 8-0 on 11-23-09**

ACTION: APPROVED AS AMENDED TO \$1,582,469 5-3 (Ald. Gentile, Johnson and Parker opposed)

NOTE: Susan Burstein, Chief Budget Officer and David Wilkinson, Comptroller joined the Committee for discussion on this item.

Committee members received and reviewed an updated letter from the Executive Department dated December 11, 2009. The letter requests the following: 1) amend this item to reflect the actions the Board of Aldermen voted on December 7, 2009. His Honor the Mayor requests an appropriation of \$1,582,469 from Water Surplus rather than \$3,160,000. 2) \$387,000 is

necessary to fund the transfer of the water meter debt service from Sewer to Water that was approved in Board order #70-09(10). 3) An additional \$1,195,469 will be necessary to fund an anticipated revenue shortfall in the Water Fund following the action the Board voted on December 7, 2009 to increase the sewer rate but not increase the water rate. His Honor the Mayor is requesting this also be appropriated from Water Surplus, as this is an acknowledged, projected revenue shortfall.

Ald. Coletti made the motion to approve as amended to \$1,582,469 and the Committee voted in favor 5-3, Ald. Gentile, Johnson and Parker opposed.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#399-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend five hundred thousand dollars (\$500,000) from sewer bonded indebtedness for the purpose of sewer improvements: \$125,000 each for Oakdale and Farina, \$135,000 for Irving Street; \$115,000 for Old Farm Road sewer improvement engineering/design. [12/01/09 @ 4:57 PM]

PUBLIC FACILITIES APPROVED 8-0 on 12-09-09

ACTION: APPROVED 8-0

NOTE: Fred Russell, Utilities Director Public Buildings joined the Committee for discussion on this item.

Mr. Russell indicated this appropriation is necessary for the purpose of sewer improvements at these locations that would otherwise be postponed until a future year. These projects were initially budgeted to be paid for with cash out of the current FY10 sewer operating budget but require a greater increase than what was proposed.

Ald. Coletti moved approval of this item and the Committee voted in favor 8-0.

#398-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend three thousand six hundred ninety one dollars (\$3,691) from Budget Reserve for the purpose of increasing the salary budget in the Public Buildings Department. [12/01/09 @ 4:56 PM]

ACTION: APPROVED 8-0

NOTE: Nick Parnell, Commissioner Public Buildings Department joined the Committee for discussion on this item.

Mr. Parnell indicated this increase is for Joshua Morse who holds the position of Facilities and Operations Supervisor in the Public Buildings Department who will be promoted to a new position of Facilities and Maintenance Specialist (H10). Mr. Parnell said Mr. Morse is a valuable employee to the City and has worked in this position for approximately two years. Mr. Parnell feels this is a worthy step increase as Mr. Morse has been completing facilities work as well as energy and HVAC projects.

Ald. Coletti moved approval of this item and the Committee voted in favor 8-0.

**REFERRED TO COMMITTEE ON COMMUNITY PRESERVATION
AND FINANCE COMMITTEES**

#375-09 THE COMMUNITY PRESERVATION COMMITTEE recommending that fifteen thousand two hundred fifty dollars (\$15,250) be appropriated and expended from the FY10 Community Preservation Fund's historic and general reserves for changes and additions required by the Newton Fire Department during the historic rehabilitation of Brigham House. [10/27/09 @ 9:10 AM]
COMMITTEE ON COMMUNITY PRESERVATION APPROVED 5-1 on 11/24/09

ACTION: **APPROVED 8-0**

NOTE: Arthur Cabral, Budget & Project Specialist Public Buildings Department joined the Committee for discussion on this item.

Mr. Cabral indicated this appropriation is necessary to close out the renovation work that has been completed at the Brigham House. To date, a total of \$539,700 in community preservation funds has been appropriated for the preservation and rehabilitation of the Brigham Community House, as follows \$20,000 for preservation design, \$519,000 for construction plus \$700 for City of Newton legal costs.

Mr. Cabral explained that there were two items that triggered the additional costs in the Brigham House project. The Fire Department called on them to install additional smoke detectors. Inspectional Services required them to install a second handicap bathroom on the first floor. The bathroom cost was approximately \$18,000, which included the design and installation. The Fire Department requirements added approximately \$3300. The total costs were about \$22,000.

Ald. Johnson moved approval of this item and the Committee voted in favor 8-0.

