

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: An ordinance amending Sections 55.15 and 55.18 of the Seminole County Code revising certain minimum requirements for a cable television franchisee.

DEPARTMENT: Community Information **DIVISION:** Cable Franchising

AUTHORIZED BY: Sally Sherman **CONTACT:** Matt Chesler **EXT.** 1170

Agenda Date <u>3/28/06</u>	Regular <input type="checkbox"/>	Consent <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input checked="" type="checkbox"/>		Public Hearing – 7:00 <input type="checkbox"/>	

MOTION/RECOMMENDATION:

Motion to adopt the attached ordinance amending Sections 55.15 and 55.18 of the Seminole County Code revising certain minimum requirements for a cable television franchisee, that are no longer deemed practical or necessary for the provision of cable television service within the County.

BACKGROUND:

During negotiations with Bright House Networks for renewal of their cable television franchise, staff identified certain requirements in the County's Cable Franchise Ordinance that are obsolete or impractical and of no further benefit to the County or its citizens. Bright House has also expressed opposition to being bound by these requirements in a franchise renewal.

The purpose of this Ordinance is to remove the obsolete or impractical requirements from the Cable Franchise Ordinance, including a franchisee's requirement to:

- Construct, financially support or operate an Institutional Network (I-NET).
- Provide internet access modems to County buildings.
- Interconnect the County's local government and educational channels to cable systems not within the boundaries of Seminole County.

Reviewed by _____ Co Atty: _____ DFS: _____ Other: _____ DCM: _____ CM: _____ File No. <u>PHCI.53</u>

AN ORDINANCE PERTAINING TO COMMUNITY ANTENNA TELEVISION SYSTEMS AND THE FRANCHISING THEREOF IN SEMINOLE COUNTY, FLORIDA; REVISING CERTAIN REQUIREMENTS FOR A FRANCHISEE'S PROVISION OF MINIMUM FACILITIES AND SERVICES BY AMENDING SECTION 55.15 OF THE SEMINOLE COUNTY CODE; REVISING CERTAIN MIMIMUM REQUIREMENTS FOR A FRANCHISEE'S PROVISION OF ACCESS CHANNELS AND FACILITIES BY AMENDING SECTION 55.18 OF THE SEMINOLE COUNTY CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida enacted Chapters 202 and 337, Florida Statutes wherein the franchising of cable television service systems by local governments is authorized subject to certain terms and conditions; and

WHEREAS, Chapter 55, Seminole County Code (the "Code") comprehensively regulates the granting, renewal, transfer and operations of cable television franchises within all of the unincorporated areas of the County; and

WHEREAS, certain present provisions of Code sections 55.15 and 55.18, are no longer deemed practical or necessary for the provision of cable television services within the County and which, if left unaddressed would impose costly, additional burdens on current and future franchisees yielding no discernable benefit to the County's citizens; and

WHEREAS, the Board has determined that the amendments contemplated by this Ordinance will not have a material economic

impact on the taxpaying public and that performance of an economic impact statement as a precondition to the adoption hereof should be waived in accordance with Article II, Section 2.2 D. of the County's Home Rule Charter;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Short Title. This Ordinance shall be known and referred to as the "Community Antenna Television Systems Amending Ordinance of 2006".

Section 2. Authority. This Ordinance is enacted under the authority of Section 1(g), Article VIII of the Constitution of the State of Florida, Chapters 125, 202 and 337, Florida Statutes, and under the authority of the general Home Rule Power of the County of Seminole as codified in the County's Home Rule Charter and section 55.36(a), Seminole County Code.

Section 3. Purpose. The purpose of this Ordinance is to reform and remove certain requirements for a franchisee's provision of minimum facilities and services which the County now believes are technologically obsolete, impractical and of no further benefit to the County or its citizens. These amendments eliminate a franchisee's requirement to provide internet access modems to County buildings and schools; eliminate requirements for a franchisee to construct, financially support or operate an institutional network ("I-Net") as a condition of obtaining an

initial franchise or a renewal thereof; and, elimination of requirements for interconnectivity of the County's local government and educational access channels to cable systems in jurisdictions not within the boundaries of Seminole County.

Section 4. Scope. This Ordinance shall be applied and enforced within all areas of unincorporated Seminole County.

Section 5. Amendment of Code 55.15. Section 55.15 is hereby amended to read as follows:

"Sec. 55.15. Minimum facilities and services.

(a) The following minimum requirements for facilities and services apply to all franchises. The County may require in a franchise agreement that a franchisee exceed these minimum requirements where it determines, under circumstances existing at the time of a grant of the application, that the additional requirements are necessary to meet the County's future cable related needs and interests or to serve the public interest. The franchisee shall be responsible for obtaining all necessary governmental and private approvals to satisfy such minimum requirements. County personnel shall not be responsible for submitting information to the franchisee to ensure that all such approvals are obtained.

(1) Any cable system that commences construction, including but not limited to initial construction, rebuild, upgrade, or reconstruction, after the effective date of this Ordinance,

shall have a minimum capacity of not less than 50 video channels available. A franchise agreement may require a larger minimum channel capacity.

(2) The County may require that a franchisee provide access channels, facilities and other support for educational and/or governmental use consistent with Section 55.18.

(3) A franchisee shall provide leased access channels as required by Federal law.

(4) Franchisees shall, within 30 days of written request by the County and to the extent permitted by Federal law, provide one outlet of basic and CPST cable television service ~~and when available on its system and as provided in the terms and conditions of the franchisee's franchise agreement, at least one additional outlet equipped with one internet access modem~~ at no cost and without installation or monthly service charge to the following facilities within the County when its lines have been extended to within 500 feet of the named facilities: all public, private, and parochial schools (excluding home schools) that are accredited by one or more generally recognized accrediting agencies of public and private schools, all public libraries, County Sheriffs Department, County Fire Stations, and other buildings owned or occupied by the County and used by the County for municipal purposes. The franchisee shall charge no more than

its time and material costs for providing any additional service outlets to such facilities.

