

City of Calistoga

Staff Report

TO: Honorable Mayor and City Council

FROM: Richard Spitler, City Staff

DATE: November 17, 2015

SUBJECT: Provide Direction to Staff to Negotiate a Professional Services Agreement with Napa Public Access Cable Television (dba Napa Valley TV) to operate Calistoga's Public/Community Access Channel 28 and If the City Council intends to implement the 1% PEG Support Fee

APPROVAL FOR FORWARDING:



Michael T. Kirn, Acting City Manager

- 1 **ISSUE:** Provide direction to staff to negotiate a professional services agreement with
 2 Napa Public Access Cable Television (dba Napa Valley TV) to operate Calistoga's
 3 Public/ Community Access Channel 28 and if the City intends to implement the 1% PEG
 4 support fee.
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- 6 **RECOMMENDATION:** By motion, direct to staff to negotiate a contract with Napa
 7 Valley TV to operate Calistoga's Public/ Community Access Channel 28 and prepare a
 8 resolution for Council consideration to implement the 1% PEG support fee.
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- 10 **BACKGROUND/DISCUSSION:** The City Council amended the City's Cable
 11 System Franchise Regulation contained in Chapter 13.12 of the Municipal Code on
 12 October 20, 2015 (which becomes effective November 19, 2015). The amendments
 13 were made to reflect that Comcast ended the City's franchise agreement on
 14 September 1st. The amendments also provided other changes as a result of the
 15 Digital Infrastructure and Video Competition Act (DIVCA). This included a
 16 requirement that an additional 1% of the gross fees received by Comcast be directed
 17 towards the cost of providing our public access channel (Channel 28), if desired by
 18 the City.

19 Presently the City operates Channel 28 as our public education governmental (PEG)
20 channel. With adoption of these code amendments the City can require that
21 Comcast collect an additional 1% of the gross fees from consumers to be directed
22 towards the cost of providing our public access channel to pay for a third party to
23 operate this station (the City cannot be the beneficiary of this 1% fee).

24 All of the cities in Napa County, except Calistoga, use Napa Public Access Cable
25 Television (dba Napa Valley TV) to administer PEG channel. Napa Valley TV is a
26 non-profit company. Staff understands that all are satisfied with the service.

27 James Raymond, Executive Director, of Napa Valley TV, has approached staff with
28 an informal proposal to take over the operation of Channel 28, to include broadcast
29 city council and planning commission meetings and to provide City and public
30 access to the channel for public information dissemination. They would also provide
31 technical assistance to the communications center. When Shawn O'Neal gave
32 notice that he would no longer operate the communications center, the City Manager
33 contracted with Napa Valley TV to operate the communications center at a rate of
34 \$35 per hour until a more formal arrangement could be found.

35 The benefit to the City is that staff would not have to operate the channel but would
36 have first right of access to continue to submit relevant community event information.
37 Also as a designated PEG, the cost would not present a burden on the General
38 Fund. Napa Valley TV would manage the communications center and provide
39 technical assistance and recommendations to make sure the equipment operates
40 properly. These later two functions would be in excess of the PEG fee, but well
41 within the existing budget established for this service.

42 As provided by the City code, Comcast has to be informed in writing that the City
43 desires them to collect the 1% PEG fee from consumers. Once the letter is received
44 they have 60 days to implement it which is around January 20, 2016. The timing of
45 this letter would coincide with Napa Valley TV taking over the operation of Channel
46 28.

47 This staff report requests City Council direction regarding possible use of Napa
48 Valley TV services and whether to implement the 1% PEG fee. If so directed, staff
49 would come back to the Council with a professional services agreement and a
50 resolution to implement the PEG fee.

51 James Raymond, Executive Director, of Napa Valley TV will be available at the
52 Council meeting to address questions or concerns.

53

54 **FISCAL IMPACT:** This ordinance does not propose any changes to the amount of the
55 franchise fee which is 5%, however, the proposed imposition of a 1% PEG fee on video
56 providers will enable City to pay for assistance to run the public access TV station
57 (approximately \$16,000 per year). The existing cost of paying to operate the

58 communication center and technical assistance would be at \$35 per hour which is less
59 than what we budgeted for this fiscal year.

60 It should be mentioned that the equipment in the communications center is aging,
61 causing problems of sound distortion and poor visual quality, particularly the images on
62 the projector screen. Staff has asked for a proposal from Napa Valley TV to address
63 these issues. If the cost is reasonable, the City Manager will likely authorize the needed
64 upgrades. These costs cannot be charged against the 1% PEG fees.

65

66 **ATTACHMENTS:**

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- 68 1. Information on Napa Valley TV
69 2. Chapter 13.12.020 of the Calistoga Municipal Code (PEG Access Fees)



DIVCA FUNDING FACTS:

- With the new DIVCA funding structure in place (Adopted and enacted in 2008), you will receive all of these services at no cost out of the General Fund.
- The City keeps 5% of Gross Cable Revenues (as traditionally negotiated in the past) and an additional 1% of Gross Cable Revenues is set aside (per state law) strictly for PEG funding. It's truly a Win-Win and the funding for PEG services no longer comes out of the 5% portion that Cities have historically received!
- The income is derived from a pass-through fee that is passed to cable subscribers (It's important to note this is not a tax).
- If you do not enact the 1% in your DIVCA ordinance, then you lose out on our services. Cities that do not choose the additional 1% PEG fee may see increases by the Cable Operator through other "miscellaneous fees." This means that Comcast can raise the rates for their fees and the City residents see no benefit. The money goes into the pocket of the Cable Operator, Comcast. (Surrounding cities near Gilroy show a classic example of the raised rates by Comcast in lieu of Cities not enacting the 1%)
- These PEG fees allow us to operate and provides the professional services to our City partners and their residents. As already mentioned, it's truly a Win-Win.

