



City Council
311 Vernon Street
Roseville, California 95678

May 27, 2010

VIA FACSIMILE AND FIRST CLASS MAIL (202) 225-5444

The Honorable Tom McClintock
Member of Congress
508 Cannon House Office Building
Washington, D.C. 20515

Subject: **Support for HR 3745: Community Access Preservation (CAP) Act**

Dear Congressman McClintock:

On behalf of the residents of the City of Roseville, I write to request that you co-sponsor H.R. 3745, the Community Access Preservation (CAP) Act of 2009. This legislation will address the severe challenges faced by Public, Educational, and Governmental (PEG) access channels and local community media and save thousands of jobs across the country.

HR 3745, the Community Access Preservation Act, does not assume a "one size fits all" PEG structure, instead leaving the decision to negotiate for PEG channels to franchising authorities and the local communities they represent. The bill would address the immediate issues facing PEG channels by:

- Allowing PEG fees to be used for any PEG-related purposes, including salaries;
- Requiring PEG channels to be carried in the same manner as local broadcast channels;
- Requiring the Federal Communications Commission to study the effect state video franchise laws have had on PEG channels, and requiring operators to provide the greater of the support required under state laws, or the support historically provided for PEG; and
- Making cable television-related laws and regulations applicable to all landline and internet cable providers.

There are over 2,000 PEG studios/operations and an estimated 5,000 PEG channels in America, including one in our City. In a day of media consolidation, these local, non-commercial access channels bring unique voices, perspectives, and programming to communities. They connect residents with their local governments in much the same way C-SPAN connects constituents to activities in Congress.

Roseville's Government Access station broadcasts live Roseville City Council meetings and numerous Commission meetings. These meetings are replayed several times giving Roseville residents many opportunities to monitor local government decision making. Local school districts operate PEG channels to feature school board meetings

and forums, homework helpers, interviews, lectures, and sporting events not otherwise broadcast on television.

We have preserved local franchising but we still face many challenges. One particular problem remedied by the CAP Act is the federal limitation preventing communities from using their PEG funding for anything other than "capital costs." Under current law, a community can use PEG funds to buy more cameras but cannot use the funds to pay an operator to run existing cameras.

HR 3745 would allow the City flexibility to use its PEG funds for any PEG-related purpose--equipment or staff--depending on current needs. This flexibility would be of major assistance to our City. At its peak in 2007, Roseville's PEG channel employed 4 full-time employees and 3 paid interns; due to budget cuts, staffing is now reduced to only one full time employee. In the current economy, Congress must do all it can to promote funding flexibility. Industry experts estimate the "capital costs" flexibility included in the CAP Act could create or save between 7,000 and 10,000 jobs across the country.

HR 3745 is supported by the National League of Cities, the United States Conference of Mayors, National Association of Counties, Alliance for Community Media, American Community Television, and The National Association of Telecommunications Officers and Advisors. A copy of the bill is attached.

We look forward to discussing this and other issues when we meet with you in the district. In the meantime, if you have any questions about the City of Roseville's PEG channel, please contact Megan MacPherson, Communications Manager, at (916) 774-5455. To co-sponsor H.R. 3745, please contact Amber Shipley of Congresswoman Tammy Baldwin's office at 5-2906 or amber.shipley@mail.house.gov. Thank you for your attention to this important issue.

Sincerely,



Gina Garbolino
Mayor

Attachment (1)

CAP Act (Introduced in House)

HR 3745 IH

111th CONGRESS
1st Session
H. R. 3745

To amend the Communications Act of 1934 to provide for carriage and display of public, educational, and government channels in a manner consistent with commercial channels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

October 7, 2009

Ms. BALDWIN introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to provide for carriage and display of public, educational, and government channels in a manner consistent with commercial channels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Community Access Preservation Act' or the 'CAP Act'.

SEC. 2. AMENDMENTS.