(5) (A) At the request of the County Manager, a franchisee shall interconnect its cable system with all other cable systems operating within Seminole County and, to the extent required by law, with other franchised cable operators (i) through independent interconnection or (ii) through connection to a central facility. Said interconnection shall be completed and activated no later than six months after the date of receipt of notice of the franchise from the County Manager.

(B) Any application for an initial franchise or a renewal of an existing franchise which may not have interconnected shall include a proposal for interconnection with other franchised cable systems operating within Seminole County.

(C) The costs of such interconnection shall be equitably distributed among the franchisee and the other systems linked based on the benefits received by each affected franchise and its respective subscribers and may be in the form of a connection fee imposed by a franchisee on another cable operator receiving the net benefit. Such connection fee shall reflect the fair and reasonable cost expended in making the interconnection available.

(D) Nothing in this section shall be construed as requiring any interconnection with cable television systems operating in jurisdictions outside the boundaries of Seminole County.

~~(6) Any application for an initial franchise or a renewal of an existing franchise shall include a proposal to construct or operate an Institutional Network (I-Net), a proposal for financial support for an I-Net, or a proposal for in kind support for an I-Net. The County may accept, modify or reject any such proposal. The proposal ultimately accepted by the Board shall be incorporated into the franchise agreement. To the extent there are costs associated with I-Net, such costs shall be borne by the users of the I-Net.~~

~~(7)~~ (6) To the extent required by Federal law, a franchisee shall make available to its subscribers equipment capable of decoding closed circuit captioning information for the hearing impaired. A franchisee may impose a reasonable charge for such equipment.

~~(8)~~ (7) Standard installation shall consist of a drop, not exceeding 125 feet from the cable plant to the nearest part of a subscriber's residence.

~~(9)~~ (8) Cable which is installed underground in public right-of-way shall be installed a minimum depth of 30 inches.

~~(10)~~ (9) A franchisee shall provide and maintain "general" standby power for each headend. "Battery" standby power for its

system plant shall also be available to provide for up to two hours of continuous operation of the system.

~~(11)~~ (10) To the extent permitted by applicable law, a franchisee shall incorporate into its cable system the capability for the County in times of emergency to override the audio portion of all channels simultaneously, and the franchisee shall designate a channel (it may be the governmental access channel) which shall be used for emergency broadcasts of both audio and video. The franchisee shall also be responsible for ensuring that its cable system is designed, constructed and maintained to ensure compliance with all applicable Federal laws and regulations regarding the emergency alert systems.

~~(12)~~ (11) The cable system and all equipment shall be designed and rated for 24-hour seven day-a-week continuous operation.

~~(13)~~ (12) The signals produced by the cable system shall be of high quality throughout the cable system with no difference perceptible to viewers regardless of whether they are in close proximity to the headend or at the furthest extension of the trunk line.

~~(14)~~ (13) Each franchisee shall maintain within the County an office with a toll free telephone number for all exchanges serving the County, and be so operated that complaints and requests for repairs or adjustments may be received at any time by a person representing the franchisee.

(b) Unless a franchise agreement provides otherwise, and subject to Section 55.17, a franchisee shall make cable service available to every dwelling within the franchisee's service area or the franchisee's designated service area as defined in a franchise agreement."

Section 6. Amendment of Code Section 55.18(a). Section 55.18 (a) is hereby amended to read as follows:

"(a) Unless its franchise agreement expressly provides otherwise, a franchisee shall make available, without charge, unlimited time on up to three channels, as follows:

(1) A local government access channel, the allocation and use of such to be determined by the Board. ~~This local government access channel shall be interconnectible with the local government access channel of other cable systems operating in adjacent municipalities, counties and other nearby areas.~~ This local government access channel shall be interconnectible with the local government access channels serving the municipalities within Seminole County. It is intended that such interconnection shall be designed and deployed in such a manner as to provide a one way feed of the County's programming from the County to the cable system operating in ~~the adjacent~~ said municipalities ~~and counties~~ but which can be switched off by the recipient municipality ~~or county~~ in favor of other locally generated governmental programming originating in the ~~adjacent~~

municipality ~~or county~~ and intended for distribution solely within that entity's jurisdiction. To the extent permitted by applicable law, a franchisee shall be required to make this local government access channel available on a channel as part of its lowest basic service level;

(2) An educational access channel to be used by the Seminole County School Board and other designated educational institutions. This educational channel shall be interconnectible with ~~the educational channel of other cable systems operating in adjacent municipalities, counties and other nearby areas;~~ the local government access or educational channels serving the municipalities within the County in the same manner as the County's local government access channel described in subsection (1), above."

Section 7. Limitation of Amendments to Code. The remaining parts of the Code and Section 55.18 thereof in particular, not expressly amended by this Ordinance shall remain in full force and effect as presently codified.

Section 8. Waiver of Performance of Economic Impact Statement. The Board of County Commissioners hereby waives the requirement for performance of an economic impact statement in connection with the adoption of this Ordinance in accordance with Article II, Section 2.2 D of the County's Charter.

Section 9. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Seminole County Code and that the word "ordinance" may be changed to "section", "article", or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; providing, however, that the Recitals portion hereof, Sections 1 through 4, and Sections 7 through 11 of this Ordinance shall not be codified.

Section 10. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 11. Effective date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Florida Department of State by the Clerk of the Board of County Commissioners.

ENACTED this _____ day of _____, 2006.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

CARLTON HENLEY, Chairman