

CITY OF NORTHFIELD, MN
CITY COUNCIL RESOLUTION 2020-021

SUPPORTING LOCAL CABLE FRANCHISING INCLUDING
PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS

WHEREAS, the City of Northfield, Minnesota (“City”) streets and rights-of-way are public property, obtained and maintained by the City at significant expense; and

WHEREAS, cable companies may use the streets and rights-of-way for their cable systems to provide cable service to customers, but only after obtaining permission from the City to use this public property for this purpose through a cable franchise agreement; and

WHEREAS, the City’s cable franchise agreements include important provisions to protect the community and its residents, including:

- 1) Managing the cable systems under, over and in the streets to ensure
 - (a) minimal damage and disruption,
 - (b) safety codes are followed, and
 - (c) all types of public users (cars, pedestrians, utilities) can use the streets with the least interference;
- 2) Requiring providers to repair the streets they harm and relocate facilities at their expense, if rights-of-way are rebuilt, straightened, widened, or otherwise improved in the public interest;
- 3) Prohibiting redlining either directly or by delays in serving lower income areas;
- 4) Ensuring nondiscriminatory service, such as by requiring lines to be extended to all areas with a certain population density;
- 5) Setting customer service standards, protections, and enforcement mechanisms; and

WHEREAS, the City’s cable franchise agreement requires rental payments in the form of franchise fees to the City in return for the cable companies use of valuable public property for its cable system; and

WHEREAS, the City’s cable franchise agreement requires that a cable company meet the community needs and interests by including non-financial franchise obligations, protected by Congress in the Cable Act since 1984, for services that include:

- 1) Public Education and Government (“PEG”) channel numbers 180 and 187 including high-definition format and Video on Demand;
- 2) Financial support for the capital expenses associated with the PEG channels;
- 3) Inclusion of PEG programming on an electronic programming guide service;
- 4) Complimentary connections to city and school buildings;
- 5) Carriage of local emergency alerts, which because they relate to local emergencies are typically not carried on the federal emergency alert system; and

WHEREAS, on August 2, 2019, the Federal Communications Commission released a Third Report and Order (FCC 19-80) that allows cable companies to establish a market value for non-financial cable franchise obligations, including many of those listed above, and to deduct that amount from the franchise fees owed under the cable franchise agreement; and

WHEREAS, the Third Report and Order also exempts cable companies from complying with certain local requirements applicable to non-cable services and equipment such as small cells and other wireless facilities, creating a regulatory advantage for cable companies over their competitors; and

WHEREAS, the Third Report and Order undermines the City's cable franchise agreements and rights-of-way management policies, proposes to subsidize commercial access to public property for private interests and removes longstanding community benefits, all of which harm our community and impact basic municipal services; and

WHEREAS, the Third Report and Order threatens a future action that would redefine PEG channel capacity as a franchise fee, which will result in a choice between preserving PEG channels or accepting further reductions in franchise fees.

NOW, THEREFORE, BE IT RESOLVED that the City opposes the findings in the Third Report and Order and opposes any other infringement on cable franchise fees, PEG channels or the other provisions of the cable franchise agreement, including the Federal Communications Commission's proposal to allow cable companies to deduct the value of PEG channel capacity from their franchise fee payments; and

BE IT FURTHER RESOLVED, that a copy of this resolution be shared with our congressional delegation with a request that they communicate to the Federal Communications Commission their opposition to the proposed recharacterization of PEG channel capacity as a "franchise fee."

PASSED by the City Council of the City of Northfield on this 18th day of February, 2020.

ATTEST

City Clerk

Mayor

VOTE: ___ POWNELL ___ DELONG ___ GRABAU ___ NAKASIAN
 ___ NESS ___ PETERSON WHITE ___ ZWEIFEL