



CITY of NOVI CITY COUNCIL

Agenda Item 4 September 14, 2015

SUBJECT: Consideration to adopt Resolution regarding dissolution of Southwest Oakland Cable Commission (SWOCC).

SUBMITTING DEPARTMENT:

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The Cities of Novi, Farmington, and Farmington Hills in 1983 joined together to create the Southwest Oakland Cable Commission (SWOCC) to jointly administer a newly-granted cable television franchise to MetroVision. Over the ensuing 30-plus years, the Cities have worked collaborative to negotiate amended franchise agreements, first with Time Warner, then with Bright House; to administer those agreements, and to provide for cable access and programming on a larger scale than they could have otherwise provided individually at that time.

With the recent determination by Bright House to take advantage of the Uniform Franchise Agreement authorized under Act 480 of the Public Acts of 2006, and further given the decline in revenue produced from the cable television franchise and the increased ability of the Cities to provide for their own cable television services and related advancement in broadcasting technology, the timing is appropriate to consider dissolving the Commission and allowing each of the communities to both regulate their respective cable franchises and provide their cable-related programming activities on their own. While the existence of the Commission has served the three communities very well over the years, the benefits of the joint administration of the cable franchise have changed and arguably diminished to the point where the communities can undertake those activities themselves.

The attached Resolution would direct the City Administration to begin the process of discussing with the Cities of Farmington and Farmington Hills the dissolution of the Commission under the terms of the Agreement that created SWOCC in 1983, which includes the distribution of assets.

RECOMMENDED ACTION: Adoption of Resolution regarding dissolution of Southwest Oakland Cable Commission (SWOCC).

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Markham				

	1	2	Y	N
Council Member Mutch				
Council Member Poupard				
Council Member Wrobel				

**CITY OF NOVI
COUNTY OF OAKLAND, MICHIGAN**

**RESOLUTION REGARDING DISSOLUTION OF
SOUTHWESTERN OAKLAND CABLE COMMISSION ("SWOCC")**

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland,
Michigan, held in the City Hall of said City on September 14, 2015 at 7 o'clock P.M.
Prevailing Eastern Time.

PRESENT:

Councilmembers _____

ABSENT:

Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____
_____ and supported by Councilmember _____.

RECITALS

1. The Southwestern Oakland Cable Commission ("SWOCC") was established by the adoption, by the communities of Novi, Farmington Hills, and Farmington, through a document entitled "Agreement for Multi-Jurisdictional Administration of a Cable Television Franchise" (the "Multi-Jurisdictional Agreement") in 1983. At the time, all three communities had each separately entered into cable television franchise agreements with MetroVision, a cable television provider, and adopted cable television franchise ordinances as well.
2. In the 1983 Multi-Jurisdictional Agreement, the purposes of SWOCC were among other things "to foster cooperation among the [municipalities] ...to obtain the most reasonable subscriber rates for the highest possible level of service for the residents..." In addition, SWOCC was expected to work on behalf of its member communities to "improve the quality of services to residents as a result of new television technology and to insure a coordinated and functioning system to the central administration of [the]

cable television franchises...doing all things allowed by law to accomplish such purposes." To these ends, SWOCC was given the authority to hire staff, purchase real and personal property, and generally deal directly with the cable television provider in the administration of the franchise agreement and ordinances.

3. Over the years in which the Agreement has been in place, the cable provider has changed -- initially to Time Warner and currently to Bright House. The Multi-Jurisdictional Agreement has served all three communities extraordinarily well, and the residents of all three communities have benefitted from the joint administration of SWOCC and the shared voice when dealing with the cable provider, including in the negotiation of new cable franchise agreements, including the franchise agreement with Bright House in 2000.

