

COUNTY OF SACRAMENTO
CALIFORNIA

22

February 5, 1980
FOR AGENDA OF:

To: Board of Supervisors
Sacramento City Council
Folsom City Council
Isleton City Council
Galt City Council

From: County Executive

Subject: ORGANIZATIONAL ALTERNATIVES FOR AWARD AND ADMINISTRATION
OF A COMMUNITY-WIDE CABLE TELEVISION FRANCHISE

INTRODUCTION

In the early 1970's a joint City-County study committee considered cable television for the community. Due to lack of any significant demand for cable the subject was dropped. Early in 1979, a cable operator requested an encroachment permit to install cable in a portion of the unincorporated area. The Board of Supervisors denied the request, but asked for a report back on cable television. Based on a May 31, 1979 report, the Board: 1) decided to begin a process to award a single franchise for a privately owned system in the unincorporated area; 2) but also decided to invite the cities to be involved in a discussion of a total countywide system.

A joint County-Cities meeting was held on August 7, 1979. Following that meeting, the following actions have been taken by the various jurisdictions:

1. City of Sacramento. The council at a regular meeting on August 7, 1979, adopted the following motion:

"(1) Sacramento County is to be designated as the lead agency in developing a request for a proposal/ordinance for the development of a private cable television franchise or franchises within the Sacramento area. The request for a proposal/ordinance should include, but not be limited to, the following conditions: (1) Assurance of adequate public access to cable television; (2) Assurance of cable television development throughout the entire community--both affluent and nonaffluent neighborhoods; (3) Development and assurance of appropriate standards to ensure minimum quality control and protection for consumers.

(2) The City/County staff will within the text of the next sixty days explore legal mechanisms by which the City can vest with the County Board of Supervisors--for example, via the formation of a joint powers authority or appropriate resolutions of intention--sufficient authority so that the Board can develop, solicit, and award a unified franchise agreement for cable television.

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2. County of Sacramento. The Board of Supervisors at a regular meeting on August 16, 1979, approved a motion with the same wording as the above City of Sacramento motion, and directed that staff work with the City staff on the resolution of the proposal.

3. City of Isleton. The City Council at a regular meeting on August 13, 1979, voted unanimously to enter into a joint powers authority with the cities of Sacramento, Folsom, and Galt, and the County of Sacramento.

4. City of Folsom. The City Council at a regular meeting on August 20, 1979, directed the City Administrator to inform the Board of Supervisors of their desire to participate in discussions aimed at development of uniform cable television regulation throughout the County, with the understanding that the County will act as lead agency in this matter.

5. City of Galt. At a regular meeting, the City Council instructed the City Administrator to work with Sacramento County staff to develop a specific proposal for the County to become the lead agency in developing a community-wide cable television system.

Since the individual agencies cannot delegate their legislative authority to enact an ordinance or award a franchise, the problem is to develop a community-wide planning process that leads to final decisions by each jurisdiction on the award of a franchise, and provides a method for consistent administration of the franchises after award. This will involve a single staff to eliminate duplication of effort, but final concurrent decisions by five elective bodies.

This report: 1) restates the issues related to cable television that have been raised to date; 2) identifies alternative approaches to resolving these issues; and 3) recommends that the Board of Supervisors be designated to be responsible for the study and planning of a community-wide system.

ISSUES

Unless the jurisdictions decide to award a franchise that does not attempt to regulate the operation of the cable system, there are certain basic issues that must be addressed. Based on the experience of other communities and input from our local hearings to date, these issues are summarized below:

1. Customer Service. Cable television is basically an entertainment product. Like other consumer products it is responsive to market place pressures. However, there are issues which go beyond the market demand for entertainment. First is the need to determine if low density areas are to be included/excluded from the service area. Related to this is the timetable for providing service to all subscribers within the defined service area (e.g. low vs high income/high vs medium density). Design and operational

quality standards are also a concern, as well as the quantity and quality of programming. Decisions on these issues impact rates charged for installation and monthly service--another public concern if cable is to achieve the potential of becoming a community communication system.

2. Community Access. This issue involves the use of cable as a community communication system. The problems are: how many channels should be allocated; who has access, how is time allocated, and how is programming accomplished; who controls content of community programs; and how this use is financed.

