



CITY OF PORTLAND, OREGON

Office of Cable Communications and Franchise Management

Dan Saltzman, Commissioner

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To: Seth Reeser
OMF, Financial Planning

From: Dan Saltzman, Commissioner
David Olson, Director
Office of Cable Communications and Franchise Management.

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

General Fund Revenues: Staff projects revenue of approximately \$69.5 million for the fiscal year. To date, the bureau collected nearly \$34 million in general fund revenues. The year to date revenue represents 49% of the projected revenues. With two more quarters left in the fiscal year and the higher revenues from utilities in the next quarter for the winter months, general fund revenues from franchise fees may exceed the projection slightly.

Expenditures:

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

Budget Adjustments: See the attached BRASS Report

Workload:

Utility Program

Utility Franchise Audits & Negotiations

Staff is on track to conduct and close audits in accordance with the audit schedule. PBOT is on track to amend Title 17 of the Code this year, after which OCCFM will refine all franchise renewal templates and conduct industry wide meetings to finalize the template, then individual meetings with each company to renew its franchise. As most franchises expire in December, 2011, this workload is urgent. The City may initiate legal action against one franchisee due to a franchise fee dispute. Staff is developing a new competitive telecommunications carrier franchise for Astound, Inc., an amendment for the PSU franchise and has begun franchise discussions with OHSU. Staff is also working with Planning & Sustainability on a District Energy concept as well as an Eco-District project.

Wireless activity

Wireless activity in the bureau has temporarily leveled off, but threatens to intensify at any moment to previous levels of activity. Staff anticipates fielding hundreds of calls and emails from neighbors

where wireless sites are proposed for utility poles in the right-of-way. The bureau estimates at least 14 more right-of-way sites will be requested this year; and the federal government plans to double the amount of spectrum for wireless. In addition, neighbors are very well organized as a result of previous efforts and lawsuits over right-of-way siting policies; others may wait in the wings if new right-of-way sites are requested. 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; involvement in siting requests in Parks; "Distributed Antenna Service" providers (DAS), and coordination with BDS on land use review applications. Finally, there are 8 other bureaus as well as Council offices involved in these issues and dependent upon OCCFM's resources and professional involvement as the key City bureau facilitator and policy lead on the Council's behalf through Commissioner Saltzman.

Utility License Fees

The most recent amendments to the Utility License Law became effective on January 1, 2010. Implementation is continuing on schedule. A database solution to replace multiple Excel spreadsheets to track the franchises and utility licenses is in process. Staff expects to request funding in the Fall BuMP. The database is expected to assist staff with the significant increase in workload. After four 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 are over 200 new licensees.

Advocacy: In early April Staff traveled to Capitol Hill and the FCC to advocate on the following issues: opposing preferential tax treatment of wireless, supporting the Community Access Preservation Act, D-Block for Public Safety and Community Broadband. Staff is developing a comprehensive response to the FCC's Notice of Inquiry (NOI) on Right of Way issues. Staff is concerned that the FCC, through the issuance of the NOI will assert jurisdiction over state and local rights of way with potential impacts on franchise fees and day to day right of way management. Such an action is inconsistent with the FCC's National Broadband Plan and the limitations on the agency's authority imposed by an overwhelming majority of Congress.

Broadband: Staff is well into Phase II of the Broadband Strategic Planning Process thanks to monies appropriated by Council in the Winter BuMP. Staff is developing an engagement strategy for under-represented groups as well as overseeing the five workgroups: economic development, public safety, education and health, planning, sustainability and transportation and civic engagement and open government. A draft plan is under development incorporating all the input to date. Staff will be making presentations to community groups and the Planning & Sustainability Commission in June. A Council work session is contemplated for July with a final plan going to Council in the fall.

Utility License Fee Reform: Staff continues to respond to the Auditor's Audit and met all established deadlines. The Auditor acknowledged that the bureau met all deadlines in the audit.

