

Cleveland Heights City Council passes Resolution Supporting LOCAL Cable TV Franchising

Proposed: 12/5/05

RESOLUTION NO. 161-2005 (F)

By Council Member

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO, IN SUPPORT OF LOCAL CABLE TELEVISION, FRANCHISING AND RIGHT OF WAY MANAGEMENT; AND DECLARING AN EMERGENCY.

WHEREAS, current law requires cable television operators to obtain a local franchise agreement from a local government before they offer video services to its citizens; and

WHEREAS, the obligation to obtain a local franchise to provide video services stems both from inherent home rule government authority over the use of rights-of-way and from the federal 1992 Cable Act, Title VI; and

WHEREAS, Congress is discussing federal legislation that would, under the guise of public choice and increased competition, preempt the local franchising process and instead create a national video franchise allowing companies to offer, video programming in local government jurisdictions without obtaining a local franchise agreement; and

WHEREAS, the Federal Communications Commission has commenced an inquiry into local cable franchising that appears to threaten the current franchising regime; and

WHEREAS, local government should have the authority to negotiate and enforce local franchise agreements to obtain needed services, including institutional networks and the provision of Public, Educational and Government (PEG) access channels, which local governments use to provide messages and important information to their citizens; and

WHEREAS, local government should have the authority to provide communications services, including internet, cable and telephone services, for the benefit of local citizenry and economic development purposes without undue interference from the federal or state governments; and

WHEREAS, local government should not be preempted from instituting build-out requirements for any video service provider, thereby preventing providers from discriminating based on the wealth of the local neighborhoods they choose to serve; and

WHEREAS, local government should receive franchise fees and PEG support from all video providers; and

WHEREAS, legislative action under consideration at the federal level would deprive Cleveland Heights residents of the ability to address issues locally by removing to the state and federal government all customer service issues and transferring local enforcement of franchise and right-of-way issues to the federal bureaucracies and courts; and

WHEREAS, local government management of the public rights-of-way and local government zoning requirements for wireless facilities are essential to ensure that deployment of telecommunications and video equipment and facilities take into account public safety, emergency and disaster response, pedestrian and vehicular traffic mobility, and sensitive environmental, historical and cultural resources; and,

WHEREAS, no federal or state agency has the resources or detailed understanding of the local rights-of-way or zoning issues to properly manage such rights-of-way or to respect local zoning and customer service concerns; and,

WHEREAS, the City of Cleveland Heights supports competition, diversity and localism in media with a level playing field where everyone plays by the same rules to accomplish those goals; and

WHEREAS, under existing law companies are free to enter the video market today as open video service providers or under the same local franchising framework as cable companies; and

WHEREAS, the City Council finds that this Resolution should be forwarded to the Ohio Congressional Delegation and the President of the United States.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The City of Cleveland Heights is opposed to any federal legislation that would create a national video franchising process, preempt local government from requiring a local franchise agreement from companies that provide video services in their jurisdiction, eliminate existing cable franchises, or restrict the authority of local governments to provide communications services.

SECTION 2. The City Council hereby directs that this Resolution be forwarded immediately to the Ohio Congressional Delegation and the President of the United States.

SECTION 3. The City of Cleveland Heights urges members of Ohio's Congressional Delegation to oppose legislation that would prevent local government from requiring video providers who use the public rights-of-way to obtain a local franchise, pay reasonable franchise fees, provide reasonable support for PEG or preclude local government's ability to provide communications services.

SECTION 4. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City of Cleveland Heights, such emergency being for the reason that in order to make clear City Council's intent to support local cable franchising authority and discourage legislative or administrative action that would destroy such authority, it is necessary that the within Resolution become effective at the earliest time permitted by law. Wherefore, provided it receives me affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

EDWARD J. KELLEY, Mayor
President of Council

THOMAS K. MALONE
Clerk of Council

PASSED: