

Resolution No.:	<u>18-514</u>
Introduced:	<u>May 26, 2016</u>
Adopted:	<u>May 26, 2016</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of the FY 2017 Cable Communications Plan

Background

1. Section 8A-27(a) of the County Code provides that “All access grants, franchise fees, and other moneys received by the County from any franchisee may be spent only under a budget approved by the Council and in accordance with the County Cable Communications Plan.”
2. Section 8A-27(b) of the County Code provides that “The Cable Communications Plan must be proposed by the County Executive to the Council annually and may be amended at any time.”
3. Section 6.2.2 of the 2016 Cable Franchise Agreement with Comcast of Potomac, LLC. provides that Comcast must pay a grant to the County of 3% of Gross Revenues each quarter to be used for PEG and institutional network capital expenses. Paragraph 8 of Exhibit D of the Franchise Agreement provides that this grant may be used for capital and non-capital support for PEG purposes, including expenditures on PEG and FiberNet.
4. Section 8(b)(1) of the 2016 Franchise Agreement with Starpower Communications, L.L.C. provides that Starpower must pay a grant to the County of 3% of Gross Revenues to the County to be used for PEG and Institutional Network. Paragraph 3 of Exhibit F of the Franchise Agreement provides that this grant may be used for capital or non-capital support for PEG purposes.
5. Section 6.2.2 of the 2006 Franchise Agreement with Verizon provides that Verizon must pay a grant to the County of 3% of Gross Revenues each quarter to be used for PEG and institutional network purposes.
6. Section 8 of the Franchise Agreement Starpower and Section 7 of the Franchise Agreements with Verizon and Comcast provides that each franchisee must pay, for the life of the franchise, a franchise fee of 5% of annual gross revenues.

General Provisions

1. **Purpose and Effect:** This Cable Communications Plan constitutes the County's formal direction for the use of resources required to be provided under Sections 7 and 8 of the Franchise Agreements with Comcast and Starpower; and Sections 3, 6, and 7 of the Franchise Agreement with Verizon.

In FY 2017, these resources must be deposited by the County in its Cable TV Special Revenue Fund, and this Cable Communications Plan directs the use of the revenues in this Fund.

2. **Spending Authority under the Time Period Governed by This Plan:** This Cable Communications Plan provides spending authority for FY 2017. Resources appropriated in FY 2017 that are not encumbered by the County on or before June 30, 2017 must remain in the Cable TV Special Revenue Fund and be available for spending in future years.
3. **Carryover:** Resources provided to the County as a result of the requirements of the Franchise Agreements with Comcast, Starpower, and Verizon, but not specifically allocated in the Cable Communications Plan to the General Fund, must remain in the Cable TV Special Revenue Fund and be available to be allocated in future years.
4. **Future Fiscal Years:** No estimate shown for any fiscal year after FY 2017 reflects any commitment or decision by the Council, and any such estimate should not be taken as prejudging any decision regarding activities or allocations, either in absolute or relative amounts, of expenditures for future years.
5. **Management of Funds:** All equipment, personnel, and other resources approved in the Cable Communications Plan for funding from the Cable TV Special Revenue Fund must be managed so that the resources are reasonably available to all users of the cable system and provide benefits to the subscribing public and the franchisee.
6. **Affirmative Action and MFD Procurement Procedures:** The Board of Directors of Montgomery Community Television, Inc. (MCT), doing business as Montgomery Community Media (MCM), must adopt and follow an Affirmative Action Plan and procedures for procurements from minority-, female-, and disabled-owned businesses (MFD) that take into account both the requirements of the Franchise Agreements with Comcast, Starpower, and Verizon and relevant provisions of the County Code.
7. **Financial Disclosure:** The County must not spend any FY 2017 funds allocated to MCT until all members of the Board of Directors and the Executive Director of MCT have filed a financial disclosure statement with the Ethics Commission for the 2016 calendar year.
8. **FY 2018-2023 Cable Plan:** The Executive must submit a preliminary six-year Cable Communications Plan for FY 2018 through FY 2023 to the Council no later than January 15, 2017. The Executive submitted a preliminary six-year Cable Communications Plan for FY 2017 through FY 2022 to the Council on January 15, 2016. The Preliminary Cable Communications Plan must include: (a) a list of known PEG activities and funding needs

for FY 2018 through FY 2023; (b) a preliminary plan for prioritizing PEG funding needs within the context of the County's long-term vision for Cable television; (c) any capital project expenditures proposed to be funded through the plan; (d) changes to approved multi-year expenditures; and (e) updated projections of plan revenues for FY 2018 through FY 2023.

9. **Reporting Requirements:** The Executive must submit a quarterly summary report to the Council detailing revenues received by source for the Cable Plan and the levels of the Cable Fund Balance at the close of the prior quarter. The intent is to ensure that all revenues beyond those foreseen in the approved Cable Plan are explicitly identified and allocated by the Government Operations and Fiscal Policy Committee.