3. Franchise Fee. Although there are legal limits, a decision is necessary to determine the amount of the franchise fee and how it will be used. Possible uses are: cost of administering the franchise; cost of producing programs for local access activities; or general revenue to the franchisor. The fee is a cost to the operator and will be passed on to the subscriber as a part of the rate structure.

4. Existing Systems. Public testimony revealed a problem relative to existing master antenna systems. These range from small systems in trailer parks and apartment complexes to the Rancho Murietta development. Owners of these systems are concerned with the impact of a franchise on their investment in their systems. Installers of these systems are concerned with the impact on future business.

These explanations are not in depth analyses nor is the list necessarily complete. Additional issues may arise as planning for cable continues. They are included here as a basis for evaluating the best organizational structure to address these issues on a community-wide basis.

ORGANIZATIONAL ALTERNATIVES

The decision has been made for the County to be the lead agency, which at this point means providing the staff effort necessary to address the issues. The problem is to whom will the staff report and receive direction to develop a process leading to separate franchises being awarded to one operator for a single community-wide system. Again, since it is not possible for any of the jurisdictions to delegate their legislative or franchising authority to another agency, staff reporting can be done one of five ways:

1. Individual Jurisdictions. Under this alternative, county staff would report to each governing body separately--directly or through the staff of each jurisdiction. Rather than policy direction, staff would have to work with policy preference from each body and try to synthesize these into a final recommendation. This is a difficult and time consuming approach.

2. Joint Meetings. This approach would have the governing bodies meeting together. This would involve all members of each body, or at least a majority of each body. This would save staff time, but will require an inordinate amount of time for the governing bodies.

3. Joint Study Committee. This would be similar to the joint meeting approach, except it would involve a limited number of selected representatives from each jurisdiction. There are two basic problems with this approach: the question of proportionate representation; and extra meeting time required by the representatives.

4. Board of Supervisors. Since the Board Members represent the total community, the cities could by agreement designate the Board of Supervisors to develop a countywide plan. This is the easiest approach since it is an existing mechanism with clear public identity. It also is consistent with the actions to date by the jurisdictions. The cities will retain authority for final decisions and will have ample opportunity for input.

The process used and the issues addressed by the Board will be the same whether they consider only the unincorporated area or the total community. Following are the suggested end results of the Board's study.:

1. To develop a recommended ordinance to be adopted by each jurisdiction regulating award and administration of a cable television franchise.
2. To develop a request for proposal from cable operators for the construction and operation of a community-wide cable television system.
3. To develop a franchise document for award of a franchise by each jurisdiction.
4. To evaluate the proposals submitted and then recommend a single operator to be awarded mirror franchises for installation and operation of a single system within the boundaries of all the jurisdictions.
5. To recommend upon the formation of a joint powers authority to administer cable franchises awarded by each jurisdiction.

5. Joint Powers Authority (JPA). A JPA is the most feasible structure for administration of franchises once they are let. The JPA could be created now to do the planning, and upon approval of the plan would automatically assume administrative responsibility. Again the jurisdictions would retain authority for the actual award of a franchise. The problem is that elected officials may wish to be involved in the planning and later delegate administration to an authority which could include lay persons. It appears that a JPA is premature at this time.

CONCLUSIONS AND RECOMMENDATIONS

The Board of Supervisors has decided to proceed with the award of a franchise in the unincorporated area. Since the Board represents the total electorate, it is logical that the County become the lead agency in a joint effort with the cities to plan for cable television on a community-wide basis. The cost for community-wide planning is not substantially more than the cost for a study for the unincorporated area only, and can be recovered through an application fee.

At this point, we are suggesting that elected officials be directly involved in the study and planning for a community-wide cable television system. Since each jurisdiction has agreed that the County should be the lead agency, it is logical to have the Board of Supervisors be the forum for a study involving the total community.

Regardless of which alternative is finally selected, there is a need for a general timetable to accomplish the study. While enough time must be allowed for full consideration of the public concerns, the problem is that without some timetable the study becomes prolonged and the problems are not resolved. Based on a discussion with staff of a non-profit center that advises local jurisdictions on cable, the following are suggested time allocations:

Study Phase--15 weeks. This would involve the public hearings and the drafting of the ordinance and request for proposals. It should be noted that much work was done in the early 1970's, and information is also available on the experience of other communities.

