



City of Portland


Office for Community Technology

Broadband & Communications Technology Policy | Cable Regulation & Consumer Protection | Utility Franchises, Licenses & Wireless

Dan Saltzman, Commissioner
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March 30, 2012

To: Yung Ouyang
OMF, Financial Planning

From: Dan Saltzman, Commissioner
David Olson, Director 
Office for Community Technology

Subject: Spring Budget Monitoring Report – Fiscal Year 2010-11

General Fund Revenues: To date the bureau collected over \$45 million in general fund revenues. At this rate the bureau anticipates meeting or exceeding its budgeted revenue projection of \$69 million.

Expenditures:

Expenditures for the bureau are projected to be within the budget for both the Cable Fund and the General Fund portions of the bureau budget.

Carry Over Requests:

Litigation Fund:

Council has authorized (Res. 36639) \$150,000 in General Fund appropriation for conducting legal proceedings in consultation with the City Attorney's Office to enforce the terms and conditions of the franchise agreements with several telecom companies. The bureau has recovered over \$4 million in disputed franchise fees during the last three fiscal years. Presently, the bureau is in litigation with Level 3 franchise. The bureau requests carryover of the projected balance of \$91,000 to FY 2012-13 toward continuing and concluding the Level 3 litigation and other potential litigation to enforce the City's rights and collect arrears (benefiting the General Fund) in franchise fee disputes.

Revolving Audit Fund:

The bureau had been carrying over the balance in the revolving audit fund in the amount of \$95,978 for the last two fiscal years. The revolving audit fund consists of \$20,000 in deposits from franchise applicants to cover franchising costs. The bureau will be requesting these funds to cover costs incurred in processing these franchises. As suggested by OMF in the FY 2011-12 budget note, the remainder of the funds will be rolled into the General Fund in lieu of OMF providing dedicated resources (aside from the bureau budget appropriation) for conducting franchise fee audits and advocacy efforts for preserving City's franchising authority and protecting City revenues. These appropriations and expenditures will be tracked separately from the bureau budget (See budget note status).



Workload:

Utility Franchises, Licenses and Wireless Program

Utility Franchise Audits & Negotiations

Staff is on track to conduct and close audits in accordance with the audit schedule. PBOT completed an update of Title 17 of the Code (as urged and previously funded by OCT) to streamline franchise renewal agreements. OCT will now move forward to complete the process of updating the City's franchise renewal template, convene industry meetings to take comment on the template, then conduct individual negotiations with each company to reach final agreement on the specifics. Some selected franchise extensions may be necessary if staff is unable to finalize agreement with each franchisee by December 2012. The City in the meantime may need to initiate legal action against at least one franchisee due to an ongoing franchise fee dispute. Staff has already developed a new competitive telecommunications carrier franchise for Astound, Inc., is finalizing an amendment to the PSU franchise and has begun discussions to resolve a small cluster of franchise issues with OHSU. Staff is also working with Planning & Sustainability on a District Energy concept, beginning with the proposed Memorial Coliseum and Rose Quarter shared thermal energy system.

Wireless activity

Staff expects a significant increase in workload due to the proliferation of wireless technology use on multiple platforms (e.g. smart phones, iPads) throughout the City and increased citizen concern and activism regarding placement of necessary wireless attachments in the rights-of-way to provide adequate signal strength to meet growing demand and use. Staff anticipates fielding growing numbers of contacts (i.e. hundreds of calls and emails from activist neighbors) where wireless sites are proposed for utility poles in the right-of-way in residential neighborhoods. The bureau estimates at least 14 or more wireless right-of-way sites will be requested in the City this calendar year; concurrent with the federal government already moving forward to double the amount of spectrum available for wireless to meet demand. In addition, neighbors remain well-organized as a result of previous efforts and lawsuits over wireless siting processes; other citizens can be expected to become active as new wireless sites in residential areas are developed and requested by wireless companies. The bureau is also beginning to encounter wireless issues not previously anticipated, including: questions on whether Historic Designations apply in the right-of-way; street tree issues; monopole and power supply issues; involvement in siting requests in Parks; "Distributed Antenna Service" providers (DAS); and the need to coordinate with BDS in connection with proposed sites which involve both right-of-way and land use review components. It should be stressed that there are multiple City bureaus as well as Council offices involved or implicated in these issues, which are dependent upon OCT's resources and the expert leadership of professional staff as a key City bureau facilitator and policy lead on the Council's behalf through Commissioner Saltzman's office. The bureau is already developing and will be conducting a public process to promulgate an administrative rule to improve the City's wireless siting process; this rulemaking process (April – July 2012) can be expected to trigger substantial additional public, press and industry interest.

