Metropolitan Policy Committee Meeting

DATE: Thursday, February 6, 2020
TIME: 11:30 - 1:30 p.m.
LOCATION: Eugene Public Library, 100 W. 10th Ave., Eugene, OR 97401
CONTACT: Paul Thompson, 541-682-4405, pthompson@lcog.org

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1. Agenda: February 6, 2020

   Documents:

   1. MPC_AGENDA_2020-02-06.PDF

2. Item 3: Minutes, December 5, 2019

   Documents:

   2. MPC-MINUTES_DEC-5-2019.PDF

3. Item 7a Cover Memo: Amendment To FFY 2018-2021 MTIP

   Documents:

   3. MPC COVERMEMO-AMENDMENT_TO_MTIP.PDF

4. Item 7d Cover Memo: Update On STS

   Documents:

   4. STS_COVERMEMO.PDF

5. Governor STS Letter

   Documents:

   5. GOVERNOR_STS_LETTER.PDF

6. Item 7e Attachment 5: MTIP Amendments

   Documents:

   6. ADMINISTRATIVE_MTIP_AMENDMENTS.PDF

7. Metropolitan Cable Commission Minutes: December 5, 2019

   Documents:

7. METRO CABLE COMMISSON MINUTES 12-5-2019.PDF

8. Item 8b: Update On FCC Third Report And Order

   Documents:

   8. MPC-COVERMEMO_CABLE_FRANCHISE_FEBRUARY_2020.PDF

9. Item 8b Attachment 1: BB&K Newsletter

   Documents:

   9. MPC_ CABLE COMMISSION MEMO ATT 1.PDF

10. Item 8b Attachment 2: Press Release Re "Protecting Community Television Act"

    Documents:

    10. MPC_CABLE COMMISSION MEMO ATT 2.PDF

11. Complete Packet

    Documents:

    COMPLETE PACKET.PDF

MEETING NOTICE

MEETING:	**METROPOLITAN POLICY COMMITTEE**
DATE:	**Thursday, February 6, 2020**
TIME:	**11:30 AM - 1:30 PM**
LOCATION:	**City of Eugene Library**
	Bascom Tykeson Room *(directions on back)*
CONTACT PERSON:	**Paul Thompson, 541-682-4405**

A G E N D A

1. **WELCOME & INTRODUCTIONS**
2. **CALL TO ORDER**
3. **APPROVE DECEMBER 5, 2019 MEETING MINUTES**
4. **ADJUSTMENTS TO THE AGENDA/ANNOUNCEMENTS FROM MPC MEMBERS**
5. **COMMENTS FROM THE AUDIENCE** (*Anyone wishing to comment is asked to sign up on the public comment sheet provided at the meeting. A limit of 3 minutes per person is requested.*)
6. **ELECTIONS OF CHAIR AND VICE-CHAIR FOR 2020, APPOINT OMPOC MEMBERS**
   Staff Contact & Presenter: Brenda Wilson, LCOG
   Action Requested: Election of MPC officers, Appointment of Oregon MPO consortium members
7. **METROPOLITAN PLANNING ORGANIZATION (MPO) ISSUES**
   a. Amendment to FFY 2018-2021 MTIP (10 mins)
      Staff Contact and Presenter: Dan Callister, LCOG,
      Action Requested: Conduct Public Hearing
   b. 21-24 STIP Project Overview (15 min)
      Staff Contact: Paul Thompson, LCOG
      Presenter: Frannie Brindle, ODOT
      Action Requested: Information and discussion (Note: no packet materials)
   c. Transit Tomorrow (15 min)
      Staff Contact: Paul Thompson, LCOG
      Presenter: Cossette Rees, LTD
      Action Requested: Information and discussion (Note: no packet materials)
   d. Update on Statewide Transportation Strategy (STS) (15 min)
      Staff Contact and Presenter: Paul Thompson, LCOG
      Action Requested: Information and discussion (Note: no packet materials)

-OVER-

e. Follow-up and Next Steps (10 mins)

1) ODOT Update
2) Springfield Main Street Safety Update
3) Rail Update
4) LaneACT Update
5) MTIP Administrative Amendments (attachment included)
6) Next Steps/Agenda Build

8. METROPOLITAN CABLE COMMISSION

a. Approve December 5, 2019 meeting minutes

b. Update on FCC In-Kind Franchise Fee Offset Order (30 mins)

Staff Contact and Presenter: Anne Davies, LCOG

Action Requested: In-Kind Services (Free Cable TV Services to Public Buildings)

UPCOMING MEETINGS:

March 5th - Springfield Justice Center
April 2nd - Eugene Library

PLEASE NOTE:

LCOG is now posting meetings on its website at http://www.lcog.org/346/Metropolitan-Policy-Committee. These postings will include the agenda, minutes and attachments. If you no longer want to receive your meeting announcement in paper format, please contact Laura Campbell, 541-682-4006 or lcampbell@lcog.org.

This meeting will be broadcast live, and rebroadcast on Metro Television, Comcast cable channel 21, at 1:30 PM on Mondays, 7:00 PM on Tuesdays, and 11:00 AM on Sundays for the rest of the month. A webcast will also be archived for future viewing on the LCOG website. Get details through links at http://www.lcog.org/346/Metropolitan-Policy-Committee.

Eugene Public Library: The library is located at 100 W 10th Avenue (between Olive & Charnelton)
Bus: Take the bus to the LTD Downtown Station. From there walk one block west, crossing Olive Street, to the Eugene Public Library. The entrance faces 10th Avenue.
Bicycles: There are covered bicycle racks on the North side of the Library, by the front entrance.
Parking: Library Parking Level: 64 spaces below the library at 75 cents/hour (2-hour max)

- Broadway Place (westside corners of Charnelton & Broadway), Overpark (westside corners of 10th & Oak), or Parcade (NW corner of 8th & Willamette) at $1.00 cents/hour.
- On-Street Metered Parking at $1.00/hour, or free with 2-hour maximum west of Lincoln.

M I N U T E S

Metropolitan Policy Committee
City of Eugene Library, Bascom Tykeson Room — 100 W. 10th Avenue
Eugene, Oregon

December 5, 2019
11:30 a.m.

PRESENT: Lucy Vinis, Chair (City of Eugene); Joe Berney, Pete Sorenson (Lane County); Christine Lundberg, (City of Springfield); Frannie Brindle (Oregon Department of Transportation), Carl Yeh, Kate Reid (Lane Transit District);Ray Smith (City of Coburg); members; Dan Hurley for Steve Mokrohisky (Lane County), Mary Bridget Smith (City of Springfield), Matt Rodriguez for Jon Ruiz (City of Eugene); Aurora Jackson (Lane Transit District); Anne Heath (City of Coburg); *ex officio* members.

Paul Thompson, Ellen Currier, Howard Schussler, Anne Davies, Kate Wilson (Lane Council of Governments); Rob Inerfeld (City of Eugene); Emma Newman (City of Springfield); Jeff Kernen, Megan Winters (City of Coburg); Sasha Vartanian (Lane County); Bill Johnston, Richard Beers (Oregon Department of Transportation); Tom Schwetz, Andrew Martin, Cody Franz (Lane Transit District); Carleen Reilly (River Road); Rob Zako, (Better Eugene-Springfield Transportation); Tim Goodman (Comcast); Jasmine Harris (Federal Highways Administration).

WELCOME, CALL TO ORDER AND INTRODUCTIONS

Ms. Vinis called the meeting of the Metropolitan Policy Committee (MPC) to order and those present introduced themselves.

APPROVE OCTOBER 3, 2019, MEETING MINUTES

Mr. Smith, seconded by Ms. Reid, moved to approve the October 3, 2019, MPC meeting minutes as presented. The motion passed unanimously, 6:0.

ADJUSTMENTS TO THE AGENDA/ANNOUNCEMENTS FROM MPC MEMBERS

Mr. Thompson announced that Lane Council of Governments (LCOG) had received funding to operate two rural transit routes; one from Florence to Yachats and another from Eugene to Florence. He said contracts and partnerships were in place and service would begin sometime in February 2020. He said staff was working on marketing and branding the new service which was named LinkLane. The LCOG Board had directed LCOG to undertake the service.

Mr. Sorenson asked that the MPC receive a presentation at a future meeting on the interaction between public health and transportation and the public health benefits of transit and active transportation modes.

Ms. Vinis concurred with the request. Mr. Thompson said a presentation would be scheduled.

COMMENTS FROM THE AUDIENCE

There was no one wishing to speak.

METROPOLITAN PLANNING ORGANIZATION (MPO) ISSUES

Ms. Lundberg arrived at 11:40 a.m.

Central Lane Metropolitan Planning Organization (CLMPO) Certification Review

Ms. Harris explained that the four-year annual certification review of the MPO and Transportation Management Area (TMA) was a prerequisite for receiving federal funding. She said the review was to assure the MPO's planning process met Federal Highway Administration (FHWA) planning requirements and to also provide an opportunity to meet with staff and current policy board members to enhance the current process. She described the scope of the review, which included the Metropolitan Transportation Plan (MTP), Congestion Management Process (CMP), Transportation Improvement Program (TIP), Bylaws and performance-based planning and programming. She identified members of her review team. She said ODOT was also asked for input on topics for review. She described the methodology used and reviewed the timeline, which began in May 2019 and concluded with issuance of a report and certification on October 30, 2019, and presentation to the MPC on December 5, 2019. A follow-up staff meeting would occur on December 12.

Ms. Harris noted that an executive summary had been included in the agenda packet and highlighted its findings and recommendations. She said recommendations were an opportunity for the MPO to improve its processes, but were not compliance-related. Findings were compliance-related and required corrective action. She said the due dates for corrective actions were aligned with the update cycle for each plan. She also reviewed the resolution process for assuring that recommendations and corrective actions were addressed by the MPO. She said the MPO would develop a plan of action to resolve findings, provide responses to the recommendations, establish a certification team and include the certification plan of action within its Unified Planning Work Program (UPWP). Inclusion in the UPWP would assure that sufficient resources were allocated to prioritize the corrective actions. The Oregon Department of Transportation (ODOT) would monitor the progress of the MPO, review documentation and recommend to FHWA that conditions had been met. If FHWA was satisfied a closeout letter would be issued. She commended the MPO's work and the innovative initiatives it had undertaken.

Mr. Sorenson asked what additional steps could be taken with respect to public involvement in the development of the MTP. He said it was difficult to engage the public in transportation planning activities. He said the MPO staff conducted robust community outreach activities and wondered what else could be done to address the issues raised in the certification review. Ms. Harris replied that there was no concern with the conduct of public involvement activities; the findings addressed the need for better documentation of those with respect to the MTP and the TIP. Mr. Thompson added that he felt there was not as much public engagement at the MPO level because in Oregon transportation planning also occurred at the community level, in response to state requirements, closer to the public. He said the FHWA recommended corrective action asked that documentation be included in the plans themselves, not just in the cover memoranda to the MPC.

Mr. Sorenson asked what steps should be taken to address findings related to the CMP. Ms. Harris said the MPO was still missing some components and checklist to guide compliance with regulations was being created for MPOs to follow when developing CMPs.

Ms. Lundberg asked if the staff of local jurisdictions could assist MPO staff in addressing the corrective actions set forth by the FHWA. Mr. Thompson said many of the corrective actions were anticipated as plan updates moved forward and it was helpful to have guidance from the federal perspective. He said local staff could assist by providing documentation about how projects were prioritized by jurisdictions. The

CMP is very technical and the MPO had spent two years updating its transportation modeling capabilities. Input from jurisdictions on strategies to deal with regional congestion issues will be important.

Oregon Transportation Commission (OTC) Annual Workshop

Mr. Thompson said the OTC Annual Workshop is scheduled for December 16-17, 2019, in Lebanon. Chairs of Oregon MPOs, Area Commissions on Transportation (ACTs) and ODOT advisory committees were invited to participate on the second day of the workshop and engage with the OTC on several topics, including a proposal for ACTs to develop area strategies for addressing transportation system needs. He said a set of questions regarding the State Transportation Improvement Program (STIP) had also been issued for responses from MPOs, ACTs and advisory committees. Another set of questions related to the OTC's communications with stakeholders such as MPOs, ACTs and advisory committees, roles of committees and allocation of funds among categories. He announced that Ms. Lundberg would be attending for Ms. Vinis.

Ms. Brindle said workshop attendees would also have an opportunity to meet with the new ODOT director to discuss issues and topics of interest.

Mr. Thompson said the governor had asked ODOT and the Department of Land Conservation and Development (DLCD) to collaborate on reduction of greenhouse gas emissions and climate change goals. Meetings at the director level among ODOT, LCDC, Department of Environmental Quality and Department of Energy were now in progress.

Ms. Vinis asked if that would include increased emphasis on active transportation. Mr. Thompson said that was a topic that could be raised at the OTC workshop.

Ms. Lundberg encouraged committee members to provide input to Mr. Thompson on issues that could be raised at the workshop.

Ms. Brindle said another initiative from the governor was to put more electric vehicles in agencies' fleets, but concerns had been raised by the public that there was insufficient infrastructure to support those vehicles.

Regarding infrastructure for electric vehicles, Mr. Berney said a wind, solar and battery production facility was being developed in Umatilla County. He noted the potential connections among creating jobs, production facilities that addressed climate concerns related to transportation, and generating the state's own infrastructure.