#206-09(3) HIS HONOR THE MAYOR requesting the creation of a Stabilization Fund for future maintenance and improvements to the City's capital infrastructure that will help the city in addressing the long deferred infrastructure maintenance needs it faces. [12/01/09 @ 4:56 PM]

ACTION: **APPROVED 7-0-1 (Ald. Gentile abstaining)**

NOTE: Ald. Parker said the Finance Committee asked His Honor the Mayor to docket this item. His Honor the Mayor docketed this on December 1, 2009.

Without further discussion, Ald. Parker moved approval of this item and the Committee voted in favor 7-0-1, Ald. Gentile abstaining.

Without discussion, the following items were voted No Action Necessary:

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #289-09 ALD. PARKER requesting development of a property tax rebate program for households that opt for smaller trash containers. [09/08/09 @ 10:57 AM]
PUBLIC FACILITIES NO ACTION NECESSARY 8-0 on 12-09-09

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #261-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding moving the Director of Arts in the Parks' salary to the Arts in the Parks revolving account. [07-08-08 @ 1:29 PM]
PROGRAM & SERVICES NO ACTION NECESSARY 5-0 on 12-09-09

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #259-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding moving the salaries of the Parks & Recreation Commissioner and the Recreation Programs Director to the revolving accounts for various programs. [07-08-08 @ 1:28 PM]
PROGRAM & SERVICES NO ACTION NECESSARY 5-0 on 12-09-09

REFERRED TO PUB. SAFETY & TRANS. AND FINANCE COMMITTEES

- #30-08 ALD. COLETTI requesting a list of current vacancies in the Police, Fire and Public Works Departments, with specific discussion in Committee relative to Police Department vacancies. [01-15-08 @ 11:15 AM]
HELD 8-0 on 09-08-08
PUBLIC SAFETY & TRANSPORTATION NO ACTION NECESSARY 6-0 (Ald. Vance not voting) on 12-09-09

REFERRED TO PROG. & SERVICES AND FINANCE COMMITTEES

- #264-03(3) ALD. JOHNSON AND BAKER requesting update on the work of the Taxation Aid Committee established by the Board of Aldermen in March 2004 in administering aid to the elderly taxation fund.
PROGRAM & SERVICES NO ACTION NECESSARY 5-0 on 12-09-09

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #345-06 ALD. SCHNIPPER requesting that the contingency on smaller Public Buildings projects be increased from 5% to at least 8%.
PUBLIC FACILITIES NO ACTION NECESSARY 8-0 12/9/09

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

- #391-09(2) ALD. DANBERG, MANSFIELD, VANCE requesting the establishment of a municipal parking mitigation fund whose proceeds, derived from payments-in-lieu of providing off-street parking spaces associated with special permits, will be used solely for expenses related to adding to the supply of municipal parking spaces, improving existing municipal parking spaces, or reducing the demand for parking spaces.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#358-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend fifty five thousand dollars (\$55,000) from tax revenue from the local option meals tax to restore funding to the Senior Transportation Program. [10/09/09 @ 5:25 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#274-08 ALD. JOHNSON AND SANGIOLO proposing a RESOLUTION to His Honor the Mayor requesting that he create a plan to move the Child Care Commission to a self-sustaining model for FY2010. [07-17-08 @ 9:53 AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#258-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding reorganization of senior transportation services and establishment of intra-village transportation systems. [07-08-08 @ 1:29 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#207-08 ALD. BRANDEL AND SANGIOLO proposing that the following question be put before the Newton voters:
"Shall the City of Newton be allowed to exempt from the provisions of Proposition 2 ½ the amounts required to pay for the bond issuance in order to fund Newton North High School?" [05-21-08 @ 12:58 PM]

REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES

#83-07 ALD. YATES requesting that the City of Newton take all possible steps to persuade the General Court to adopt the proportion of Governors Municipal Partnership that would allow the City to reduce employee health insurance costs by joining the Group Insurance Commission. [02-27-07 @ 10:21 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#245-06 ALD. JOHNSON AND HESS-MAHAN requesting an amendment to the City Charter to require the Mayor annually to prepare and submit to the Board of Aldermen a long-term financial forecast of anticipated revenue, expenditures and the general financial condition of the City, including, but not limited to identification of any factors which will affect the financial condition of the City; projected revenue and expenditure trends; potential sources of new or expanded revenues; anticipated municipal needs likely to require major expenditures; and a strategic plan for meeting anticipated municipal needs, to include, but not be limited to, any long or short-term actions that may be taken to enhance the financial condition of the City.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#48-06 ALD. HESS-MAHAN, BURG, JOHNSON, DANBERG, PARKER & WEISBUCH proposing that the city provide financial incentives to rent accessory apartments to low- to moderate-income households at affordable rates that can serve housing affordability goals.