Utility License Fees

The most recent amendments to the Utility License Law became effective in 2010, and implementation incorporating further administrative efficiencies is continuing on schedule after promulgation of a new administrative rule establishing minimum payment schedules (finalized in the last quarter of calendar year 2011, and effective beginning 2012). A database solution to replace

multiple Excel spreadsheets to track franchises and utility licenses is also finalized, and should assist staff with significant increases in workload. After eight quarters of implementation, new ULF revenue collections are over \$372,000 per quarter and are on track to exceed \$1,488,000 in new revenue annually. There were over 200 licensees in 2011, and the continuance of full-time bureau oversight and staffing is strongly indicated to collect revenue from existing and new licensees as well as strategically identify additional potential licensees who may not yet have come into compliance.

Broadband & Communications Technology Policy Program

Advocacy

Staff prepared a "leave behind" white paper on wireless issues and drafted a letter on the Community Access Protection Act (CAP) in October for Government Relations staff to use in federal advocacy.

Broadband

Council unanimously approved the *Broadband Strategic Plan: Connecting to our Future* on September 14. Council directed staff to develop a work plan and budget for implementation. As part of the process staff produced a video titled *Jobs and Broadband* with Portland Community Media and a "prezi" (electronic overview presentation); conducted outreach and data collection with under-represented groups through a partnership with the Office of Neighborhood Involvement, which included a video competition; and produced a final report and executive summary. All the documents and multi-media productions can be found online:

<http://www.portlandonline.com/cable/index.cfm?c=30052> Staff also worked closely with Office of Planning and Sustainability staff and attended Portland Plan community outreach processes in order to ensure that key components of the adopted Broadband Strategic Plan were incorporated into the upcoming final Portland Plan and the City's Eco-District policy.

Cable Regulation & Consumer Protection Program

Comcast Cable Franchise Renewal: Working through the intergovernmental Mt. Hood Cable Regulatory Commission (MHCRC), staff completed nearly two years of franchise renewal negotiations with Comcast, and City Council approved the renewed, 10-year franchise on an initial temporary basis (November 2011) and on a permanent basis under the City Charter process (January 2012). The renewed Comcast cable franchise agreement retains dedicated capital funding for public benefits (totaling nearly \$4.5 million annually) but brings 1/3 of these dedicated funds (previously retained by Comcast) "in house" to support capital grants disbursed by the MHCRC. These grants will continue to support community cable channels, community technology grants and high bandwidth services to local governments, schools and libraries throughout the County, but management and disbursement of the additional I-Net fund is a substantial additional workload for Cable program staff. The renewed franchise also continues to support the interconnection between Comcast's I-Net service and the City's IRNE system, which generates more than \$1million annually for the City's Bureau of Technology Services.

PCM and MetroEast Contract Renewals: The bureau's Cable program manages the contracts with both Portland Community Media and MetroEast Community Media, which provide community media services to the public and local governments throughout Multnomah County. Both contracts are due to expire June 30, 2012. Staff, in cooperation with the MHCRC, has begun the contract negotiation and renewal process with PCM and MetroEast, mindful of fiscal and oversight issues which received considerable public and press interest in late 2011. Staff continues to work with the MHCRC,

Commissioner Saltzman's office, and PCM and MetroEast representatives to ensure that these issues are addressed in renewed contracts. Increased oversight and additional compliance conditions will also result in an increased work load for Cable program staff.

Cable Capital Grant Program: Staff continues to manage the annual competitive grant process and conduct fiscal and programmatic compliance with about 29 current grantees, worth over \$1.5+ million to various public and non-profit entities. The 2012 grant round received 21 applications and Cable program staff is currently facilitating the evaluation and decision-making process by the MHCRC. As previously indicated, a substantial new cable grant program workload is arising for FY12-13 as a result of the doubling of grant funds under the renewed Comcast franchise. The MHCRC and Cable program staff are redesigning and revamping the granting processes to ensure greatest impact of funds in the community.