Mr. Sorenson said a challenge with solar energy was transporting it from its source to destinations. He gave examples of how some European countries were addressing transportation issues, particularly multi-modal needs.

Mr. Smith commented undeveloped countries did not have existing infrastructure that impeded creation of infrastructure for new technologies. He noted that Coburg lacked infrastructure necessary to support electric vehicles.

In response to a comment from Ms. Reid, Ms. Brindle said she would research whether funds from the Volkswagen settlement are being used to install vehicle charging stations along Interstate 5 and report back to the MPC.

Ms. Vinis said it would be helpful to inventory and map charging stations in the region. Mr. Yeh said there were applications that could show area station locations, but it would be helpful to have that information on a statewide basis.

Mr. Hurley asked that restoration of competitive grant programs be discussed at the OTC workshop.

Mr. Thompson stated that the OTC would be meeting in Eugene on May 14-15, 2020, and a work plan for the coming year would be established.

Regional Transportation Plan (RTP) Update

Mr. Thompson stated that the RTP was updated every four years and would include an Intelligent Transportation System (ITS) plan update as well. A request for proposals for a consultant team to assist with the work had been issued and one response received. The team consisted of individuals from three firms: DKS Consulting, Jacobs Consulting and Jean Lawson and Associates. He said staff had worked with all three firms in the past and was pleased with the proposal. A final scope of work and contract was being negotiating and he expected the cost to be approximate $500,000 over a two year period. Regular reports would be provided to the MPC and expected work to begin in January or February 2020.

Follow-up and Next Steps

- **ODOT Update—**Ms. Brindle said metro area construction on rebuilding I-105 ramps had been completed and the next phase of the project would begin in February 2020. She expected work would be completed in October. She would provide updates during the project.

- **Springfield Main Street Safety Update—**Mr. Johnston reported that the project team was discussing changes to planning and scheduling based on feedback from the mayor and city council members and there would be adjustments to the presentation of alternatives to the public. He said the project schedule could be extended up to six months. An online open house would be held in February 2020.

- **Rail Update**—None.

- **LaneACT Update**—Mr. Johnston said the LaneACT would meet on December 11 and review the questions posed by the OTC, as well as discuss the ODOT area strategies proposal. He said the LaneACT was one of two ACTs selected to participate in the pilot process.

- **MTIP Administrative Amendments**—There were no questions.

- **Next Steps/Agenda Build**—Mr. Sorenson asked that a presentation on the health implications of different transportation modes at the national and local levels could be scheduled at a future meeting.

The meeting adjourned at 12:35 p.m.

(Transcribed by Lynn Taylor)

January 27, 2020

To: Metropolitan Policy Committee

From: Daniel Callister

Subject: Item 7.a: Amendment to FFY 2018-2021 Metropolitan Transportation Improvement Program (MTIP)

Action Recommended: Conduct public hearing

Issue Statement
Lane County requests an amendment to the MTIP that would re-program Congestion Mitigation and Air Quality (CMAQ) funds from a canceled Lane County project into two existing Lane County projects.

Background
The Metropolitan Policy Committee (MPC) previously approved the use of $1,581,186 of discretionary federal CMAQ funds for Lane County Yolanda Elementary and Briggs Middle Schools Traffic Congestion Mitigation project (STIP Key 21167). The project was canceled in October 2019 due to insufficient projected PM10 emissions benefits for the purposes of FHWA CMAQ monitoring.

Discussion
Lane County proposes to reprogram a portion of the CMAQ funds from the canceled Yolanda project into the following two Lane County projects, both of which have been previously approved by MPC for discretionary funding:

21385 – Gilham Road: Ayers Road to Mirror Pond Way

Description: Design and final construction of pavement, curb, gutter, storm water and sidewalk on Gilham Rd between Ayres Rd and Ashbury Dr, and sidewalk along westerly portion of Gilham Rd between Ashbury Dr and Mirror Pond Wy.

Total Project Est.: $1,309,757.49 (STBG, CMAQ)

- Increase Construction phase estimate by $539,564
- New Total Project Est.: $1,849,321.58

21168 – Howard Elementary & Colin Kelly MS traffic congestion mitigation

Description: Planning and Engineering for RRFB at Maxwell Rd and N Park Ave and for sidewalk infill on east side of N Park Ave between Maxwell Rd and Howard Ave.

Total Project Est.: $589,122.37 (STBG, CMAQ)

- Increase Construction phase estimate by $216,339
- New Total Project Est.: $805,461.37

Public Involvement

At their January 15 meeting, Transportation Planning Committee (TPC) reviewed the proposed amendment and recommended a Public Hearing to be held at February 6 MPC. A 30-day public comment period will be open through February 27, 2020. Action will then be requested at the March MPC meeting.

Action Recommended: Conduct public hearing

January 28, 2020

To: Metropolitan Policy Committee

From: Paul Thompson

Subject: Item 7.d: Update on Statewide Transportation Strategy (STS)

Action Recommended: Information and discussion

Background

On September 23, 2019, Oregon Governor Brown issued a letter to the Oregon Transportation Commission (OTC), the Oregon Department of Transportation (ODOT), the Land Conservation and Development Commission (LCDC), the Department of Land Conservation and Development (DLCD), the Oregon Department of Energy (DOE), the Environmental Quality Commission (EQC), and the Oregon Department of Environmental Quality (DEQ). The letter urges the "Commissions and agencies to combat the impact of climate change by implementing the Statewide Transportation Strategy (STS) as adopted by the Oregon Transportation Commission." Also included in the letter is the Governor's proposal that "a Transportation Planning Rule that directs transportation plans of metropolitan jurisdictions to meet their GHG reduction targets" is implemented.

More recently, following the November meeting of the LCDC, that Commission issued the following statement:

> "We are committed to adopting a Transportation Planning Rule that requires Metropolitan Planning Organizations and their respective local governments to collaboratively and comprehensively develop and implement transportation system plans and land use plans and actions that provide transportation choices and reduces greenhouse gas emissions consistent with LCDC's 2017 updated target requirements."

DLCD stated that the "four-agency workgroup aims to identify and implement actions to cut transportation-related greenhouse gas emissions" (the four agencies are those noted above – ODOT, DLCD, DOE, and DEQ). The statement went on to say "This new four agency effort is not a restart of DLCD's previous 2018 rulemaking on the Transportation Planning Rules. Rather, this multi-agency effort aims to develop an implementation plan for the Statewide Transportation Strategy, including changes to DLCD rules relating to Transportation Planning (Oregon Administrative Rules 660-

012) and Metropolitan Greenhouse Gas Reduction Targets (Oregon Administrative Rules 660-044).

