

**SANTA CRUZ COUNTY
BOARD OF SUPERVISORS INDEX SHEET**

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Resolution(s):

Ordinance(s):

Contract(s):

Continue Date(s):

Index: --Joint letter of the County Administrative Officer and the Santa Cruz City Manager of
June 18,2007
--Table 1: Line Extension Areas

- Item: 68.** CONSIDERED the commencement of the renewal process for Comcast Corporation the cable franchisee for the County's North County Cable Franchise Area and the City of Santa Cruz;
As the Board of Supervisors:
(1) authorized commencement of the renewal process for Comcast Corporation the cable franchisee for what is known as the North County Cable Franchise Area; and
(2) authorized the County Administrative Officer to work with the Santa Cruz City Manager and Special Counsel on the selection of the consultants needed for review of Comcast's performance in Santa Cruz and, subject to the Board of Supervisors approval of the 2007-2008 County Budget, to negotiate and sign the appropriate agreements;
Santa Cruz City Council:
(1) authorized commencement of the renewal process for Comcast Corporation the cable franchisee for the City of Santa Cruz; and
(2) authorized the City Manager to work with the County Administrative Office and Special Counsel on the selection of the consultants needed for a review of Comcast's performance in Santa Cruz

County of Santa Cruz and the City of Santa Cruz

County Administrative Officer
701 Ocean Street
Santa Cruz, California 95060

City Manager
809 Center Street
Santa, Cruz California 95060

June 18, 2007

AGENDA: June 26, 2007

Board of Supervisors
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, California 95060

City Council
 City of Santa Cruz
 809 Center Street
 Santa Cruz, California 95060

APPROVED AND FILED
BOARD OF SUPERVISORS
 DATE: June 26, 2007
 COUNTY OF SANTA CRUZ
 SUSAN A. MAURIELLO
 EX-OFFICIO CLERK OF THE BOARD
 BY: Nelson Mitchell DEPUTY

COMMENCING RENEWAL PROCEEDINGS FOR COMCAST'S CABLE TELEVISION FRANCHISES WITH THE CITY OF SANTA CRUZ AND THE COUNTY

Dear Members of the Board of Supervisors and City Council:

In the late 1980s after many years of litigation the Santa Cruz City Council and the Board of Supervisors approved an historical settlement with the operator that provided cable service in the City of Santa Cruz and most of the unincorporated are of the County. As a result of the settlement the City and County have identical franchise agreements and cable ordinances and share a common Federal Consent Judgment.

Over the years the operator of the Santa Cruz Cable System has changed many times and the current operator – Comcast – has now requested that the City of Santa Cruz and the County of Santa Cruz commence the proceeding and renewal procedures provided for in the Cable Communication Policy Act of 1984. The purpose of this letter is to respond to Comcast's request and provide the City Council and Board of Supervisors with background on cable television in Santa Cruz and the current regulatory situation.

The letter concludes with the recommendation that the Santa Cruz City Council and the Board of Supervisors commence the renewal process requested by Comcast by authorizing a review of the current franchisee's performance and authorize the hiring of various specialized consultants to assist City and County staff with the review.

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Background

The City of Santa Cruz and the County began their work on cable television in the 1980's when the City and most of the incorporated area were served by an antiquated 11 channel system. The original goals and objectives for cable television involved:

- ✓ a rebuild of the antiquated cable system;
- ✓ an enforceable rate control mechanism for basic service which the Board and City Council deemed essential because the local cable market does not enjoy over-air-competition and is essentially a captive of the cable operator;
- ✓ extension of service into lower density neighborhoods where there was no or very limited over-the-air television service; and
- ✓ a well funded public, education and governmental (PEG) service.

In 1989 the City, the County and the cable operator agreed to a Federal Consent Judgment which ended litigation initiated by the cable operator to disrupt the City and County's competitive process and provided for a state of the art rebuild of the cable system; an enforceable rate regulation scheme; extension of cable service to 6,000 households in unserved areas (see Attachment I); a shared studio and funding for PEG service; and reimbursement of City and County costs.