Please call Sebastian Rodrigues at 3-5413 if you have further questions.

**Office for Community Technology
Current Year Budget Note Update
FY 2011-12 – Spring BuMP**

Budget Note:

Council directs Financial Planning to add sustainable levels of funding to the FY 2012-13 forecast to replace the one-time (i.e. litigation and audit funds) of the Office for Community Technology. Financial Planning and the Office for Community Technology will provide adequate accountability to separate its materials and services to prevent the comingling of these funds.

A report on past year expenditures in these areas has been provided to Financial Planning. The funding requirement for these activities is being reviewed by both the Bureau and Financial Planning. The bureau will be working with Financial Planning and Accounting to develop specific tracking systems in SAP for the next fiscal year.

Office for Community Technology
Current Year Decision Package Update
Fiscal Year 2011-12 – Spring BuMP

Council authorized \$48,750 in general fund appropriations to fund potential formal hearings during the Comcast franchise renewal. The bureau finished negotiating the franchise without the formal hearings. The bureau will retain a balance of \$48,750 in general fund appropriations.

BUDGET AMENDMENT REQUEST

Office for Community Technology

PERIOD Spring BuMP

FISCAL YEAR FY 2011-12

CB_003 - Interagency -BTS

The bureau is increasing the Interagency with BTS to cover the additional costs associated with performing PC supports for the bureau (MHCRC).

Dollar Amount: \$0
Type: Technical Adjustment
Resources: Bureau Contingency

CB_004 - Facilities Services

The bureau is increasing the Interagency with Facilities Services to cover additional facilities maintenance expenditures occurred during the fiscal year.

Dollar Amount: \$0
Type: Technical Adjustment
Resources: Internal Transfer

CB_005 - Personnel Services, Utility Franchise GF

The Utility Franchise Management program's year end projection reflects the need for \$24,000 to meet COLA requirements. The bureau did not add or re-classify any of its positions in this program during the fiscal year. This program is exclusively funded by the General Fund. This expenditure will be absorbed by the savings from other line items.

Dollar Amount: \$0
Type: Technical Adjustment
Resources: Internal Transfer

CB_006 - Personnel Services, Cable Fund

The Bureau is increasing the Cable Program Manger's position from 0.8 FTE to 1.0 FTE in order to absorb the added workload associated with the administration of the Public Educational, and Government (PEG) grants. The bureau estimates \$5,000 for the remainder of the current fiscal year to fund the additional 0.2 FTE. Appropriations for this increase in Personnel will be funded by the PEG grant fund.

The bureau is also requesting to transfer \$7,000 from Cable Fund contingency to Personnel Services to cover the COLA expenditures (MHCRC).

Dollar Amount: \$0
Type: Technical Adjustment
Resources: Bureau Contingency

BUDGET AMENDMENT REQUEST

Office for Community Technology

PERIOD Spring BuMP

FISCAL YEAR FY 2011-12

CB_008 - Litigation Fund

Council has authorized (Res. 36639) \$150,000 in general fund appropriation for conducting legal proceedings in consultation with the City Attorney's Office for enforcing franchise agreements of telecom companies. The bureau collected over \$4 million in unpaid franchise fees during fiscal year 2009-10 from various telecom companies (Time Warner, Level 3 Communications, and McLeoad). The bureau carried over \$122,465 to the current fiscal year to continue conduct the legal proceedings for various franchises and related activities. The bureau requests to carry over the appropriation balance of \$119,930 to fiscal year 2011-12 to continue perform these functions for the Utility Franchise Management Program in order to preserve and collect the general fund revenues for the City which could be lost otherwise.

The bureau is currently engaged in litigation with Level 3 franchise. The year to date expenditures plus the estimated expenditures for the remainder of this fiscal year for this litigation is approximately \$29,000. The bureau requests to carry over \$91,000 to next fiscal year for continuing the Level 3 litigation as well as other potential litigations. The bureau will true up the request in the Fall BuMP once the actual litigation cost for the fiscal year become available.