FY 2017 Cable Communications Plan Description

The FY 2017 Cable Communications Plan provides funding for cable franchise administration (Department of Technology Services, County Attorney's Office, and outside professional services); for municipal equipment and support; for public, educational, and government access programming (Office of Public Information, Council, Montgomery College, Montgomery County Public Schools, and Montgomery Community Television, Inc.); for the Legislative Branch Communications Outreach non-departmental account (NDA); for the Interagency Technology Fund (ITF); and for other miscellaneous cable-related activities.

The attached table details the approved expenditures from the Cable TV Special Revenue Fund for the following purposes in FY 2017:

Franchise Administration

- A. Funds are allocated to the Department of Technology Services to administer the Franchise Agreements with Comcast, Starpower, and Verizon, including inspecting construction, testing signal quality, responding to residents' complaints, budgeting franchise fee and grant funds received from the cable operator, managing the contract to provide public access services, supporting an advisory committee, administering Federal Communications Commission rules and regulations, preparing for and negotiating franchise agreements, and advising elected officials on related policy matters.
- B. Funds are allocated to the County Attorney's Office to support the in-house staff costs associated with advising the Department of Technology Services and elected officials on related matters.
- C. Funds are allocated to hire outside professional services to advise or represent the County in areas of specialized telecommunications needs.

Municipal Support

- D. Funds are allocated for sharing franchise fee revenue with the municipal co-franchisors in accordance with the formula in Section 8A-29 of the County Code.
- E. Funds are allocated to support the 3 PEG channels allocated to (1) the City of Rockville; (2) the City of Takoma Park; and (3) the Montgomery County Chapter of the Maryland Municipal League. Funds are allocated from the Capital Equipment Support Grants, according to the requirements of Section 8(b)(1) of the Franchise Agreement with Starpower, the requirements of Section 6.2 of the Franchise Agreement with Comcast, the requirements of 6.2 of the Franchise Agreement with Verizon, and from the PEG Support Fund. Funds are allocated from the PEG Support Fund to the extent that the Participating Municipalities meet all applicable matching-fund requirements in the Settlement Agreement.

County Government Access Programming

- F. Funds are allocated for managing the County Government Channel, maintaining County Government Channel video equipment, closed captioning of County Government programming, and for the operation of the Technical Operations Center to monitor and adjust technical quality of PEG Programming.

Funds are allocated to the Office of Public Information for in-house staff and contractors to produce Executive Branch programming for the County Government Channel.

Funds are allocated to the Council for in-house staff and contractors to produce programming for the Council and Legislative Branch agencies.

Funds are allocated to the Montgomery County portion of the Maryland-National Capital Park and Planning Commission for contractors to provide cable-related services, including webcasting and services needed to produce programming for the Planning Board and the Parks Department.

Educational Access Programming

- G. Funds are allocated to Montgomery College to produce educational programs and operate a cable channel with in-house staff.
- H. Funds are allocated to Montgomery County Public Schools to produce educational programs for children, parents, and teachers; carry Board of Education meetings; and run other educational programming of interest to County residents. MCPS currently operates two educational access channels on the cable system.

Public Access Programming

- I. Funds are allocated for Montgomery Community Television, Inc., to perform services in FY 2017 specified in its contract with the County, including the following:

- (1) produce and schedule two public access channels, including disseminating information on the daily program schedule;
- (2) train community producers and technicians in program production and assist residents and community organizations in developing locally produced or locally sponsored programming;
- (3) provide and maintain a central access studio, field production equipment, and editing facilities for use by community producers in program production;
- (4) maintain all video equipment provided to MCT or purchased by MCT with cable company or County funds;
- (5) produce local interest and public affairs programming;
- (6) promote and encourage programming representing a diversity of community interests and needs; and
- (7) perform outreach and create programming in the down-county area.

PEG Network

- J. For FY 2017, funds are allocated for PEG equipment replacement, for joint PEG programming/promotion, PEG network engineering and administration, closed captioning of select PEG programming, and for PEG programming to provide access to cable by community organizations.

The Council wishes to encourage the most cost-effective operations of the PEG Channels and has directed the PEG Governance Board to enhance the sharing of equipment, facilities, and personnel. All funds appropriated for PEG equipment replacement must be administered by the Office of Cable and Broadband Services. Before spending any funds for this purpose, the PEG Governance Board must report to the Council and the Executive on their plans for the purchase and allocation of replacement equipment. The Council intends that preference be given to purchases of equipment and facilities that can be shared by more than one PEG Channel.

The Council encourages the municipal co-franchisors to develop plans for purchasing equipment, using engineering expertise available from the other PEG Channels and the Office of Cable and Broadband Services, and acquiring equipment that facilitates the sharing of resources with other PEG channels.