Cable Program

Qwest/CenturyLink Cable Franchise Transfer

The sale of Qwest's telephone & broadband properties (including Qwest's broadband franchise with the City) was announced in April 2010; staff negotiated and brought an ordinance to Council in November which approved the transfer of the franchise. Staff met with company representatives to advocate that they upgrade their infrastructure in Portland in order to launch video services and

higher speed internet access. Staff met with representatives in Washington D.C. in early April to request that CL deploy its video product in Portland to compete with Comcast.

Comcast Cable Franchise Renewal: The current Comcast cable franchise expires June 30, 2011, due to a Council approved 6-month extension. In May, the Council, along with its counterparts in East Multnomah County, will consider an additional 6-month extension of the franchise, moving the expirations date to Dec. 31, 2011. Staff negotiations with Comcast continue, and affect millions of dollars in franchise fees as well as nearly \$4 million/year in dedicated PEG and I-Net capital funds and public benefits, which support community cable channels, community technology grants and high bandwidth services to local governments, schools and libraries throughout the County. The franchise also establishes the I-Net service which generates about \$1.1 million annually for the City's Bureau of Technology Services.

PCM and MetroEast Contract Renewal: The office manages the contracts with both Portland Community Media and MetroEast Community Media, which provide community media services to the public and the local governments. Both contracts currently expire June 30, 2011, which coincides with the Comcast cable franchise renewal. These contracts may also need to be extended to consider the updated community access resources under a renewed franchise. Staff is responsible for negotiating contracts with updated requirements that meet the City's and community's needs.

Cable Franchise Fee Review: Staff launched a Comcast cable franchise fee financial review to ensure that all compensation to the City and MHCRC jurisdictions is paid in compliance with the franchise terms. The review is expected to be complete by April 20.

Grant Program: Staff continues to manage the annual competitive grant process and conduct fiscal and programmatic compliance with about 29 current grantees, worth over \$3+ million dollars to various public and non-profit entities. The administrative support workload for the grants has increased substantially in connection with SAP requirements.

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

BUDGET AMENDMENT REQUEST

Cable Communications and Franchise Management

PERIOD Spring BuMP

FISCAL YEAR FY 2010-11

CB_015 - Personnel Allocation - Broadband Strategic Plan

In the Winter BuMP, Council has authorized \$45,000 in appropriations to conduct the Broadband Strategic Plan for the City of Portland. The bureau was able to use the Program Manger (permanent part-time @80%) funded in the Cable Fund to assist with the project. As authorized, the funds are appropriated in the general fund cost center. The bureau requests to transfer the funds from the General Fund to Cable Fund, where the Program Manager is budgeted, to cover the additional salary. Additional salary for the Program Manger as of June 30, 2011 is estimated to be \$8,000.

Dollar Amount: \$0
Type: Technical Adjustment
Resources: General Fund Discretionary

CB_016 - MHCRC Contingency Transfer

- 1.The current projection indicates that the Personnel Services could slightly go over the budget. Bureau is requesting to transfer \$2,000 to provide adequate buffer for possible over expenditures in the personnel budget.
- 2.The bureau is also requesting to transfer \$400,000 from PEG grant contingency in order to fund any unforeseen request from PEG grantees. Most PEG grants have up to three years to complete their project. Therefore, there is likelihood for receiving invoices from prior year grants towards the end of the current fiscal year. These funds are for dedicated for PEG grant program.

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

CB_017 - Litigation Fund - GF Carryover

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 McLeaod). 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.

Dollar Amount: (\$111,930)
Type: Carryover Request
Resources: General Fund Discretionary

BUDGET AMENDMENT REQUEST

Cable Communications and Franchise Management

PERIOD Spring BuMP

FISCAL YEAR FY 2010-11

CB_018 - Revolving Audit Fund Carryover (Trust Fund Trns)

In fiscal year 2009-10, a revolving fund for \$80,000 was appropriated for audits; collection of audits of franchise fees, utility license fees, and privilege taxes. The bureau has an interagency with the Revenue Bureau to perform some of these audit functions. The actual cost incurred for the IA in FY 2009-10 was \$4,854, and the bureau recognized more than \$240,000 in additional franchise fees from these audits. The bureau carried over the balance of \$75,146 to fiscal year 2010-11 for performing similar audits. In FY2010-11, bureau collected \$245,842 in additional franchise fees. The bureau estimates to spend \$5,000 this fiscal year. The bureau requests to replenish remaining \$75,000 of the revolving funds to fiscal year 2011-12.