The following items were referred to the 2010-2011 Board:

REFERRED TO PROG. & SERV., ZONING & PLANNING, PUB. FACIL.

PUB. SAFETY AND FINANCE COMMITTEES

- #273-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that the Executive and Human Resources Departments develop a comprehensive human capital strategy for the city to include: performance management, talent development, succession planning, and compensation. [07-17-08 @ 9:53 AM]
PUBLIC FACILITIES NO ACTION NECESSARY 5-0 (Albright, Lappin and Salvucci not voting) on 6-17-09
PUBLIC SAFETY & TRANSPORTATION REFERRED TO PROGRAM & SERVICES AND FINANCE COMMITTEES APPROVED 7-0 (Coletti not voting) on 06-17-09
ZONING & PLANNING NO ACTION NECESSARY 6-0 (Cicccone not voting) on 09-14-09

REFERRED TO PROG. & SERV., PUB. FAC. AND FINANCE COMMITTEES

- #309-01 ALD. PARKER requesting increase in the income eligibility level of the 30% water/sewer discount for low-income senior citizens.
PROGRAM & SERVICES APPROVED 2-0-3 (Ald. Brandel, Freedman and Baker abstaining) on 12-09-09

ITEM RECOMMITTED TO PUB. FAC. AND FINANCE COMMITTEES ON 02-17-09

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #13-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend three hundred eighty-five thousand dollars (\$385,000) from bonded indebtedness to the Public Works Department for the purpose of replacing both the salt shed and the Quonset hut at Crafts Street. [12-30-08 @ 5:04 PM]
PUBLIC FACILITIES APPROVED 4-0-2 (Gentile and Mansfield abstaining) on 01-07-09
FINANCE APPROVED 2-1-3 (Gentile opposed; Parker, Lennon and Freedman abstaining) on 02-09-09

REFERRED TO PROG. & SERV., PUB.FAC. AND FINANCE COMMITTEES

- #89-08 ALD. PARKER requesting the following:
- A) review of the maintenance practices for buildings, parks and other properties owned by the City (including School Department facilities and grounds)
 - B) development of a comprehensive maintenance plan that includes regular schedules for preventive maintenance for each specific site or facility
 - C) a RESOLUTION requesting that implementation of said maintenance plan be funded using operating budget funds.
- [02-13-08 @ 12:07 PM]

REFERRED TO COMMUNITY PRESERVATION & FINANCE COMMITTEES

- #147-08 COMMUNITY PRESERVATION COMMITTEE recommending that the sum of \$359,400, including \$2,000 for legal costs, be appropriated from the FY'08 Community Preservation Fund's historic resources and general reserves, for a project to rehabilitate and expand storage space for the research library and archives at the Newton History Museum, to preserve the existing collections, and enhance public access to the collections. [04-01-08 @ 4:10 PM]
COMMUNITY PRESERVATION APPROVED 6-0 on 4-29-08
(A) DESIGN FUNDS ESTIMATE \$37,500.00
(B) BALANCE OF PROJECT ESTIMATE \$321,900.00
Voice vote APPROVED Motion to amend docket to add referral to Public Facilities Committee on 5-19-08.
FINANCE APPROVED (A) Design Funds at \$37,500 6-0 on 07-21-08
FINANCE HELD (B) Balance of Project on 07-21-08
HELD 8-0 on 11-09-09

REFERRED TO PUBLIC SAFETY & TRANSPORTATION COMMITTEE on 05-04-09**REFERRED TO PUBLIC FACILITIES & FINANCE COMMITTEES on 02-17-09**

- #60-09 ALD. SANGIOLO, GENTILE AND HARNEY requesting the installation of traffic islands on CONCORD STREET to be funded with the Cabot, Cabot and Forbes Traffic Mitigation Fund for Lower Falls (Ward 4). [02/03/09 @ 1:01 PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #376-09 HIS HONOR THE MAYOR submitting the FY11-15 Capital Improvement Program, totaling \$140,377,285 and the FY10 Supplemental Capital budget, which require Board of Aldermen approval to finance new capital projects over the next five years.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #363-09 ALD. SANGIOLO requesting a discussion to increase the tobacco seller license fee. [09/13/09 @ 1:07 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #360-09(2) PROGRAM & SERVICES COMMITTEE requesting a discussion to explore possible sources of revenue to fund an off leash dog park system in the City. [11/06/09 @ 10:44 AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #130-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend from Cable Receipts the sum of twenty-four thousand nine hundred eighteen dollars (\$24,918) for the purpose of purchasing equipment to provide for archived web casting of the Board of Aldermen and School Committee meetings. [4/28/09 @ 6:02 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#270-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that he work with the Board of Aldermen, School Department, and School Committee in order to determine the most effective and efficient way to organize the Information Technology Departments. [07-17-08 @ 9:53 AM]

At approximately, 10:45 pm Ald. Salvucci moved for adjournment and the Committee voted in favor 8-0.