Before the PEG Governance Board may spend funds allocated for PEG joint Programming/Promotion, the Governance Board must report its general plans to the Council and the Executive.

In FY 2017, funds are allocated to support a full-time community engagement contractor to produce multicultural and multi-lingual programming for County PEG stations, and for a full-time employee to provide public information and cable programming services for the Council in Spanish and other languages.

Institutional Telecommunications

- K. The County continues to expand the FiberNet network to meet the telecommunications needs of County agency facilities. The Department of Technology Services must develop and implement a FiberNet buildout plan that identifies facilities with the greatest need for high-speed voice, data, and video transmissions and for which FiberNet offers lower cost service than private sector telecommunications providers. User agencies must notify the Council before paying any fee to or entering into any agreement with any private provider, if using FiberNet to serve specific facilities is more advantageous to the County. The Council will then consider if adjustments to the funded FiberNet buildout schedule are warranted to avoid paying excessive fees to private providers for telecommunications service to any specific facility.

Allocation of FiberNet fibers to Montgomery College from the County FiberNet is subject to a construction memorandum of understanding between the College and the County signed on December 26, 2012, as well as approval by the Interagency Technology Policy and Coordination Committee.

Support of Legislative Branch Communications Outreach NDA

- L. In FY 2017, the Council approved a transfer of \$490,000 to the Legislative Branch Communications Outreach NDA to strengthen the capacity of the Legislative Branch offices to inform constituent communities of issues that directly affect them and to ensure that these communities' concerns are effectively taken into account.

Support of the Interagency Technology Fund (ITF)


- M. In FY 2017, the Interagency Technology Fund will not receive any funding to support priority projects as approved by the ITPCC.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

The Council approves the **attached** Cable Communications Plan as described in this resolution and appropriates cable communications grant resources and settlement funds as provided in the Cable Communications Plan and this resolution and any amendments to either that the Council adopts for FY 2017.

This is a correct copy of Council action.


 Linda M. Lauer, Clerk of the Council

FY17 APPROVED COMMUNICATIONS PLAN (in \$000's)