Response To Request For Proposals--13 weeks. This provides the time for potential franchisors to develop in detail their proposed system. This is a major undertaking that cost the companies in the neighborhood of \$100,000.

Proposal Evaluation--11 weeks. This includes a detailed evaluation of each proposal and preparation of the necessary reports including the final recommendation to all jurisdictions.

Franchise Awards--4 weeks. This will permit time for each jurisdiction to act. It is planned to keep each jurisdiction informed throughout the process so the awards could be made in a shorter time.

This timetable would allow the award of franchises to be accomplished late in 1980.

Based on the actions to date and the information above, it is therefore recommended:

That each city adopt the attached resolution designating the Board of Supervisors as the body to conduct the necessary studies and prepare a plan for a community-wide cable television system including a recommendation on a single operator to be awarded mirror franchises for installation and operation of a single system within all the jurisdictions.

Respectfully submitted,



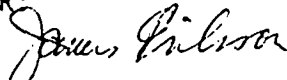
BRIAN H. RICHTER
County Executive

CONCUR:



WALTER SLIPE, City Manager
City of Sacramento

CONCUR:



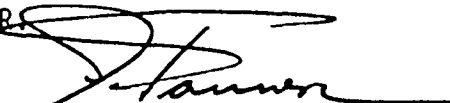
JAMES ERICKSON, Administrator
City of Folsom

CONCUR:



FRED HIMEBAUCH, Mayor
City of Isleton

CONCUR:



JOSEPH TANNER, Administrator
City of Galt



JOHN GOLDEN, City Clerk
City of Isleton

WRF:emw
23A-B18

RESOLUTION NO. 80-095

Adopted by The Sacramento City Council on date of

February 19, 1980

RESOLUTION DESIGNATING THE BOARD OF SUPERVISORS OF SACRAMENTO COUNTY TO CONDUCT NECESSARY STUDIES AND PREPARE A PLAN FOR A COMMUNITY WIDE CABLE TELEVISION SYSTEM

WHEREAS, the award of a cable television franchise is of significant public importance; and

WHEREAS, a comprehensive study with maximum citizen input is essential; and

WHEREAS, a single community-wide system appears most desirable; and

WHEREAS, this Council has previously indicated a desire for the County of Sacramento to be the lead agency in developing a community-wide plan;

NOW, THEREFORE, BE IT RESOLVED: That the Sacramento County Board of Supervisors be designated as the body to conduct the necessary studies and prepare a plan for a community-wide cable television system. The specific role of the Board of Supervisors is to:

1. develop a recommended ordinance to be adopted by each jurisdiction regulating award and administration of a cable television franchise;
2. develop a request for proposal from cable operators for the construction and operation of a community-wide cable television system;
3. develop a franchise document for award of a franchise by each jurisdiction;
4. recommend a single operator to be awarded mirror franchises for installation and operation of a single system within the boundaries of all the jurisdictions; and,
5. recommend upon the formation of a joint powers authority to administer cable franchises awarded by each jurisdiction.

BE IT FURTHER RESOLVED: That such designation is not intended to delegate authority for the actual award of a franchise. This Council retains the right to accept or reject the recommendations of the Board of Supervisors.

ATTEST:

MAYOR

CITY CLERK

APPROVED
BY THE CITY COUNCIL

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CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET
CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-8426

LORRAINE MAGANA
CITY CLERK

February 20, 1980

Board of Supervisors
County of Sacramento
700 H Street, Room 2450
Sacramento, CA 95814

Members in Session:

At the regular meeting of February 19, 1980, the City Council adopted a resolution designating the Board of Supervisors of Sacramento County to conduct necessary studies and prepare a plan for a community wide cable television system.

Sincerely,


Jaci Pappas
City Clerk (Acting)

JP:HO'

Encl.

cc: County Executive
City Manager

Capitol Area Development Authority

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February 15, 1980

City Council
City of Sacramento
915 'I' Street
Sacramento, CA 95814

Subject: Capitol Area Development Authority

Honorable Members in Session:

In 1977, the State of California adopted a revised Capitol Area Plan to guide the development of state-owned property located in the area bounded by 5th, 17th, L and R Streets. This plan was prepared by a committee composed of representatives of the City, State, community organizations, and private citizens.