Dollar Amount: (\$91,000)
Type: Carryover Request
Resources: General Fund Discretionary

CB_009 - PEG Grants

The contingency transfer is requested from the pass through PEG funds obtained from the cable companies. These funds are granted to various community organizations. These organizations have up to three years to finish their project. As a result, bureau may receive high volume of invoices towards the end of the fiscal year for projects completed from the current year as well as from the previous year grants. The contingency transfer is a precaution to prevent any potential over expenditures. Since it is a dedicated fund, unspent funds will remain within the PEG fund.

Dollar Amount: \$0
Type: Technical Adjustment
Resources: Bureau Contingency

Summary of BuMP Requests by Bureau

	Bureau Request		FPD Recommendation	
	Gen Fund	Total	Gen Fund	Total
	Discretionary	Expenses	Discretionary	Expenses
Office for Community Technology				
CB_003 - Interagency -BTS	0	0	0	0
CB_004 - Facilities Services	0	0	0	0
CB_005 - Personnel Services, Utility Franchise GF	0	0	0	0
CB_006 - Personnel Services, Cable Fund	0	0	0	0
CB_008 - Litigation Fund	(91,000)	(91,000)	(91,000)	(91,000)
CB_009 - PEG Grants	0	0	0	0
Total Office for Community Technology	(91,000)	(91,000)	(91,000)	(91,000)
		(91,000)	(91,000)	(91,000)
		Grand Total	(91,000)	(91,000)

Fund Projection Report

	Spring BuMP Revised Budget	FY 2011-12 YTD Actuals Thru AP8	Spring BuMP Year-End Projection	% of Projected Actuals to Revised Bud
Cable Fund				
EXPENDITURES				
Unappropriated Fund Balance	\$2,172,169	\$0	\$2,378,369	109%
Personnel Services	\$448,703	\$297,749	\$448,703	100%
External Materials and Services	\$7,079,743	\$2,741,044	\$7,076,585	100%
Internal Materials and Services	\$96,521	\$58,210	\$96,521	100%
Fund Transfers - Expense	\$28,549	\$19,033	\$28,549	100%
Contingency	\$745,000	\$0	\$594,910	80%
TOTAL EXPENDITURES	\$10,570,685	\$3,116,036	\$10,623,637	101%
REVENUES				
Budgeted Beginning Fund Balance	\$4,811,493	\$0	\$4,811,493	100%
Licenses & Permits	\$1,486,815	\$784,584	\$1,569,168	106%
Charges for Services	\$3,857,170	\$1,565,840	\$3,901,103	101%
Interagency Revenue	\$356,571	\$0	\$307,821	86%
Fund Transfers - Revenue	\$636	\$636	\$636	100%
Miscellaneous	\$58,000	\$22,277	\$33,416	58%
TOTAL REVENUES	\$10,570,685	\$2,373,337	\$10,623,637	101%

Fund Projection Narrative

Expenditures: Personnel Services reflects a \$12,000 increase for the fiscal year as a result of COLA. The MHCRC has a set aside ample funds in salary adjustments to cover this increase. The bureau also see potential increase in Internal Materials and Services (BTS), which will be covered from the MHCRC contingency budget.

Business Area Projection Report

	Spring BuMP Revised Budget	FY 2011-12 YTD Actuals Thru AP8	Spring BuMP Year-End Projection	% of Projected Actuals to Revised Bud
Office for Community Technology				
EXPENDITURES				
Personnel Services	\$606,493	\$401,980	\$606,493	100%
External Materials and Services	\$1,032,444	\$660,213	\$966,494	94%
Internal Materials and Services	\$462,732	\$50,019	\$410,482	89%
TOTAL EXPENDITURES	\$2,101,669	\$1,112,212	\$1,983,469	94%
REVENUES				
Charges for Services	\$41,000	\$0	\$0	0%
Interagency Revenue	\$10,000	\$0	\$10,000	100%
General Fund Discretionary	\$2,050,669	\$0	\$2,141,669	104%
TOTAL REVENUES	\$2,101,669	\$0	\$2,151,669	102%

Bureau Projection Narrative

Expenditures: The bureau projects approximately \$24,000 increase in Personnel Services. The increase is primarily resulted from COLA expenditures. However, the bureau projects under spending in External Materials and Services. The overall projection for the bureau including the carry over request is within the budgeted amount.

To date the bureau collected over \$45 million in general fund revenues. At this rate the bureau anticipates meeting or exceeding its budgeted revenue projection of \$69 million.