Dollar Amount: **(\$75,000)**

Type: Technical Adjustment

Resources: New Revenues

CB_019 - Trust Fund Recociliation

In fiscal year 2009-10, bureau was authorized to allocate \$160,543.37 in Trust Fund balance for various purposes. From this fund, 1) a revolving fund for \$80,000 was appropriated for audits-CB_17, 2) maintained \$20,000 in deposits from five companies that are active but have yet to finalize franchise negotiations, and 3) the remainder was used to allocate for various budget items authorized by the council. The bureau requests to carryover the \$20,000 to fiscal year 2011-12 to process these five franchises as agreed in the franchise applications. The remaining balance is appropriated to reconcile other expenditures applicable to the trust fund.

Dollar Amount: \$65,543

Type: Technical Adjustment

Resources: New Revenues

CB_021 - Comcast Franchise Renewal Administration

The transfer will enable the Mt. Hood Cable Regulatory Commission to fund any unforeseen expenditures that will arise for the Comcast franchise renewal for the remainder of the fiscal year.

Dollar Amount: \$0

Type: Technical Adjustment

Resources: Bureau Contingency

CB_022 - Administrative Support from GF

For providing administrative support the Mt. Hood Cable Regulatory Commission by OSSIII funded in the general fund program (Utility Franchise Management)

Dollar Amount: \$7,000

Type: Technical Adjustment

Resources: Internal Transfer

Fund Projection Report

	Spring BuMP Revised Budget	FY 2010-11 YTD Actuals Thru AP8	Spring BuMP Year-End Projection	% of Projected Actuals to Revised Bud
Cable Fund				
EXPENDITURES				
Unappropriated Fund Balance	\$4,811,493	\$0	\$5,200,341	108%
Personal Services	\$420,911	\$283,156	\$420,724	100%
External Materials and Services	\$5,059,185	\$2,533,047	\$5,042,185	100%
Internal Materials and Services	\$92,179	\$52,667	\$69,708	76%
Fund Transfers - Expense	\$17,144	\$11,429	\$17,726	103%
Contingency	\$627,501	\$0	\$438,000	70%
TOTAL EXPENDITURES	\$11,028,413	\$2,880,300	\$11,188,684	101%
REVENUES				
Budgeted Beginning Fund Balance	\$6,286,238	\$0	\$6,286,238	100%
Licenses & Permits	\$1,475,557	\$1,588,780	\$1,494,823	101%
Charges for Services	\$2,919,648	\$731,540	\$3,085,522	106%
Interagency Revenue	\$288,051	\$0	\$280,051	97%
Fund Transfers - Revenue	\$919	\$0	\$0	0%
Miscellaneous	\$58,000	\$17,986	\$42,050	73%
TOTAL REVENUES	\$11,028,413	\$2,338,306	\$11,188,684	101%

Fund Projection Narrative

Expenditures: The bureau has moved \$414,000 from contingency as a safeguard to cover unforeseen invoices from PEG grantees for the remainder of the fiscal year. PEG grants have three years to complete their projects and request reimbursements. Therefore, bureau may receive invoices from current year as well as from prior years. These funds are dedicated for PEG grant programs in the Cable Fund.

Revenues: All revenues budgeted in the cable fund are on target and expected to exceed slightly for the fiscal year. Please note that PEG revenues were budgeted in Miscellaneous Revenues. This revenue is now accounted using Account 439100, Miscellaneous Charges. This change was made after carefully analyzing the PEG revenues and by using the best available account in SAP to meet the criteria. The interest revenues projection is down 25% or a decrease of \$15,000 for the fiscal year.

