

**For Council Meeting:**

November 9, 2009  
4.2 (c)

**Agenda Item:**

**TO: SALEM CITY COUNCIL**

**FROM: COUNCIL LEGISLATIVE COMMITTEE**

**SUBJECT: RESOLUTION SUPPORTING PASSAGE OF HR 3745, THE  
COMMUNITY ACCESS PRESERVATION ACT**

**ISSUE:**

Should the City Council adopt Resolution No. 2009-99 supporting passage of HR 3745, The Community Access Preservation Act (CAP Act)?

**RECOMMENDATION:**

The Council Legislative Committee recommends that City Council adopt Resolution No. 2009-99 supporting passage of HR 3745, The CAP Act.

**BACKGROUND:**

Alan Bushong, CCTV Executive Director, presented information on The CAP Act to the Legislative Committee and requested that the City Council adopt a resolution supporting passage of the proposed legislation. The proposed legislation was introduced by Congresswoman Tammy Baldwin from Wisconsin's second district. Public, Educational and Government (PEG) Access facilities in Wisconsin were seriously damaged financially, and in some cases were eliminated, when Wisconsin initiated state franchising, in place of local regulation.

Historically, the funding for and broadcast of PEG channels have been negotiated as part of the local franchise agreement between cable companies and local franchise authorities. Funding for CCTV and transmission of its signal are provided for through the franchise agreements between the City and Comcast and Marion County and Comcast. Both governments collect a five percent (5%) franchise fee from Comcast and contribute forty percent (40%) of that fee to the Mid-Willamette Valley Cable Regulatory Commission for support of CCTV's PEG Access services. In addition, both franchise agreements provide for an additional one and one-half percent (1.5%) capital fund contribution.

Over the past few years, 23 states have enacted new telecommunication laws that establish state-level franchise authorities, leaving local governments with no authority to provide PEG for their communities. Because of the state-wide agreements and a lack of adequate federal protection, some PEG channels now face significant broadcast and funding obstacles. This is not the case in Oregon, however, passage of The CAP Act would provide protection in the event such state-wide legislation is adopted in the future.

Several problems are surfacing as a result of state-wide franchising. A number of the state laws are silent concerning the basic requirements for PEG broadcasts or do not require dedicated funding beyond an "adequate assurance of financial support." In some cases, where the local cable provider was providing the PEG production services, they simply stopped providing the service. Due to lack of regulations, some franchised cable operators carry PEG channels differently than commercial channels, for example broadcasting them in reduced resolution or moving them to outer tiers where they are difficult to find. The state laws have also contributed to the confusion concerning which services are cable services requiring the payment of franchise fees to the franchise authority.

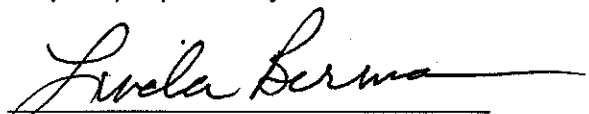
### **FACTS AND FINDINGS:**

The CAP Act would address the immediate issues facing PEG channels by:

1. Allowing PEG fees to be used for any PEG-related purposes.
2. Requiring PEG channels to be carried in the same manner as local broadcast channels.
3. Requiring the FCC to study the effect new state video franchise laws have had on PEG channels and requiring cable operators to provide the greater of either the support required under state laws or the support historically provided for PEG before passage of the state law.
4. Making cable television related laws and regulations applicable to all landline video providers, thereby clarifying which services are subject to franchise requirements.

The Legislative Committee recommends adopting Resolution No. 2009-99 showing the City's support for passage of The CAP Act and asking our Congressional delegation to take all possible actions to support passage of the bill. The emphasis the proposed CAP Act puts on local control and clarification of regulation authority over land-line services are consistent with City telecommunication and right-of-way management policies and would serve to strengthen our position as we renew and negotiate new franchises in the future. The protection of funding and positioning would help secure CCTV's continued operation and location in the channel line-up.

Report prepared by:



Linda Berman,  
Intergovernmental Relations Staff

**RESOLUTION NO. 2009-99**

**SUPPORTING PASSAGE OF HR 3745, THE COMMUNITY ACCESS PRESERVATION (CAP) ACT**

**Whereas**, Capital Community Television (CCTV) and the public, educational and government (PEG) channels it manages play a significant role in the Salem community; and

**Whereas**, CCTV and PEG channels are a unique and valuable resource for local information and discourse for the residents of Salem, the largest state capital community with no traditional broadcast TV network affiliate; and

**Whereas**, CCTV and PEG channels connect the City of Salem, Marion County, the Salem-Keizer School Board and the Salem-Keizer Transit District to the community with live television coverage and live internet streaming of regular meetings and budget committee work plus 24-7 access to a seven year internet archive of government meetings, so that citizens are informed about the actions taken by local elected officials; and

**Whereas**, CCTV, working with the League of Women Voters, the Salem City Club, the Salem Area Chamber of Commerce, AAUW and others, uses PEG channels to contribute to the democratic process by providing non-partisan opportunities for candidates to directly address the community about local issues during election campaigns, in programs that are unedited and without editorial comment; and

**Whereas**, CCTV uses PEG channels to televise the work of local school students and teachers, including six high schools and four small colleges for football, basketball and volleyball games, plus local high school and middle school band, choir and orchestra and high school state music championships; and

**Whereas**, CCTV teaches television production and internet streaming skills to Salem residents, enabling them to use PEG channels as a window through which residents can view the diversity of cultures, religious worship, recreational activities and artistic endeavors in our community; and

**Whereas**, more than 100 local organizations use our local PEG channels to connect with the community, including 23 churches representing six languages, more than 20 human service non-profit organizations, the Humane Society and Marion County Dog Shelter for pet care and adoption programs, the Salem Area Chamber of Commerce, Salem Hospital, the Salem-Keizer Schools Foundation and many more; and

**Whereas**, PEG channels across the nation reflect the unique identity of the communities they serve; and

**Whereas**, it is important to preserve PEG channels and funding for PEG channels, and to ensure that the channels continue to be available to the entire community to serve the residents of Salem and other communities; and

**Whereas**, HR 3745, the Community Access Preservation Act, addresses critical and immediate threats to PEG;

NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:

**Section 1.** The City Council of the City of Salem, Oregon supports immediate passage of HR 3745.


**Section 2.** The City Council calls on our Congressional delegation to take all possible actions in support of the passage of HR 3745, including but not limited to endorsing, co-sponsoring and voting for HR 3745, and working for its rapid passage.

**Section 3.** This resolution is effective upon adoption.

ADOPTED by the City Council this 9th day of November, 2009.

ATTEST:

City Recorder

Approved by City Attorney:  \_\_\_\_\_

Checked by: L. Berman

G:\Group\legal\Council\110909 CAP Act reso.doc