	Act FY15	App FY16	Est FY16	CC APP FY17	Proj. FY18	Proj. FY19	Proj. FY20	Proj. FY21	Proj. FY22
76 D. MONTGOMERY COLLEGE - MC ITV									
77 Personnel Costs	1,344	1,456	1,456	1,535	1,601	1,673	1,751	1,834	1,920
78 Operating Expenses	86	86	86	86	88	90	93	95	98
79 SUBTOTAL	1,430	1,542	1,542	1,621	1,689	1,763	1,844	1,929	2,018
80 E. PUBLIC SCHOOLS - MCPS ITV									
81 Personnel Costs	1,490	1,548	1,548	1,606	1,675	1,750	1,832	1,918	2,009
82 Operating Expenses	106	106	106	137	140	144	148	152	156
83 SUBTOTAL	1,596	1,654	1,654	1,743	1,815	1,894	1,980	2,070	2,164
84 F. COMMUNITY ACCESS PROGRAMMING⁴									
85 Personnel Costs	1,954	2,042	2,042	2,103	2,194	2,292	2,400	2,513	2,631
86 Operating Expenses	67	67	67	67	69	70	72	74	76
87 Rent & Utilities	385	396	396	411	420	431	442	454	466
88 New Media, Webstreaming & VOD Services	23	23	23	23	24	24	25	26	26
89 SUBTOTAL	2,429	2,528	2,528	2,604	2,706	2,818	2,940	3,067	3,200
90 G. PEG OPERATING									
91 Operating Expenses	95	206	181	181	186	190	195	201	206
92 Youth and Arts Community Media	150	100	100	100	102	105	108	111	114
93 Community Engagement	91	91	91	91	93	95	98	101	103
94 Closed Captioning	130	163	163	163	167	171	189	189	189
95 Technical Operations Center (TOC)	8	10	10	10	10	10	11	11	11
96 Mobile Production Vehicle	9	19	19	19	19	20	20	21	22
97 SUBTOTAL	484	590	565	565	578	592	622	633	645
98 H. FIBERNET OPERATING									
99 FiberNet - Personnel Charges for DTS	546	727	686	766	799	835	874	915	958
100 FiberNet - Operations & Maintenance DTS	1,308	1,126	1,167	1,126	1,152	1,181	1,212	1,245	1,279
101 FiberNet - Network Operations Center		729	729	910	910	910	910	910	910
102 FiberNet - Personnel Charges for DOT	76	101	101	101	105	110	115	120	126
103 FiberNet - Operations & Maintenance DOT	613	771	771	882	902	925	950	975	1,002
104 SUBTOTAL	2,543	3,454	3,454	3,784	3,868	3,960	4,061	4,166	4,274
105 TOTAL EXPENDITURE OF UNRESTRICTED FUNDS	12,497	13,963	13,933	14,539	15,058	15,606	16,219	16,839	17,486
106 TOTAL EXPENDITURE OF RESTRICTED FUNDS	8,047	9,097	9,043	9,000	9,210	9,207	9,269	9,333	9,397
107 TOTAL EXPENDITURES - PROGRAMS	20,544	23,059	22,976	23,539	24,268	24,812	25,488	26,172	26,883
108 I. OTHER									
109 Indirect Costs Transfer to Gen Fund	579	614	614	649	695	727	761	797	834
110 Indirect Costs Transfer to Gen Fund (ERP & MCTime)	30	-	-	-	0	0	0	0	0
111 Telecom Transfer to the Gen Fund				5	5	0	0	0	0
112 Transfer to the General Fund	4,266	4,787	4,787	4,673	3,468	2,695	2,130	1,559	1,087
113 Legislative Community Communications NDA	488	490	490	490	490	490	490	490	490
114 SUBTOTAL	5,363	5,891	5,891	5,818	4,658	3,912	3,381	2,846	2,411
115 TOTAL EXPENDITURES	25,907	28,951	28,867	29,357	28,926	28,724	28,869	29,017	29,294
116 J. ADJUSTMENTS									
117 Prior Year Adjustments	0	0	0	0	0	0	0	0	0
118 Encumbrance Adjustment	603	0	0	0	0	0	0	0	0
119 CIP - Designated Claim on Fund	0	0	0	0	0	0	0	0	0
120 TOTAL ADJUSTMENTS	617	0	0	0	0	0	0	0	0
121 FUND BALANCE	1,905	299	1,636	479	400	700	1,000	1,300	1,473
122 FUND BALANCE PER POLICY GUIDANCE⁵	1,398	1,395	1,417	1,427	1,438	1,448	1,456	1,464	1,473
123 K. SUMMARY - EXPENDITURES BY FUNDING SOURCE									
124 Transfer to Gen Fund-Indirect Costs	610	614	614	649	695	727	761	797	834
125 Transfer to Gen Fund-Mont Coll Cable Fund ⁶	1,430	1,542	1,542	1,621	1,689	1,763	1,844	1,929	2,018
126 Transfer to Gen Fund-Public Sch Cable Fund ⁶	1,596	1,654	1,654	1,743	1,815	1,894	1,980	2,070	2,164
127 Transfer to CIP Fund	2,979	4,098	4,098	4,817	4,570	4,520	4,430	4,249	4,176
128 Transfer to Gen Fund-Other	4,266	4,787	4,787	4,673	3,468	2,695	2,130	1,559	1,087
129 Transfer to Gen Fund-Telecom	0	0	0	5	5	0	0	0	0
130 Transfer to the General Fund-Legislative Branch NDA	488	490	490	490	490	490	490	490	490
131 FUND TRANSFERS SUBTOTAL	11,368	13,186	13,186	13,998	12,732	12,088	11,635	11,094	10,769
132 Cable Fund Expenditure of Unrestricted Funds	9,471	10,766	10,737	11,176	11,554	11,949	12,395	12,840	13,304
133 Cable Fund Direct Expenditures	14,553	15,765	15,681	15,803	16,194	16,636	17,234	17,924	18,525
134 Cable Fund Personnel	3,428	3,843	3,770	4,034	4,227	4,418	4,625	4,843	5,070
135 Cable Fund Operating	11,125	11,922	11,911	11,769	11,966	12,218	12,609	13,081	13,455

Notes: These projections are based on the Executive's Recommended budget and include the revenue and resource assumptions of that budget. The projected future expenditures, revenues, transfers, and fund balances may vary based on changes not assumed here to fee or tax rates, usage, inflation, future labor agreements, and other factors.

1. Subject to municipal pass-through payment.
2. Restricted revenue and expenditures: Certain Cable Fund revenues, required in excess of the federal limit on franchise fees, and corresponding expenditures (Municipal Franchise Fees/Pass-throughs, PEG Capital/Equipment Grants, and PEG Operating Revenue) are contractually required by franchise, municipal, and settlement agreements, and by the County Code, and may only be used for permissible federal purposes and in a manner consistent with applicable agreements.
3. Municipal payments are estimates. Actual payments will be calculated based upon actual revenue received, subscriber numbers and formulas specified within the Municipal MOU's.
4. Montgomery Community Television, Inc., d/b/a Montgomery Community Media, is designated as a sole source contractor to provide community access media services.
5. Fund balance per policy guidance is calculated as 8% of total non-restricted revenues (franchise fees, tower fees, and investment income).
6. The Cable Fund makes a fund transfer to Montgomery College and MCPS to support MCPS ITV and MC ITV.