Discussion
Within the past week, staff has learned that at their March 19-20 meeting, LCDC will bring Portland Metro in to share their experiences with their climate smart communities activities. LCDC is also interested in a non-Portland MPO perspective. In particular, they want to hear about other experiences with Scenario Planning and/or Strategic Assessments, hear what is needed in other regions to be able to move forward, and hear input in three identified key policy areas:

- Local vs Regional approach to implementing the STS and GHG reduction measures and actions
- Monitoring and enforcement (essentially, jurisdiction) of MPOs/regions
- Funding

Other specifics to think about include:

- Given that MPOs don't have land use authority, how do we think about regional success in reducing GHG emissions?
- What should, or can, be in the state's Transportation Planning Rule (TPR)?
- What funding is needed for MPOs to accomplish this work?
- What combination of stick and carrot is best?
- What do MPOs need to help work with local communities?

Staff is asking MPC members to engage in discussion and provide initial thoughts. If the MPC is interested in having this region provide input to LCDC in March, staff will work over the next month to develop specific talking points that may be conveyed to LCDC at their next meeting, and return to the March 5, 2020 MPC meeting for further discussion and direction.

Action Recommended: Information and discussion

KATE BROWN
Governor

September 23, 2019

Bob Van Brocklin
Oregon Transportation Commission
Kris Strickler
Oregon Department of Transportation
355 Capitol St. NE
Salem, OR 97301

Jerry Lidz, Robin McArthur
Land Conservation and Development Commission
Jim Rue, Director
Department of Land Conservation & Development
635 Capitol St. NE # 150
Salem, OR 97301

Janine Benner, Director
Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

Kathleen George
Environmental Quality Commission
Richard Whitman, Director
Oregon Department of Environmental Quality
700 NE Multnomah St., Suite #600
Portland, OR 97232-4100

Dear Colleagues,

I urge your Commissions and agencies to combat the impacts of climate change by implementing the Statewide Transportation Strategy (STS) as adopted by the Oregon Transportation Commission.

One of the most cost effective strategies to reduce greenhouse gas (GHG) emissions from the transportation sector in Oregon is to integrate land use and transportation planning in ways that reduce the frequency and distance that people must drive. Compact, mixed-use cities with plenty of options for walking, cycling, and public transit not only reduce per capita GHG emissions but also provide the most equitable transportation access for every resident.

By adopting the STS in 2018, the Oregon Transportation Commission provided the tools that every metropolitan jurisdiction needs in order to develop and implement land use and transportation plans that will reduce GHG emissions from the transportation sector. It is now time for your four agencies to organize an implementation plan for the STS.

Like the Department of Environmental Quality and the Department of Energy, DLCD and ODOT are climate change agencies, and going forward all state and metropolitan transportation planning work needs to be designed to support achieving the state's GHG reduction goals.

254 STATE CAPITOL, SALEM OR 97301-4047 (503) 378-3111 FAX (503) 378-8970
WWW.GOVERNOR.OREGON.GOV

As you begin this work, I would like to propose the following:

- The establishment of GHG emissions reduction performance measures.
- Implementing a Transportation Planning Rule that directs transportation plans of metropolitan jurisdictions to meet their GHG reduction targets.
- That ODOT identifies options for financial and technical assistance to the metropolitan jurisdictions to utilize in crafting transportation/land use scenario plan(s) that meets their GHG reduction target.
- That responsibility for the implementation and integration of the STS be at the highest level of the agency, with regular and direct reporting to the Governor's Office and respective commissions.

Please be assured that the Governor's office will be closely involved in this effort. I welcome your feedback and appreciate the enthusiasm you and the agencies you oversee have expressed to begin this work. Now is the time.

Sincerely,

Kate Brown

Governor Kate Brown

KB, bf, ejhr

cc: Karmen Fore, Director, Oregon Solutions

MTIP Amendments
Transportation Planning Committee
January 15, 2020

I. Reprogram CMAQ to Existing Projects (**Key# 21167, 21385, 21168**; Lane County) *requested 1/3/20*
Action requested – Recommendation to MPC for public hearing

Lane County - Yolanda Elem and Briggs MS traffic congestion mitigation (21167)
Complete missing sidewalks, bike lanes and critical connections on Yolanda Ave, 23rd St and 31st Ave (Lane County & City of Springfield)

- CMAQ-funded project canceled in 2019
- CMAQ funds to be reprogrammed into two existing Lane County CMAQ projects

Lane County – Gilham Road: Ayers Road to Mirror Pond Way (21385)
Design and final construction of pavement, curb, butter, storm water and sidewalk on Gilham Rd between Ayres Rd and Ashbury Dr, and sidewalk along westerly portion of Gilham Rd between Ashbury Dr and Mirror Pond Wy.

- Add $539,564 CMAQ to 2021 CN phase
- Amended CN phase total: $1,273,166

Lane County – Howard Elementary & Colin Kelly MS traffic congestion mitig (21168)
Planning and Engineering for RRFB at Maxwell Rd and N Park Ave and for sidewalk infill on east side of N Park Ave between Maxwell Rd and Howard Ave (Lane County & City of Eugene)

- Add $216,339 CMAQ to 2021 CN phase
- Amended CN phase total: $598,339

II. Slips Resulting from 2020 Obligation Review (**20294, 21164**; Eugene)
Action requested – TPC approval

Eugene - Coburg Rd - Ferry St RR Br and Willamette R Br (20294)
Bridge #06648: Cleaning, preparation and spot paint; concrete overlay and other repairs per inspection report. Bridge #40056: Deck sealing, crack repairs to girder top/deck interface, epoxy injection cracks, repair spalling. Perform seismic analysis and preliminary design for seismic strengthening on bridges #06648, 40056 and 07214A.

- Slip CN phase from 2020 to 2021

Eugene – High Street protected bikeway (21164)
Two-way protected bike lane with painted buffers on west side of High Street between 19th and 6th Ave includes dedicated bicycle signals at 18th, 13th, 11th, 10th, 8th, 7th, 6th Avenues, and Broadway.

- Slip CN phase from 2020 to 2021

III. Move funds within Project (**Key# 20504**; ODOT) *requested 12/19/19*
Action requested – TPC approval

ODOT - OR58: Goshen -Pheasant Lane (20504)
Grind existing surfacing and inlay the travel lanes. (Single Lift Inlay + Localized Asphalt/Concrete Pavement Repair) Update ADA as required.

- Reduce 2020 CN phase estimate by $150,000 (NHPP)
- Increase PE phase by $150,000 (NHPP)

IV. Slip CN Phase (**Key# 21378**; Eugene) *requested 1/10/20*
Action requested – TPC approval

Eugene – 8th Avenue streetscape and bikeway (21378)
Reconstruct roadway, move curbs, widen sidewalks, install protected bike lanes relocate street tree zone, convert 8th Ave to two-way street.

- Slip 2020 CN phase to 2021
- Extend project limits west from Willamette Street to Lincoln Street.

