

Memo

To: City Council
From: David W. Kuhn, City Solicitor
Date: December 18, 2007
Re: Status of Video Service (CATV) Franchise

On June 25, 2007, Governor Strickland signed Senate Bill 117, which replaced the local video service franchise process with a statewide law on the subject. The new law went into effect on September 24, 2007.

Although the City's current CATV franchise with Time-Warner will not expire until November 1, 2009, and in spite of the existence of contractual obligations in it, Time-Warner could petition the Federal Communications Commission (FCC) to request a ruling that "effective competition" exists in our area or in the State of Ohio, in order to opt out of the City's franchise. The City would be notified of any such petition filed with the FCC, and would have 10 days within which to respond.

On the other hand, Time-Warner could simply wait until the current franchise expires (11-1-09), and then apply to the State for a Video Source Authorization (VSA), i.e. a State franchise.

The City's CATV consultant, Walter & Haverfield, proposes that the City employ it to prepare a memorandum analyzing the effect of S.B. 117 on the City's franchise with Time-Warner. It further proposes to prepare an ordinance determining the percentage of gross CATV revenues and net advertising revenues to be charged by the City as a video service provider fee to any provider of video services under a State authorization, and also authorizing the Mayor to issue an appropriate notice of such requirement. Such an ordinance would be necessary under S.B. 117 to ensure that the City would continue to receive the equivalent franchise fees from any video service providers, whether it be Time-Warner, AT&T, Verizon, or any other.

The total cost for the proposed services by Walter & Haverfield would not exceed \$1,250.00.

In light of the significant annual income received by the City from the CATV franchise, it behooves Council to address the question of whether to act now (enact the aforesaid ordinance) or to wait and see if Time-Warner petitions the FCC as described above and then timely respond, including enacting the ordinance). Also, remember that the enactment of the proposed ordinance would be needed at or near the date of the expiration of the current franchise (11/1/09).

The contact persons at Walter & Haverfield are:

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