Business Area Projection Report

	Spring BuMP Revised Budget	FY 2010-11 YTD Actuals Thru AP8	Spring BuMP Year-End Projection	% of Projected Actuals to Revised Bud
Cable Communications and Franchise Management				
EXPENDITURES				
Personal Services	\$583,707	\$379,355	\$569,006	97%
External Materials and Services	\$1,015,099	\$871,682	\$1,013,054	100%
Internal Materials and Services	\$398,972	\$48,103	\$368,972	92%
Fund Transfers - Expense	\$0	\$0	\$0	0%
TOTAL EXPENDITURES	\$1,997,778	\$1,299,140	\$1,951,032	98%
REVENUES				
Licenses & Permits	\$0	\$4,000	\$0	0%
Charges for Services	\$200,689	\$160,543	\$164,543	82%
Interagency Revenue	\$7,000	\$0	\$7,000	100%
Miscellaneous	\$0	\$1	\$0	0%
General Fund Discretionary	\$1,790,089	\$0	\$1,779,489	99%
TOTAL REVENUES	\$1,997,778	\$164,544	\$1,951,032	98%

Bureau Projection Narrative

The bureau projects the expenditures for all major object codes for the fiscal year to be within the budgeted appropriations.

Revenues: The bureau has projected \$20,000 in wireless pole revenues and based on year to date revenues, only \$4,000 is estimated for the fiscal year. The bureau will be reducing related expenditures accordingly.

Current Year Service Improvement Plan Update –Spring BuMP 2011 Office of Cable Communications and Franchise Management

The Office of Cable and Communications and Franchise Management (OCCFM) evaluates its Customer Service Plan each year to improve services to the citizens of Portland as well as the business community that use the public right of way or are subject to the City's Utility License code. In 2008 OCCFM developed a three-year strategic plan and team building process with a special focus on both internal and external customer service improvements. These elements continue to foster a high functioning team, lead to expanded and strengthened collaborations, and a focus on serving community interests. Customer service is also a key competency that is weighed heavily in the hiring process, including recruitment and interviewing. Customer service is also an important component of the performance evaluation program and reviewed annually. Finally a quarterly customer service training component has been added to staff meetings

Cable Regulatory Services: The Mt. Hood Cable Regulatory Commission (MHCRC) oversees the cable regulatory program staffed by OCCFM. On behalf of the MHCRC, OCCFM plays a prominent role in enforcing cable franchise requirements and assisting community members in complaint resolution regarding cable TV services. A majority of the customer complaints are resolved the same day or within 48 hours after reviewing the complaints with the citizens and the cable TV provider. In addition, OCCFM staff oversee the community technology grant program which funds various public organizations and non-profits such as public schools, community colleges, art centers and community media organizations. Under guidance from the MHCRC, OCCFM deploys these funds to ensure that maximum benefits are realized by the citizens of Multnomah County.

In preparation for the Comcast Cable TV Franchise renewal negotiations, staff conducted an ascertainment survey of the community's current and future communications technology needs and interests that reflects the broad and diverse voices of the community. Using the survey results, staff will set and track benchmarks for successful engagement based on cultural and ethnic statistics for the Portland metro area.

Utility and Telecom Franchise Management: OCCFM's utility franchise management program maintains excellent working relationships with regulated industries while generating general fund revenues (2nd largest) from these companies using the rights of ways of the City and/or subject to the City's Utility License code. OCCFM's Utility Program conducted extensive outreach as part of its wireless policy development process in 2008-09.

Broadband Strategic Plan Over 50 community experts participated in roundtables organized into five topic areas: economic development, health & education, public safety, transportation, planning and sustainability and digital

inclusion. Staff will work with ONI to do a targeted engagement with traditionally under-represented groups. Staff is making every effort to ensure that community members have the opportunity to participate in the BBSP.