Informational

At the November TPC meeting an amendment was approved to use $867,048.33 FTA 5339 savings from LTD Bus Replacement Program (20951) to add to an existing project to replace older EmX buses (21339). Shortly afterwards LTD received an updated estimate which resulted in the need to increase the amount of FTA 5339 savings to be used by another $136,738.67. Given the urgency of the need, the fund source, and the spirit of the November TPC approval, the original figure has been adjusted in the STIP amendment to reflect the updated estimate.

M I N U T E S

Metropolitan Cable Commission
Eugene Public Library—Bascom/Tykeson Room—100 West 10th Avenue
Eugene, Oregon

December 5, 2019
12:40 p.m.

PRESENT: Lucy Vinis, Chair; (City of Eugene); Joe Berney, Pete Sorenson (Lane County); Christine Lundberg (City of Springfield)

Anne Davies (Lane Council of Governments); Pam Berrian (City of Eugene); Tim Goodman (Comcast).

WELCOME AND INTRODUCTIONS

Ms. Vinis welcomed everyone to the Metropolitan Cable Commission meeting. Those in attendance introduced themselves.

CALL TO ORDER

Ms. Vinis called the meeting to order.

APPROVAL OF MINUTES

Ms. Lundberg, seconded by Mr. Sorenson, moved to approve the July 5, 2018; October 4, 2018; June 6, 2019 and October 3, 2019, minutes as presented.

Mr. Sorenson clarified that the 2018 meeting were attended by Commissioners Leiken and Farr rather than Mr. Berney and himself and he had determined that the minutes were accurate.

The motion passed, 4:0.

METROPOLITAN CABLE COMMISSION

Update on Federal Communications Commission (FCC) Third Report and Order (In-Kind Fee Offset)

Ms. Davies summarized that on November 25 the National Association of Telecommunication Officers and Agents (NATOA) joined a motion in federal court to stay the FCC order. She said her memorandum of November 22, 2019, provided an update on the FCC's denial of a request made to the agency to stay the order. She said a draft letter from the commission to Lane County's congressional delegation was included in the agenda packet and the language had been updated to reflect current actions. She noted that the last sentence in the third paragraph was incomplete and proposed adding …*decision to adhere to the FCC order would be detrimental to the municipalities* to the end of the sentence.

Mr. Sorenson, seconded by Ms. Lundberg, move to send the letter to Representative DeFazio, Senator Ron Wyden and Representative Merkley, with the changes noted by Ms. Davies. The motion passed, 4:0.

The meeting adjourned at 12:50 p.m.

(Recorded by Lynn Taylor)

January 27, 2020

To: Metropolitan Cable Television Commission

From: Anne Davies, Lane Council of Governments

Subject: MPC 8.b Update on FCC Third Report and Order (In-Kind Franchise Fee Offset)

I. The FCC Order Update

The FCC's In-Kind Order became effective September 26, 2019. The Order, however, did not make it clear how the Order would be implemented. For instance, it was not clear whether the cable companies were expected to reach out to the local franchising authorities (LFA) to negotiate how in-kind payments, like provision of gratis cable TV programming services to government buildings and schools, would be valued, or how or when LFAs could decide that, considering that they would need to pay for the services, they no longer desired to receive them.

A. Associated Litigation

Organizations representing local government, NLC (National League of Cities), NATOA (National Association of Telecommunications Officers and Agents), and others challenged the Order in federal court. They also filed a request with the FCC that the effectiveness of the Order be stayed pending the resolution of the litigation. On November 6, 2019, the Media Bureau of the FCC denied the stay request.[1] However, in explaining why a stay was not warranted, i.e., why the LFAs would not be irreparably harmed if the stay was not granted, the Media Bureau interpreted the original Order to require cable companies to reach out to LFAs to negotiate terms. *See* Stay Order, para. 21. The industry has requested clarification of that language in the stay order. The FCC has not yet ruled on the clarification request.

The NLC also filed a request for stay in federal court (6th Circuit Court of Appeals). The FCC and industry representatives opposed the request. Briefing in federal court is expected to continue through the spring of 2020, and a final ruling is not likely to be issued until 2021.

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[1] You can find the stay denial order here: https://docs.fcc.gov/public/attachments/DA-19-1149A1.pdf

B. Associated Legislation

Senator Ed Markey (D-Mass.) and Representative Anna Eshoo (D-Calif.) recently introduced two pieces of legislation that aim to overturn the Order by redefining franchise fees to include only financial payments, and excluding gratis in-kind services. S. 3218 and H.R. 5659.[2] Four Oregon Congressional members have signed on as co-sponsors. These bills are not the same bills the Cable Commission addressed in recent letters sent to Representative DeFazio and Senators Wyden and Merkley. These newer bills are more directly aimed at the FCC Cable In-Kind Order.

II. Status of the Eugene, Springfield, and Lane County Comcast Cable Franchise Renewal

The current franchise is due to expire in June of this year. The current expiration date was set last year, when it became clear that the parties were struggling to come to agreement on Comcast's proposed Competitive Equity provisions and the speculation was increasing that the FCC would issue an Order addressing gratis services

Based on the uncertainly surrounding the FCC Order, the anticipated timeframe for final resolution of the litigation challenging the Order, and the potential impact of the litigation on franchise negotiations, staff recommend an extension of the franchise for an additional two years. This would make the expiration date June 30, 2021. Staff presented this option to Comcast, but has not yet heard back. If Comcast agrees, each jurisdiction would separately process an Extension Ordinance.

Attachments:

1. BB&K Newsletter: "Top Telecommunications Issues of 2020"
2. Press Release re "Protecting Community Television Act"

[2] Copies of the legislation can be found at https://www.congress.gov/bill/116th-congress/senate-bill/3218/text and https://www.congress.gov/bill/116th-congress/house-bill/5659

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

Top Telecommunications Issues of 2020

Threats to Local Rights

Local governments are advocating in many venues to preserve their sovereignty and property rights. Both individually, and as part of the U.S. Conference of Mayors, National League of Cities, National Association of Counties and National Association of Telecommunications Officers and Advisors, they seek to retain the right to establish the terms, location and design rules for siting wireless devices in the rights of way. These efforts are under way simultaneously in the courts, at the Federal Communications Commission, in Congress and before state legislatures. Finally, municipal leaders must be aware of "Buy One, Get One Free" laws at the state level. First adopted in Texas, the law excuses a telephone and cable service provider from paying the less expensive of the company's telecommunication right of way fees or cable franchise fees.