(a) In General- Section 611 of the Communications Act of 1934 (47 U.S.C. 531) is amended--

- (1) by redesignating subsection (f) as subsection (h); and
- (2) by inserting after subsection (e) the following new subsections:

`(f) Equivalence-

`(1) IN GENERAL- In the case of any franchise under which channel capacity is designated under subsection (b), such channel capacity shall be--

`(A) at least equivalent in quality, accessibility, functionality, and placement to--

`(i) channel capacity used for required carriage of local commercial television stations, as defined in section 614(h)(1); or
` (ii) if no such stations are required to be carried, the channel capacity used to carry the primary signal of the network-affiliated commercial television stations carried on the cable system; and

`(B) provided to and viewable by every subscriber of a cable system without additional service or equipment charges.

`(2) SIGNAL QUALITY AND CONTENT- A cable operator shall--

`(A) carry signals for public, educational, or governmental use from the point of origin of such signals to subscribers without material degradation and without altering or removing content provided as part of the public, educational, or governmental use; and

`(B) provide facilities adequate to fulfill such requirements.

`(3) WAIVER- The requirements of paragraph (1) may be waived by a franchising authority if the franchise contains an explicit provision that such requirements shall not apply and such provision was adopted after a proceeding the conduct of which afforded the public adequate notice and an opportunity to participate.

`(4) ENFORCEMENT- The requirements of this subsection may be enforced by a franchising authority or by the Commission.

`(5) ADDITIONAL REQUIREMENTS- Nothing in this subsection prevents a franchising authority from establishing additional requirements with respect to the quality, accessibility, functionality, placement, and provision of channel capacity designated for public, educational, or governmental use.

`(g) Preservation of Public, Educational, and Governmental Use-

`(1) STUDY- Within 180 days after the date of enactment of the Community Access Preservation Act, the Commission shall submit to Congress a report containing--

`(A) an analysis of the impact of the enactment of State video service franchising laws since 2005 on public, educational, and governmental use of cable systems;

`(B) an analysis of the impact of the conversion from analog to digital transmission technologies on public, educational, and governmental use of cable systems; and

`(C) recommendations for changes required to this Act to preserve and advance localism and public, educational, and governmental use of advanced communications systems.

`(2) SUPPORT- In States that adopted legislation affecting cable system franchising requirements relating to support for public, educational, or governmental use of a cable system that became effective after May 31, 2005, a cable operator shall, notwithstanding such legislation--

`(A) pay to any political subdivision in which the operator provides service the greater of--

`(i) the historical support that the operator, or its predecessor, provided for public, educational, or governmental use of the cable system in such subdivision in accordance with this subsection; or

`(ii) the amount of any cash payment that the operator is required to pay to such subdivision under such State legislation affecting cable system franchising requirements;

`(B) carry signals for public, educational, or governmental use from the point of origin of such signals to subscribers and provide facilities adequate to fulfill such requirements in accordance with subsection (f)(2); and

`(C) provide at least the number of channels for public, educational, or governmental use that it was providing as of May 31, 2005.

`(3) CALCULATION OF HISTORICAL SUPPORT- Historical support includes the value of all support provided for public, educational, or governmental use, including in-kind support and free services. The cable operator shall pay support equal to the greater of--

`(A) the value of the support provided in the most recent calendar year prior to the effective date of such State legislation affecting cable system franchising requirements; or

`(B) the value of the annual average support provided over the term of the franchise pursuant to which it operated prior to such effective date, taking into account the time value of money.

`(4) PAYMENTS- The amounts owed to the political subdivision under paragraph (2)(A) shall be paid annually, in quarterly installments, with the first payment being due 30 days after the date of enactment of the Community Access Preservation Act.

`(5) USES; DISPUTES-

`(A) USES- Support provided to any State or local political subdivision under this subsection shall be dedicated to public, educational, or governmental use of channel capacity.

`(B) DISPUTES- If there is a dispute as to amounts owed under this subsection, undisputed amounts shall be paid, and the Commission shall determine on an expedited basis what, if any, additional amounts are owed.'

(b) Franchise Fee Definition- Section 622(g)(2) of such Act (47 U.S.C. 542(g)(2)) is amended--

(1) in subparagraph (B), by striking `in the case of any franchise in effect on the date of the enactment of this title,';

(2) by striking subparagraph (C); and

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(c) Cable Service Definition- Section 602(6) of such Act (47 U.S.C. 522(6)) is amended by striking `means' and inserting `means, regardless of the technology or transmission protocol used in the provision of service'.