4. Recently, however, circumstances relating to the provision of cable television services have undergone significant changes, and those changes have in turn affected the underlying basis for the three cities' entry into the Multi-Jurisdictional Agreement more than 30 years ago. The most significant of those changes was the adoption by the State of Michigan, in 2006, of Public Act 480, which creates a uniform video service local franchise agreement that can be utilized by any cable provider, at its option, with limited opportunity on the part of a community to alter its terms or to negotiate specific additional terms or benefits as had previously been allowed.

The Act specifically dictates terms such as the payment and amount of franchise fees and PEG fees, and also contains provisions regarding right-of-way regulation and confirms that matters such as cable rates and service levels are matters to be dealt with outside of the franchise agreement. The Act does not recognize or provide for the continuation of meaningful community rights or involvement with regard to franchise administration.

5. In 2011, the three cities agreed to an "Amended and Restated" Multi-Jurisdictional Agreement. The 2011 version of the document narrowed the purpose SWOCC: "...to foster cooperation among the [municipalities] ... to jointly negotiate and administer cable franchise agreement(s) and other pertaining to cable service to receive the greatest benefit to the cities and their residents. SWOCC may also work on behalf of the [municipalities] to provide access production and programming."

6. With the 2000 franchises set to expire in December, 2015, Bright House determined not to "negotiate" a new franchise with the SWOCC communities, but to instead take advantage of the beneficial terms of the uniform franchise agreement under Public Act 480 (as AT&T had in 2007). In August, 2015, each of the three cities approved a new franchise for Bright House, and as a result SWOCC will not be required to complete any franchise renewal negotiations with Bright House. A good portion of what SWOCC might otherwise have done has now already been completed.

7. Other recent changes in circumstances involving SWOCC and cable television generally include:

- Greater competition being faced by cable providers from internet providers and others (including in Novi AT&T and Comcast), resulting in fewer cable subscribers. As a result, for several years the fees collected by the three cities has dropped significantly, impacting their ability to fund existing SWOCC operations.
- The significant decline in the number of people seeking to use cable access services provided by SWOCC -- e.g., video equipment necessary to produce local, citizen-created cable TV shows, which were originally one of the more significant benefits of SWOCC's expertise. The advent of cell phone cameras and other more-accessible video recording equipment has resulted in less need for such equipment and related services to be provided by SWOCC.
- The growth of the three cities, including the increased sophistication of their own facilities and technological capabilities, which has led to an increased ability to provide, on their own, cable access and programming activities.

5. Section VI of the current Multi-Jurisdictional Agreement contains a provision that allows the member communities to dissolve the Commission:

SWOCC may be dissolved by two-thirds (2/3) of the parties to this Agreement, and in such event, SWOCC shall liquidate or transfer the assets of SWOCC to any successor organization. In the case where a successor organization is not established, the assets of the Corporation shall be distributed to the Municipal Corporations in proportion to each Municipal Corporation's population to the population of all the participating Municipal Corporations.

6. On March 23, 2015, the SWOCC Board commissioned a study by CBG Communications, a consultant, to evaluate the possibility of and process for winding down and dissolving SWOCC.

7. While CBG's final report has not yet been delivered to or approved by SWOCC, the City of Novi wishes to begin discussions toward the dissolution of SWOCC as provided for in the Multi-Jurisdictional Agreement. The SWOCC partnership was essential when

SWOCC was first created to deal with a still fledgling cable industry, and has been mutually beneficial for the entire term of the Agreement. But with the recent changes in circumstances described above, the City would like to explore its other opportunities for the City's own oversight of the AT&T, Bright House, and Comcast franchise agreements and the provision of cable-related services to its citizens in a uniform manner.

NOW, THEREFORE, BE IT RESOLVED that the City of Novi City Council hereby directs its Administration to begin the process of discussing with the Cities of Farmington and Farmington Hills the dissolution of the Commission pursuant to the provisions of Section VI of the Agreement for Multi-Jurisdictional Administration of a Cable Television Franchise, with an expected completion date of no later than December 31, 2015.

AYES

NAYS:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this 14th day of September 2015, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

Maryanne Cornelius, City Clerk
City of Novi