Challenge the FCC's Small Cell Orders and Support for H.R. 530 and S 2012 — Legislation to Reverse those Orders

In 2018, the FCC adopted a new "industry-friendly" legal standard for what constitutes a prohibition, or effective prohibition, of services under sections 253(a) and 332(c)(7). It established new rules to restrict local permitting, accelerate decision timelines and cap fees for attachments and use of rights of way for small cells at an approximation of a locality's costs – well below market value. Almost 100 local governments and local government organizations, including NLC, USCM and NATOA formed a coalition to challenge the small cell order. Litigation is pending before the U.S. Ninth Circuit Court of Appeals, where oral argument will take place on Feb. 10, 2020. Legislation (H.R. 530/S. 2012) to overturn the FCC's small cell order was introduced in Congress by Rep. Anna Eshoo (D-Calif.) Sen. Dianne Feinstein (D-Calif.). Local government must support these efforts.

What Local Government Leaders Need To Do:

1. Request that your congressional delegation co-sponsor H.R. 530 and S. 2012.
2. Support the appeal of these new FCC rules to ensure you retain the right to manage the look and feel of your community and obtain fair compensation for use of your assets.
3. Work with your community to develop a proactive approach to planning for wireless entry into the rights of way and adopt aesthetics, undergrounding, spacing and other desired requirements. Review your ordinances and processes to ensure they meet the new rules and shorter shot clocks.

Local Governments are Challenging the FCC's Order Granting a Cable Operator the Right to Reduce their Franchise Fees By Hundreds of Millions of Dollars

On Aug. 2, 2019, the FCC adopted an order that empowers a cable operator to reduce its franchise fees in an amount equivalent to the market value of non-financial franchise obligations, such as: cable services to government buildings and schools, discounts for seniors, veterans and poor families and other obligations. Estimated losses are in the 10s of millions of dollars. In addition, the FCC has stated that it will review, within the year, the ability of a cable operator to reduce cable franchise fees by the fair market value of channel capacity dedicated to the carriage of Public, Education and Government channels. This could costs local governments hundreds of millions in franchise fees. Legislation to overturn the FCC's order by redefining franchise fees to include only financial payments was introduced by Sen. Ed Markey (D-Mass.) and Rep. Anna Eshoo (D-Calif.) (S. 3218/H.R. 5659).

What Local Government Leaders Need To Do:

- Request that your Congressional delegation co-sponsor H.R. 5659 and S. 3218.

Join the Local Government Coalition to Fight the FCC's Proposal to Expand OTARD Rules to Hub and Relay Antennas (Cell Sites)

The FCC released a Notice of Proposed Rulemaking proposing to expand the Over-the-Air Reception Devices rules to cover hub and relay antennas, the equivalent of small cell towers outside of the rights of way. While Congress intended for the OTARD rule to protect consumers' rights to install satellite dishes, the FCC is now seeking to expand the rule to bar localities' zoning authority over equipment that 5G providers will use to transmit signals. The OTARD rules expansion from consumer equipment to network elements flies in the face of Congress' stated intent, and also may permit 5G providers to install their antennas without notifying – let alone complying with – local requirements. Local governments must make their concerns heard at the FCC.

What Local Government Leaders Need To Do:

- While comments and reply comments have been filed, additional support and visits to the FCC to oppose this proposal are needed.

Protect Local Governments' Rights to Manage and Obtain Fair Compensation for Use of the Rights of Way

As rights of way become ever more valuable for locating wireline and wireless communications infrastructure, localities face ever-increasing assaults at the state and federal levels to limit local control over, and charges for use of, the rights of way. Such efforts accelerate as legislatures and regulators push to promote 5G infrastructure deployment to support the Internet of Things, including autonomous and connected vehicles. This threat has reappeared in Congress with reintroduction of the Thune-Schatz STREAMLINE Act (S 1699).

There is a new threat on the horizon. Texas this year enacted the first of what has been called the "Pay Me Half" or "Buy One, Get One Free" bills. In Texas, if a company is both a phone and cable company, they soon will only have to pay the larger of the two rental rates. Texas was the first state to pass a state franchise law and the first to pass a state small cell bill. We can similarly expect to see "Pay Me Half" bills in other states.

What Local Government Leaders Need To Do:

1. Understand these threats, and the false narrative upon which they are based, to best position your community to protect its interests. Share with your federal and state elected officials your position, including the successes you have achieved in bringing broadband to your residents. Call upon your state and national associations to champion your cause.
2. Inform your congressional delegation that you oppose S. 1699. Engage in the policymaking process early and often, and join with other local governments in resisting these efforts to demonize local government and indirectly subsidize the broadband industry at the expense of local communities, without regard for local challenges.

Preserve the Option of Municipal Broadband, Public-Private Partnership and New Approaches for Networks

Municipalities throughout the country are searching for the best way to ensure that their communities are served by advanced networks that offer high-speed Internet at reasonable prices.

What Local Government Leaders Need To Do:

- Encourage your community to actively engage in broadband planning and identify the best approach for your community to speed broadband deployment, consistent with legal limits on your own local authority.

Please contact one of the following BB&K Telecommunications attorneys if you'd like more detail on how your community can address these threats. To learn more, visit bbk.law.com/Telecom2020.

Gerard Lavery Lederer (202) 664-4621 **gerard.lederer@bbklaw.com**	Joseph Van Eaton (202) 486-0770 **joseph.vaneaton@bbklaw.com**
Gail Karish (213) 605-1603 **gail.karish@bbklaw.com**	Harriet Steiner (916) 551-2821 **harriet.steiner@bbklaw.com**
Joshua Nelson (916) 551-2859 **joshua.nelson@bbklaw.com**	Rebecca Andrews (404) 273-3418 **rebecca.andrews@bbklaw.com**
John Gasparini (202) 897-7384 **john.gasparini@bbklaw.com**	Andrew McCardle (213) 787-2543 **andrew.mccardle@bbklaw.com**
Mark DeSantis (202) 370-5327 **mark.desantis@bbklaw.com**	Bennett Givens (213) 617-7497 **bennett.givens@bbklaw.com**

In addition, Best Best & Krieger attorneys represent local governments on a myriad of municipal issues including, but not limited to: water, education, labor and bond issues. Please visit www.bbklaw.com for more information.

FOR IMMEDIATE RELEASE

Contact: Giselle Barry (Markey) 202-224-2742

Senator Markey and Rep. Eshoo Introduce Legislation to Protect Community Television

Washington (January 21, 2020) – Senator Edward J. Markey (D-Mass.), a member of the Senate Commerce, Science and Transportation Committee, and Rep. Anna G. Eshoo (CA-18), senior member of the House Energy and Commerce Committee, today introduced the Protecting Community Television Act, legislation to ensure that community television operations continue to receive the resources they need to educate and inform viewers in the cities and towns where they operate.

Currently, local governments are permitted to require as part of cable franchise agreements that cable companies meet demonstrated community needs by providing in-kind contributions that benefit schools, public safety buildings, and public, educational, and government (PEG) channels, also known as community television stations. However, in August, 2019, the FCC voted to permit cable companies to assign a value to these contributions and then subtract that amount from the franchise fees the cable operator pays the local community. As a result, local governments will have to decide between supporting PEG stations in cable franchise agreements and supporting other important services for critical community institutions like schools and libraries.