Over the years the protections included in the 1989 Consent Judgment have been enforced and improved through the First (November, 1992), Second (February, 1999) and Third (June, 2002) Amendments to the Federal Consent Judgment. In general terms each of the Amendments have cured violations of the terms of the previous version of the Consent Judgment and improved the regulatory scheme and services available to subscribers.

In summary, the Amendments have provided:

- program protections which preserved the value of basic service over the course of time by controlling the cable operator's ability to eliminate basic programming or migrate such programming to an A La Carte or pay status;
- a one time payment for a separate PEG studio and equipment and ongoing funding for a separate locally controlled PEG service;
- enforcement of the line extension areas which the cable operator wanted to ignore including:
 - the University of California at Santa Cruz,
 - Old San Jose Road and the Summit,
 - Smith Grade,

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- Gold Gulch,
- El Rancho/La Madrona, and
- most recently the Glenwood/Mt Charlie Area which was previously serviced by Balkin Cable.
- refunds to subscribers for various overcharges;
- the introduction of a new low cost lifeline service, the elimination of added outlet charges and an improved rate control mechanism; and
- the payment of regulatory and enforcement costs.

At this time the rate regulation mechanism in the Consent Judgment provides full basic cable subscribers in the City and County with a favorable rate difference of approximately \$18.00 per month from rates charged in San Jose.

There are currently 50,000 subscribers in the Comcast service area. We estimated that the total annual savings for subscribers from the Consent Judgment is in the range of \$7,000,000 to \$9,000,000 per year depending on the mix of Lifeline and Full Basic subscribers and how Comcast is pricing premium services, bundled services and introductory rates. A full basic household saves approximately \$200 per year. In addition to the consumer savings the current rates provides \$720,000 per year for funding PEG services.

The preceding savings estimates are based on the assumption that Comcast would price Santa Cruz basic service at parity with San Jose if there were no Consent Judgment. This may not be the appropriate comparison. Comcast could price Santa Cruz, which still does not enjoy the over the air competition available in the greater bay area, higher.

Regulatory Environment

-- Statewide Franchising

In August 2006 the State enacted Assembly Bill 2987, which is known as the Statewide Franchising Act. By virtue of our Federal Consent Judgment Santa Cruz County and any franchising entity in the County was carved out of the Statewide Franchising Act. As a result of the carve out, all the existing cable contracts including the Franchise Agreements, the Federal Consent Judgment and Charter's Stipulated Rate Order will remain in place and the cable operator will not be able to walk away from existing commitments by securing a State Franchise prior to July 1, 2014.

-- Comcast Renewal Request

On January 25, 2007 Comcast requested the commencement of the proceeding and renewal procedures pursuant to the Cable Communication Policy Act of 1984. Among other things the Act specifies that the City and County must initiate the renewal process within six months of the receipt of Comcast's request.

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Commencing the Renewal Process

Commencing the renewal process involves initiating a review of Comcast's performance as the franchisee. This will involve the Board of Supervisors and the Santa Cruz City Council authorizing the hiring of a series of specialized consultants for the following tasks.

- ✓ a Franchise Fee Audit;
- ✓ a Technical Compliance Audit;
- ✓ a Customer Service Audit;
- ✓ a Rate Audit; and
- ✓ a Review of Franchise Compliance

With the exception of the Franchise Compliance Review, which we anticipate will be performed by the County Administrative Office and Special Counsel, all of the preceding will involve the hiring of specialized consultants. We anticipate that the City and County will spend \$230,000 on legal fees and consultant costs in 2007-08 to address renewal issues and the fact finding associated with the matter of the system rebuild and the automatic extension of the Franchise. There will also be some costs associated with the evidentiary hearings that will occur after the various reports are completed. The City and County share costs on the basis of number of subscriber – approximately 1/3 City and 2/3s County. Funds are available for this purpose in the City and County's Proposed Budget's for 2007-08.