In order to implement certain aspects of this Plan, the Director of General Services and the City of Sacramento created the Capitol Area Development Authority in 1978. Among the purposes of the Authority are:

1. To supervise private development on state-owned land within the Capitol Area; and
2. To manage state-owned residential dwelling units within the Capitol Area.

The Development Authority is governed by a Board of Directors composed of five public members. Two members are appointed by the State, two by the City, and the fifth elected by the Board.

The Problem:

The Authority is faced with two problems in supervising the development of this property; first, the Authority wants the development to proceed as quickly as possible; and second, the Authority is interested in seeing this development proceed with uniform direction by affected State and City officials and community organizations.

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The Proposed Solution:

We have met with representatives of the State and with City staff and have developed a procedure which will solve these problems. Attached is a copy of (1) a proposed amendment to the Joint Powers Authority Agreement (the existing provision of this Agreement is also attached), and (2) a procedure to be utilized by the City in reviewing the development use of property leased from the Authority.

This procedure provides for the review by the City and State of the request for proposals prior to the distribution of the proposal packages to the developers. The Board will consider recommendations for modifications to these requests for proposals from all affected entities and attempt to blend those recommendations into a single document whereupon the final document will be advertised and distributed to the development community.

Upon receipt of proposals, the proposals will be initially reviewed by the Board and circulated among affected state, city, and local agencies and community organizations in an effort to obtain comments regarding each of the proposals. The Board will then hold a public hearing at which time the proposals will be reviewed and all comments considered. A developer will be selected by the Board, and the Board will then enter into an agreement with the developer setting forth the manner for development of the property. This approach is similar to that used by the Redevelopment Agency in causing development of property in the City of Sacramento.

An essential aspect of this approach is that a final decision be made at the time the developer is selected and neither the State nor the City retain continuing authority to control the manner of development. To vest authority in either of these groups will leave the developer in a situation of being hopelessly caught between competing goals of these affected entities.

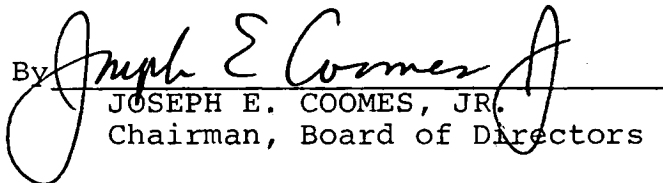
Under the attached procedure the City has control over the development of property leased from the Authority, subject to two limitations. First, the City controls non-subjective aspects of this development. Examples of non-subjective aspects are set forth in the attached procedure. Second, the City's control must be exercised prior to the time the Authority enters into a lease for the development. The City has control over the use of property leased from the Authority except the temporary use (five years or less) of existing buildings.

The Capitol Area Development Authority is a unique approach to the problems of dealing with a developing Capitol Area and reconciling the competing forces of a major public office building complex with the need to establish and maintain a viable residential and commercial area. A major objective of both the City and the State in creating the Authority was to avoid conflicts between competing state and local jurisdictions which, in the past, have frustrated the development of the Area and, in the future, might well destroy the Area as a viable city part (as happened with the massive state building area in the City of Albany, New York). The opportunity for success depends upon offering developers the benefits of a uniform development approach and an expeditious handling of project approvals. That is the objective of the proposed procedures.

Accordingly, we would like your approval of this procedure. At its February 5, 1980 meeting, the City Planning Commission recommended that you approve the attached amendment and procedure.

Very truly yours,

CAPITOL AREA DEVELOPMENT AUTHORITY

By  JOSEPH E. COOMES, JR.
Chairman, Board of Directors

RHH:lh
Attachments

PROPOSED

Section 23. Building & Use Controls

Notwithstanding the provisions of Section 5 of the Agreement, the following provisions shall govern the use and development of property under the control of the Authority:

(a) With respect fo initial construction performed on property leased from Authority for a term of five years or less and with respect to repair and rehabilitation work on property leased from Authority, Authority agrees to comply with the construction standards which would be applicable to the State of California if the State were carrying out said construction repair or rehabilitation.

(b) With respect to initial construction performed on property leased from Authority for a term of more than five years, Authority agrees to comply with the standards and procedures set forth in Chapters 9, 15, 38 and 49 respectively of the Sacramento City Code, provided, that the City Council shall have the right, on request of Authority, to authorize the use of innovative construction techniques not authorized by the Sacramento City Code if the City Council determines that the public interest is served thereby.