Points to Remember:

- The PEG fees do not need to come out of the City General Fund. It is a pass-through fee through the cable subscribers.
- You will still be able to air all of your Government Meetings at their respective times.
- More programming is available for view on both Channels (TV27 & TV28).
- Greater TV programming services to the City of Calistoga.
- Local citizens will be able to watch programs of interest produced by other Community Residents.



Community Wide Services:

1. The adopted mission of Napa Public Access Cable Television (dba Napa Valley TV), is...
"To provide anyone living or working in Napa County the opportunity to exercise his or her First Amendment right to expression through access to the cable television system." We do this by providing the following services to the members of the community:
 - Providing the infrastructure and staffing to schedule, playback, and cablecast all programs.
 - Assess community interest and need and encouraging programming that meets those needs.
 - Training community members in how to produce and/or submit community programming.
 - Allowing access to the television studio and all the equipment needed to produce programming.
 - Providing access to the cable system for marketing and advertising events and general information for ALL Napa County non-profit organizations.

2. Although the primary mission is to facilitate community members producing and submitting programs, Napa Valley TV staff also produce and submit programming on behalf of the station in the following areas:
 - Televising important community/civic events so that those who could not attend may see the value of such events and will feel included.
 - Assist with television fundraiser productions for non-profit organizations in the community.
 - Emergency preparedness.
 - Special holiday programming of wide interest to the community.



Examples of Direct Services we provide for the City of Napa, City of American Canyon and Town of Yountville Government Partners:

- Provide trained staff and backup for government meeting telecasts.
- Provide infrastructure to allow telecasts of government meetings.
- Provide liaison with Comcast and AT&T to ensure the transmission of government meetings over the cable systems.
- Provide live 24 hour, 7 days a week emergency broadcast capabilities at the City's request.
- Provide on-call and on-site technical troubleshooting and repair services for City owned teleproduction equipment.
- Provide consulting services for design and purchase of teleproduction equipment.
- Prepare and telecast PowerPoint slides for City public information.
- Produce public information or internal programs for the City.
- Provide production assistance for City produced programs.

Ralph DeAmicis
Board Member, Napa Valley Television
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City of Calistoga
City Manager
JUN 26 2015
RECEIVED

Mayor Chris Canning
City of Calistoga Council Members
Calistoga CA

June 23, 2015

Re: PEG Franchise Renewal Fall 2015

Dear Mayor Canning,

As the time approaches to renew your Public Access, Education, Government provider I urge you to name Napa Valley Television as your designate. The potential benefits to the residents of Calistoga, beyond the very cost effective technical support that our team can provide, is wide ranging. In a time when the world's largest website is YouTube, the language of both society and commerce is increasingly visual. The younger generation has access to incredible international videos and the more that we provide them with ways to develop these talents, and a stage to share their efforts, the more we will build a creative future for our communities.

Remember, before there was YouTube and Vimeo there was Public Access Media, a place where anyone from the community, if they were willing to develop the skills and make the effort, could have their say, without a commercial sponsor or agenda. Napa Valley Television offers classes, studios, loaner equipment, guidance and a stage to present their efforts. It also provides an active, vibrant community of videographers to cooperate with, share ideas with and volunteer opportunities to hone their skills.

My perspective of how Calistoga fits into the valley is probably unique among our board members, because even though I live in the city of Napa, through my work in the tour business I spend a majority of my time during much of the year up in the valley. I know downtown Calistoga and St. Helena better than I know downtown Napa. One of the television shows that I have been producing since 2012, Wine Country @ Work, is centered on where the grapes grow and the wine is made. I have to admit that the incredible natural beauty of the valley, and the high communication skills of the local hospitality community makes it a very easy show to produce. What is surprising is that of the dozens of ongoing shows on channel 28 (non-governmental) ours is one of very few that features what goes on up valley, even though that is the area for which Napa is famous internationally.

By helping Napa Valley Television become the county wide PEG provider you will not only gain access to interesting local programming and excellent technical support, but you gain access to education for your residents and a place where they can express their ideas and creativity. When they learn how to produce work to those standards there are many other venues where they can share their projects, thousands of PEG stations across the country and of course YouTube, Vimeo, Social Media etc. So I urge you to make these wonderful resources available to your community this year.

Sincerely,



ATTACHMENT 2

13.12.020 State Video Franchise Fees and PEG Access Fees

- A. Any state franchise holder operating within the boundaries of the City shall pay a franchise fee to the City equal to five percent (5%) of the gross revenues, as defined in Public Utilities Code section 5860(d), of that state franchise holder.
- B. Any state franchise holder operating within the boundaries of the City shall pay a fee to the City as such time as directed by the City, or if directed by the City, to the City's designated PEG provider, a PEG fee equal to one percent (1%) of the gross revenues of that state franchise holder to support PEG access channel facilities.
- C. The franchise fee required pursuant to Section 13.12.020(A) and the PEG fee required pursuant to Section 13.12.020(B) shall each be paid to the City quarterly, in a manner consistent with California Public Utilities Code section 5860. The state franchise holder shall deliver to the City, by check or other means specified by the City, a payment for the franchise fee and a separate payment for the PEG fee not later than forty-five (45) days after the end of each calendar quarter. Each payment made shall be accompanied by a report, detailing how the payment was calculated, containing such information as the City Manager or his or her designee may require, consistent with DIVCA.
- D. The City shall provide written notification to State franchise holder(s) at such time that the City wishes to implement the PEG support fee. State franchise holders so notified shall commence payment of the fee to the City 60 days after City notification of PEG fee implementation.