Respectfully Submitted,

Paul E. Coletti, Chairman

Summary of the Community Access Preservation (CAP) Act

Public, educational and government (“PEG”) channels permit schools, governments, individuals and groups to provide and receive information about local events, emergencies, and issues. The channels encourage creation of local programming by civic groups and non-profits, cover government and school meetings, and promote localism and civic engagement.. The CAP Act responds to four immediate threats to PEG and these critical local communications.

1. Unnecessary Limits on the Use of PEG funds.

Issue: Under federal law, a cable operator and a local community may negotiate for support for PEG use in addition to the franchise fee payments for use of public rights of way. The FCC recently ruled, subject to some important exceptions, that this PEG support may only be used for facilities and equipment, and not for PEG operating expenses.

Effect: Some communities are closing PEG facilities because there are no funds to operate them.

Solution: The bill amends the Cable Act to ensure that PEG fees can be used for any PEG purpose.

2. Discriminatory Treatment of PEG channels.

Issue: The Cable Act provides that PEG channels should be free from cable operator interference and generally available to all cable subscribers. Accordingly, operators historically have provided local commercial television signals and PEG in the same manner, to all subscribers, and without additional charges. Some operators are now providing PEG channels that are less accessible, lower quality, missing basic functionality and more costly. Three complaints about mistreatment of PEG are before the FCC, but PEG is suffering in the meantime.

Effect: PEG is less accessible to all subscribers, and the most vulnerable viewers may lose access to basic local information altogether.

Solution: The bill reaffirms that operators must deliver PEG channels to subscribers without additional charges, and via channels whose quality, accessibility, functionality, and placement is equivalent to local commercial television stations.

3. Preservation of PEG Support and Localism.

Issue: Federal law envisioned that PEG requirements would be established on a community-by-community basis. Several States, while intending to preserve PEG, adopted statewide video franchising standards without regard to local needs and interests.

Effect: Statewide standards are resulting in widespread *elimination* of PEG.

Solution: Immediate action is needed to preserve PEG to permit Congress to review the impact of these changes on local programming. The FCC is directed to investigate and to report to Congress on the impact of State video service franchising laws since 2005 on PEG. To ensure PEG is preserved, each cable operator must provide the channels and critical facilities it had been providing historically. Operators must make ongoing PEG support payments equal to the greater of the cash payment required under State law, or the value of the PEG support it historically provided.

4. Definition of Cable System.

Issue: Entities that provide video services via wired facilities in the rights of way are intended to be subject to Cable Act rules, regardless of the transmission protocol used to deliver service, but some claim that the law is unclear, creating doubt as to where the rules apply.

Solution: The Act is amended to ensure it is technologically neutral. Providers using wired facilities in the rights of way are treated similarly and are subject to similar PEG requirements.

The Community Access Preservation (CAP) Act Section-by-Section

Sec. 1, Short Title

Section 1 sets forth the short title of the bill as the 'Community Access Preservation Act or CAP Act.'

Sec. 2, Amendments

Section 2 amends Section 611 of the Communications Act of 1934 (47 U.S.C. 531) to create two new subsections:

Equivalence

Public, educational, and governmental (PEG) access channels are those cable television channels that are set aside for use by the general public, by local schools, colleges, and universities, and by elements of local government. PEG access channels are not mandated by federal law. But the Cable Communications Policy Act of 1984 amended the Communications Act to explicitly allow cable franchising authorities to require cable operators to set aside channel capacity for PEG use and to provide adequate facilities or financial support for those channels.

This section clarifies long-standing federal standards for cable operator carriage of capacity and channels for PEG use. The PEG capacity would have to be:

- At least equivalent in quality, accessibility, functionality, and placement to channel capacity used for local commercial television stations. In case there are no local commercial stations, the equivalence standard would be the primary signal of the network-affiliate carried on the cable system.
- Provided to and viewable by every subscriber of a cable system without additional service or equipment charges.
- Carried without material degradation or loss of content from the point of origin to cable system subscribers.