Joint Legislative Hearings

When the original Franchise was awarded in 1987 it was the result of Joint Legislative Hearings of the Santa Cruz City Council and the Board of Supervisors. We anticipated that we will again recommend joint hearings of the Board and Council for the purpose of taking evidence on the matter of the renewal. We anticipate that the hearings will begin in mid to late 2008.

Recommendation

At this time it is RECOMMENDED that the Board of Supervisors and the Santa Cruz City Council take the following actions:

Board of Supervisors

1. Commence the renewal process for Comcast Corporation the cable franchisee for the what is known as the North County Cable Franchise Area; and
2. Authorize the County Administrative Officer to work with the Santa Cruz City Manager and Special Counsel on the selection of the consultants needed for review of Comcast's performance in Santa Cruz and, subject to the Board of Supervisors approval of the 2007-08 County Budget, to negotiate and sign the appropriate agreements.

Santa Cruz City Council

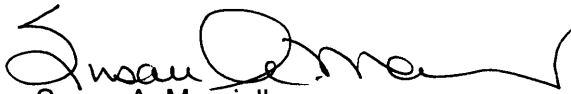
1. Commence the renewal process for Comcast Corporation the cable franchisee for the City of Santa Cruz; and

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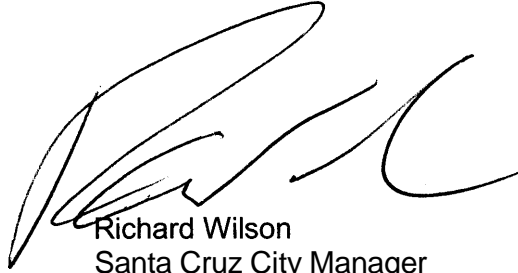
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2. Authorize the City Manager to work with the County Administrative Office and Special Council on the selection of the consultants needed for a review of Comcast's performance in Santa Cruz.

Very truly yours



Susan A. Mauriello
County Administrative Officer



Richard Wilson
Santa Cruz City Manager

cc: Comcast
County Counsel
Auditor-Controller
Bill Marticorena

TABLE 1

LINE EXTENSION AREAS

<u>Line Extension Areas</u>	<u>Plant Xiles</u>	<u>Estimated Households</u>	<u>Households Per Plant Mile</u>
University of California	21.00	3,000	142.86
Lost Acres Drive	0.38	20	52.63
Scenic Way	3.26	153	46.93
Orchard Road	0.28	11	39.29
Trout Gulch	3.03	111	36.63
Alta Via	1.08	39	36.11
Lake Blvd.	1.70	60	35.29
San Lorenzo Park	5.11	180	35.23
Aquila Way	0.21	7	33.33
Faimount	2.75	91	33.09
Zayante Road	0.47	14	29.79
Redwood Drive (Aptos)	2.50	74	29.60
El Soyo Heights	1.04	29	27.88
High View	0.59	16	27.12
Crescent Drive	1.33	34	25.56
Canham and Summerhill	1.30	31	23.85
Big Basin/China Grade	3.03	72	23.76
Mt. Hermon Road	1.33	31	23.31
Wildrose	1.08	25	23.15
Glenn Barry	1.17	27	23.08
Coleman Avenue	0.66	15	22.73
Old San Jose Road/Summit	26.90	611	22.71
Sunset Beach/Zils Road	6.91	145	20.98
Branciforte	4.66	96	20.60
Glen Canyon	2.86	55	19.23
Bonny Doon/Davenport	35.90	676	18.83
Glen Haven	3.69	68	18.43
Greenbrae	0.38	7	18.42
Fanning Grade	0.45	8	17.78
Quail Run	0.97	17	17.53
Lockhart Gulch	0.59	10	16.95
Ridgedale	0.38	6	15.79
Charles Hill Road	2.00	31	15.50
Two Bar Road	0.83	11	13.25
Redwood Drive (Glen Canyon)	1.84	22	11.96
Porter Gulch	1.44	15	10.42
Unspecified Areas	30.00	300	10.00
GRAND TOTAL LINE EXTENSION	173.10	6,118	35.34