"In the current era of media globalization and consolidation, it is more important than ever that we stand up for the platforms that lift up small and local voices," said Senator Markey. "Across the county, community television studios catalyze civic engagement and provide Americans with news and information they need. The need for media by communities for communities is only increasing. I'm proud to partner with Congresswoman Eshoo and so many of my colleagues in the Senate on this important legislation."

"Community television is a critical part of our society, giving a voice to nonprofits, artists, and other community members who otherwise struggle to be heard," said Rep. Eshoo. "The FCC's attempt to gut these important voices is shameful, and I'm proud to introduce legislation with Senator Markey that will protect community television and ensure local voices can be heard."

A copy of the legislation can be found at https://www.markey.senate.gov/download/protecting-community-television-act-2020.

The Protecting Community Television Act clarifies that the franchise fees that cable companies provide local governments only include monetary assessments, not in-kind contributions. Senators Tammy Baldwin (D-Wisc.), Tina Smith (D-Minn.), Ben Cardin (D-Md.), Chris Van Hollen (D-Md), Bernie Sanders (I-Vt.), Chris Murphy (D-Conn.), Maggie Hassan (D-N.H.), Jeff Merkley (D-Ore.), Jeanne Shaheen (D-N.H.), Richard Blumenthal (D-Conn.), Ron Wyden (D-Ore.), Kirsten Gillibrand (D-N.Y.), Marie Hirono (D-Hawaii), Elizabeth Warren (D-Mass.), and Amy Klobuchar (D-Minn.) have co-sponsored the new legislation.

Endorsers of the legislation include National Association of Counties, National League of Cities, United States Conference of Mayors, National Association of Telecommunications Officers and Advisors, Alliance for Community Media, MassAccess, TeleCommUnity, and Texas Municipal League.

"As advocates for community media across Massachusetts, MassAccess is proud to announce its support for the bill known as the Protecting Community Television Act," said David Gauthier, President, MassAccess. "I thank Sen. Ed Markey and Rep. Anna Eshoo for leading this important legislation, which corrects what we see as an erroneous ruling made last year at the Federal Communications Commission relative to cable franchise fees. The FCC's action was a gift to the cable industry, and this bill would reestablish the protocol that had been agreed to for decades prior."

"Ensuring that communities across the country have the resources to meet the communications needs of Americans lies at the heart of the Telecomm Act," said Mike Wassenaar, President & CEO, The Alliance for Community Media. "At a time when local newspapers and newsrooms are diminished, and local media jobs are being lost, community television stations in America are trying to fill a critical gap in local journalism and civic information. Congress should be stepping up to make certain that local community television stations are not shuttered and that local media jobs are preserved. The Alliance for Community Media thanks Senator Markey and Representative Eshoo for their leadership on this issue."

In July 2019, Senator Markey led 15 of his colleagues urging the FCC to protect PEG stations. In February, Rep. Eshoo wrote to the FCC opposing its proposal to reduce access to community television.

There are more than 1,500 public, educational, and governmental studios/operations and an estimated 3,000 PEG channels in America. Religious programming represents 30 percent of local access programming. Tens of thousands of hours of programming is produced by veterans, seniors, the disabled and ethnic, minority and second language groups.

MEETING NOTICE

MEETING:	**METROPOLITAN POLICY COMMITTEE**
DATE:	**Thursday, February 6, 2020**
TIME:	**11:30 AM - 1:30 PM**
LOCATION:	**City of Eugene Library**
	Bascom Tykeson Room *(directions on back)*
CONTACT PERSON:	**Paul Thompson, 541-682-4405**

A G E N D A

1. **WELCOME & INTRODUCTIONS**
2. **CALL TO ORDER**
3. **APPROVE DECEMBER 5, 2019 MEETING MINUTES**
4. **ADJUSTMENTS TO THE AGENDA/ANNOUNCEMENTS FROM MPC MEMBERS**
5. **COMMENTS FROM THE AUDIENCE** (*Anyone wishing to comment is asked to sign up on the public comment sheet provided at the meeting. A limit of 3 minutes per person is requested.*)
6. **ELECTIONS OF CHAIR AND VICE-CHAIR FOR 2020, APPOINT OMPOC MEMBERS**
   Staff Contact & Presenter: Brenda Wilson, LCOG
   Action Requested: Election of MPC officers, Appointment of Oregon MPO consortium members
7. **METROPOLITAN PLANNING ORGANIZATION (MPO) ISSUES**
   a. Amendment to FFY 2018-2021 MTIP (10 mins)
      Staff Contact and Presenter: Dan Callister, LCOG,
      Action Requested: Conduct Public Hearing
   b. 21-24 STIP Project Overview (15 min)
      Staff Contact: Paul Thompson, LCOG
      Presenter: Frannie Brindle, ODOT
      Action Requested: Information and discussion (Note: no packet materials)
   c. Transit Tomorrow (15 min)
      Staff Contact: Paul Thompson, LCOG
      Presenter: Cossette Rees, LTD
      Action Requested: Information and discussion (Note: no packet materials)
   d. Update on Statewide Transportation Strategy (STS) (15 min)
      Staff Contact and Presenter: Paul Thompson, LCOG
      Action Requested: Information and discussion (Note: no packet materials)

-OVER-

e. Follow-up and Next Steps (10 mins)

1) ODOT Update
2) Springfield Main Street Safety Update
3) Rail Update
4) LaneACT Update
5) MTIP Administrative Amendments (attachment included)
6) Next Steps/Agenda Build

8. METROPOLITAN CABLE COMMISSION

a. Approve December 5, 2019 meeting minutes

b. Update on FCC In-Kind Franchise Fee Offset Order (30 mins)

Staff Contact and Presenter: Anne Davies, LCOG

Action Requested: In-Kind Services (Free Cable TV Services to Public Buildings)

UPCOMING MEETINGS:

March 5th - Springfield Justice Center
April 2nd - Eugene Library

PLEASE NOTE:

LCOG is now posting meetings on its website at http://www.lcog.org/346/Metropolitan-Policy-Committee. These postings will include the agenda, minutes and attachments. If you no longer want to receive your meeting announcement in paper format, please contact Laura Campbell, 541-682-4006 or lcampbell@lcog.org.

This meeting will be broadcast live, and rebroadcast on Metro Television, Comcast cable channel 21, at 1:30 PM on Mondays, 7:00 PM on Tuesdays, and 11:00 AM on Sundays for the rest of the month. A webcast will also be archived for future viewing on the LCOG website. Get details through links at http://www.lcog.org/346/Metropolitan-Policy-Committee.