Consistent with existing federal laws and regulations, which permit local franchising authorities to expressly waive certain federal requirements for carriage of PEG channels, this section provides that a franchising authority could expressly waive these requirements in a franchise agreement after conducting a public proceeding to determine if such a waiver is appropriate and supported by the community.

The equivalence standard could be enforced by either the franchising authority or the Federal Communications Commission (FCC).

Preservation of Public, Educational, and Governmental Use

The Communications Act of 1934 stipulates that cable franchise requirements, including PEG requirements, would generally be established based on an individualized assessment of local needs, so that cable systems would be responsive to the needs of local communities. However, several states have adopted statewide video franchising standards without regard to existing or future individualized local needs and interests.

This section directs the FCC to submit a report to Congress on the impact of state video service franchising laws since 2005 on PEG use of cable systems.

The section also requires that in states that have enacted state-level franchising laws since May 31, 2005, PEG channels would continue to receive financial and infrastructure support and channel capacity based on the support historically provided by the cable provider. Specifically:

- Financial support would be calculated as the greater of the support provided in the calendar year prior to the state video service franchising law, or the average annual support over the term of the franchise agreement.
- Infrastructure support would be the facilities required to continue to carry the PEG channels from their point of origin to subscribers without material degradation or loss of content.
- Each operator would provide at least the same amount of PEG channel capacity that it was required to provide as of May 31, 2005. If there were no PEG channel capacity requirements in a particular locality as of that date, the State law requirements would apply.

[Possible addition: Support means all support, including in-kind support to the extent an operator is no longer providing in-kind support on the same basis it was being provided before the state-level franchising law went into effect.] The FCC would be responsible for settling disputes over amounts owed.

Franchise Fee Definition

Section 622(g)(2)(C) of the Communications Act of 1934 makes clear that cash paid to a franchising authority for PEG “capital costs” are not counted against the franchise fee. On December 20, 2006, the FCC issued a rule that found that cash paid by an operator and paid to a franchising authority to support the use of PEG facilities, such as staff salaries is counted against the franchise fee. .

To prevent this limited interpretation for the use of financial support, this section overturns the FCC interpretation, and makes clear that financial support provided for PEG is not to be counted, or offset, against the franchise fee, whether used for PEG capital or operating costs.

Cable Service Definition

This section amends Section 602(6) of the Communications Act to clarify that the definition of cable service is technology and transmission-protocol neutral. As a result, it makes it clear that the requirements of the Cable Act apply to systems that use traditional cable transmission technologies, as well as those that use digital transmission protocols, including, but not limited to, IP protocols, to deliver video programming or other programming services to subscribers.

TAMMY BALDWIN
2ND DISTRICT, WISCONSIN

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SUBCOMMITTEE ON HEALTH
SUBCOMMITTEE ON
ENERGY AND ENVIRONMENT

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THE JUDICIARY
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CIVIL LIBERTIES

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August 26, 2009

1402

Honorable Julius Genachowski
Honorable Michael Copps
Honorable Robert McDowell
Honorable Mignon Clyburn
Honorable Meredith Attwell Baker
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: In the Matter of Petitions for Declaratory Ruling Regarding Public, Educational, and Governmental Programming MB Docket No. 09-13, CSR-8126, CSR-8127, CSR-8128

Dear Chairman Genachowski and Commissioners Copps, McDowell, Baker and Clyburn:

I write to urge the Commission to act promptly on the above-referenced Petitions to address the grave and immediate challenges that communities all across the country are facing with respect to the carriage of public, educational and governmental ("PEG") channels.

The first of these Petitions was prompted by an Order issued in November 2008 by the United States District Court for the Eastern District of Michigan. The other two were prompted by AT&T's treatment of PEG channels. The Petitions show that AT&T and Comcast are exercising inappropriate control over PEG channels to make them less accessible to viewers, and are claiming the right to provide PEG channels without the functionality, at a lower quality or at an effectively higher price than, for example, broadcast channels carried on the basic cable service tier.

The issues raised by these Petitions have been under discussion for some time. For example, in December 2007, Chairman Dingell copied the FCC on a letter he sent to Comcast CEO Brian Roberts questioning the company's PEG practices in Michigan. Additionally, there were two congressional hearings on these issues before the Petitions were even filed at the FCC. The first hearing on PEG programming was held on January 29, 2008, before the House Energy and Committee Subcommittee on Telecommunications and the Internet. The second was held on September 17, 2008, by the House Appropriations Subcommittee on Financial Services and General Government.