(c) It is intended, however, that initial construction performed on property leased from Authority for a term of more than five years shall not be subject to the City's Comprehensive Zoning Ordinance, Ordinance No. 2550, Fourth Series, the City's Subdivision Ordinance, Chapter 40 of the City Code, or any other ordinance or regulation of City, except as City and Authority may from time to time agree in writing.

(d) The use of property leased from the Authority shall be subject to applicable ordinances and regulations of City except as City and Authority may from time to time agree in writing.



EXISTING

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SECTION 23. Building Controls

The City agrees that it will exempt repair and rehabilitation work performed on property under the control of the Authority from City's building codes to the extent it may legally do so. The Authority agrees to comply with construction standards which would be applicable to the State of California if the State were carrying out said repair or rehabilitation.



Procedure for City Review of Projects

1. Draft Request for Proposals for lease of undeveloped sites by private developers shall be submitted to the City c/o City Planning Director.
2. Within 30 days of submission of a Draft Request for Proposals, the City shall recommend modifications, if any, to the Draft (including subjective and non-subjective recommendations).
3. At the time the City recommends such modifications, the City may establish a list of non-subjective development criteria, which shall be transmitted to CADA with the City's recommended modifications to the Draft Request for Proposals. The list of non-subjective development criteria shall not contain any matter which is
 - (a) not required as of the date of their agreement under the city zoning ordinance of private developers of similar property and/or
 - (b) contrary to the Capitol Area Plan.

Examples of non-subjective development criteria are as follows:

- (i) Setbacks and height stated in specific distances.
 - (ii) Parking stated in a specific ratio to the square footage or number of residential units contained within the development.
 - (iii) Use of the subject property stated in specific number or a percentage of the total number of square feet or residential dwelling units contained within the development.
4. CADA shall make appropriate revisions to the Draft Request for Proposals and shall solicit proposals for the development of the subject property. The final Request for Proposals shall include the City's list of non-subjective development criteria and such other criteria requirements and procedures as CADA deems appropriate.

5. All proposals for the development of subject property shall be submitted to the City for review and recommendation.
6. Not sooner than 30 days following submission of the proposals to the City, CADA shall select a developer for the development of the subject property.
7. In the event the selected developer proposed to develop the subject property in a manner which violates the non-subjective development criteria established by the City, CADA shall notify the City in writing.
8. Within 30 days of receipt of said notice from CADA, the City shall advise CADA whether City desires to review said proposal to determine if it wishes to waive or modify the non-subjective development criteria. In the event the City does not so notify CADA, City shall be deemed to waive the non-subjective development criteria contained in CADA's notice to the City.
9. The subject property shall be developed in accordance with the non-subjective development criteria established by the City except those criteria which (a) are waived by City and/or (b) are determined by CADA to violate the Capitol Area Plan. Notice of such determination by CADA shall be given to City before final requests for proposals are prepared.
10. CADA shall obligate the developer of the subject property to develop the property in accordance with the foregoing and such procedures and other requirements as CADA deems appropriate.
11. Notwithstanding the foregoing, where CADA has received proposals prior to the date of this agreement, City shall review and comment on such proposals and other provisions of this agreement shall not apply.
12. After the effective date of this agreement, CADA shall meet and consult with the City Planning staff prior to entering into any lease for a term of five years or less which provides for new construction by a private party.

13. The use of property leased from CADA shall comply with all applicable City ordinances and regulations except that the use of existing buildings located on property leased from CADA for a term of five years or less shall be exempt from applicable City ordinances and regulations; provided that CADA shall consult with the City Planning staff prior to approving a significant change in the use of such property.



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

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TELEPHONE (916) 449-5426

LORRAINE MAGANA
CITY CLERK

February 20, 1980

Joseph E. Coomes, Jr.
Chairman, Board of Directors
Capitol Area Development Authority (CADA)
1230 N Street, Suite 200
Sacramento, CA 95814

Dear Mr. Coomes:

On February 19, 1980, the City Council approved the recommendations submitted by CADA subject to City Planning Commission approval of amendment and procedures.

Sincerely,

Jaci Pappas
Jaci Pappas
City Clerk (Acting)

JP:HO'

cc: Planning Department (Art Gee)

Item No. 22-1

Received by...
City Clerk (Acting)