Then-Chairman Martin was asked to investigate the PEG issues by members of the House Subcommittee on Financial Services and General Government by a letter dated September 30, 2008. Similar concerns were raised in a September 23, 2008 letter to Charter Communications, signed by members of the Wisconsin delegation, a copy of which was sent to the Commission.

The Petitions referenced above were filed on December 9, 2008, January 27, 2009, and January 30, 2009, respectively. In May, Acting Chairman Copps advised Chairman Serrano that it was appropriate and possible for the Commission to act on the pending PEG Petitions promptly.

Further delay in acting on these Petitions is resulting in very real damage to the PEG community. It is unfair to require or expect local communities and PEG users to bear the burden of prosecuting claims that should rightly be resolved and championed by the Federal Communications Commission. The non-profit organizations, educational institutions and local governments that program PEG channels have very limited resources. Every day of delay in acting on the Petitions increases costs to PEG channels and threatens to shrink their audiences.

Indeed, our office has received indications that PEG problems are increasing and there is even more urgent need for swift action. While I understand that issues surrounding the DTV transition may have prevented the Commission from acting on the Petitions this summer, I hope these critical Petitions will no longer be permitted to linger. Please let me know when we might expect action by the Commission in this matter. If you have any questions, please contact Amber Shipley on my staff at 202-225-2906.

Sincerely,


Tammy Baldwin
Member of Congress

OFFICE OF
THE CHAIRMANFEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 25, 2009

The Honorable Tammy Baldwin
U.S. House of Representatives
2446 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Baldwin:

Thank you for your August 26, 2009 letter regarding the *Petitions for Declaratory Ruling* that were filed with the Commission concerning the carriage of public, educational and governmental (PEG) channels on multichannel video programming distribution systems. Like you, I believe that PEG channels are an important source of local programming and the Commission should ensure that the channels receive equitable treatment consistent with the Commission's rules.

As discussed in your correspondence, the *Petitions* filed by the Alliance for Community Media, and the cities of Dearborn and Lansing, Michigan, seek Commission guidance on several issues related to the carriage of PEG channels. On February 6, 2009, the Commission issued a *Public Notice* establishing a period for comment on the issues presented in the *Petitions*. The comment period in the proceeding closed on April 1, 2009. Staff of the Commission's Media Bureau is evaluating the record developed in the proceeding, and I hope that the Commission will be in a position to address the issues raised in the *Petitions* in the near future.

I appreciate your concerns about this important matter. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Julius Genachowski
Chairman

SAMPLE LETTES TO REPRESENTATIVES & SENATORS
REQUESTING CAP ACT SUPPORT

Dear [REP]:

I am writing to urge you to support, and if possible, co-sponsor the Community Access Preservation Act, HR 3745, and to work for its rapid passage.

Public, educational and government channels are important to our community. They provide an important outlet for programming about our community that is available nowhere else. [OPTIONAL: DESCRIBE YOUR PEG OPERATION, AND SOME OF THE CHALLENGES IT FACES; AND SOME OF THE GROUPS THAT USE PEG IN YOUR AREA]

The problems that the bill seeks to address are immediate, real and significant, and threaten the survival of PEG channels here and elsewhere. Congress has recognized the severity of the challenges facing PEG in hearings held over the last year and a half, and members have been urging the FCC to take action to protect PEG. However, while some of the issues facing PEG can be addressed by the FCC, or by the courts, we simply do not have the resources or the time to engage in protracted legal battles. We ask that you act to preserve PEG through Congressional action on HR 3745.

Dear [SENATOR]:

I am writing you about HR 3745, the Community Access Preservation Act, HR 3745 We ask that you take steps to ensure that a companion bill is introduced in the Senate, and is promptly acted upon.

Public, educational and government channels are important to our community. They provide an important outlet for programming about our community that is available nowhere else. [OPTIONAL: DESCRIBE YOUR PEG OPERATION, AND SOME OF THE CHALLENGES IT FACES; AND SOME OF THE GROUPS THAT USE PEG IN YOUR AREA].

The problems that the bill seeks to address are immediate, real and significant, and threaten the survival of PEG channels here and elsewhere. Congress has recognized the severity of the challenges facing PEG in hearings held over the last year and a half, and members have been urging the FCC to take action to protect PEG. However, while some of the issues facing PEG can be addressed by the FCC, or by the courts, we simply do not have the resources or the time to engage in protracted legal battles. We ask that you act to preserve PEG through Congressional action.