Eugene Public Library: The library is located at 100 W 10th Avenue (between Olive & Charnelton)
Bus: Take the bus to the LTD Downtown Station. From there walk one block west, crossing Olive Street, to the Eugene Public Library. The entrance faces 10th Avenue.
Bicycles: There are covered bicycle racks on the North side of the Library, by the front entrance.
Parking: Library Parking Level: 64 spaces below the library at 75 cents/hour (2-hour max)

- Broadway Place (westside corners of Charnelton & Broadway), Overpark (westside corners of 10th & Oak), or Parcade (NW corner of 8th & Willamette) at $1.00 cents/hour.
- On-Street Metered Parking at $1.00/hour, or free with 2-hour maximum west of Lincoln.

M I N U T E S

Metropolitan Policy Committee
City of Eugene Library, Bascom Tykeson Room — 100 W. 10th Avenue
Eugene, Oregon

December 5, 2019
11:30 a.m.

PRESENT: Lucy Vinis, Chair (City of Eugene); Joe Berney, Pete Sorenson (Lane County); Christine Lundberg, (City of Springfield); Frannie Brindle (Oregon Department of Transportation), Carl Yeh, Kate Reid (Lane Transit District);Ray Smith (City of Coburg); members; Dan Hurley for Steve Mokrohisky (Lane County), Mary Bridget Smith (City of Springfield), Matt Rodriguez for Jon Ruiz (City of Eugene); Aurora Jackson (Lane Transit District); Anne Heath (City of Coburg); *ex officio* members.

Paul Thompson, Ellen Currier, Howard Schussler, Anne Davies, Kate Wilson (Lane Council of Governments); Rob Inerfeld (City of Eugene); Emma Newman (City of Springfield); Jeff Kernen, Megan Winters (City of Coburg); Sasha Vartanian (Lane County); Bill Johnston, Richard Beers (Oregon Department of Transportation); Tom Schwetz, Andrew Martin, Cody Franz (Lane Transit District); Carleen Reilly (River Road); Rob Zako, (Better Eugene-Springfield Transportation); Tim Goodman (Comcast); Jasmine Harris (Federal Highways Administration).

WELCOME, CALL TO ORDER AND INTRODUCTIONS

Ms. Vinis called the meeting of the Metropolitan Policy Committee (MPC) to order and those present introduced themselves.

APPROVE OCTOBER 3, 2019, MEETING MINUTES

Mr. Smith, seconded by Ms. Reid, moved to approve the October 3, 2019, MPC meeting minutes as presented. The motion passed unanimously, 6:0.

ADJUSTMENTS TO THE AGENDA/ANNOUNCEMENTS FROM MPC MEMBERS

Mr. Thompson announced that Lane Council of Governments (LCOG) had received funding to operate two rural transit routes; one from Florence to Yachats and another from Eugene to Florence. He said contracts and partnerships were in place and service would begin sometime in February 2020. He said staff was working on marketing and branding the new service which was named LinkLane. The LCOG Board had directed LCOG to undertake the service.

Mr. Sorenson asked that the MPC receive a presentation at a future meeting on the interaction between public health and transportation and the public health benefits of transit and active transportation modes.

Ms. Vinis concurred with the request. Mr. Thompson said a presentation would be scheduled.

COMMENTS FROM THE AUDIENCE

There was no one wishing to speak.

METROPOLITAN PLANNING ORGANIZATION (MPO) ISSUES

Ms. Lundberg arrived at 11:40 a.m.

Central Lane Metropolitan Planning Organization (CLMPO) Certification Review

Ms. Harris explained that the four-year annual certification review of the MPO and Transportation Management Area (TMA) was a prerequisite for receiving federal funding. She said the review was to assure the MPO's planning process met Federal Highway Administration (FHWA) planning requirements and to also provide an opportunity to meet with staff and current policy board members to enhance the current process. She described the scope of the review, which included the Metropolitan Transportation Plan (MTP), Congestion Management Process (CMP), Transportation Improvement Program (TIP), Bylaws and performance-based planning and programming. She identified members of her review team. She said ODOT was also asked for input on topics for review. She described the methodology used and reviewed the timeline, which began in May 2019 and concluded with issuance of a report and certification on October 30, 2019, and presentation to the MPC on December 5, 2019. A follow-up staff meeting would occur on December 12.

Ms. Harris noted that an executive summary had been included in the agenda packet and highlighted its findings and recommendations. She said recommendations were an opportunity for the MPO to improve its processes, but were not compliance-related. Findings were compliance-related and required corrective action. She said the due dates for corrective actions were aligned with the update cycle for each plan. She also reviewed the resolution process for assuring that recommendations and corrective actions were addressed by the MPO. She said the MPO would develop a plan of action to resolve findings, provide responses to the recommendations, establish a certification team and include the certification plan of action within its Unified Planning Work Program (UPWP). Inclusion in the UPWP would assure that sufficient resources were allocated to prioritize the corrective actions. The Oregon Department of Transportation (ODOT) would monitor the progress of the MPO, review documentation and recommend to FHWA that conditions had been met. If FHWA was satisfied a closeout letter would be issued. She commended the MPO's work and the innovative initiatives it had undertaken.

Mr. Sorenson asked what additional steps could be taken with respect to public involvement in the development of the MTP. He said it was difficult to engage the public in transportation planning activities. He said the MPO staff conducted robust community outreach activities and wondered what else could be done to address the issues raised in the certification review. Ms. Harris replied that there was no concern with the conduct of public involvement activities; the findings addressed the need for better documentation of those with respect to the MTP and the TIP. Mr. Thompson added that he felt there was not as much public engagement at the MPO level because in Oregon transportation planning also occurred at the community level, in response to state requirements, closer to the public. He said the FHWA recommended corrective action asked that documentation be included in the plans themselves, not just in the cover memoranda to the MPC.

Mr. Sorenson asked what steps should be taken to address findings related to the CMP. Ms. Harris said the MPO was still missing some components and checklist to guide compliance with regulations was being created for MPOs to follow when developing CMPs.

Ms. Lundberg asked if the staff of local jurisdictions could assist MPO staff in addressing the corrective actions set forth by the FHWA. Mr. Thompson said many of the corrective actions were anticipated as plan updates moved forward and it was helpful to have guidance from the federal perspective. He said local staff could assist by providing documentation about how projects were prioritized by jurisdictions. The

CMP is very technical and the MPO had spent two years updating its transportation modeling capabilities. Input from jurisdictions on strategies to deal with regional congestion issues will be important.

Oregon Transportation Commission (OTC) Annual Workshop

Mr. Thompson said the OTC Annual Workshop is scheduled for December 16-17, 2019, in Lebanon. Chairs of Oregon MPOs, Area Commissions on Transportation (ACTs) and ODOT advisory committees were invited to participate on the second day of the workshop and engage with the OTC on several topics, including a proposal for ACTs to develop area strategies for addressing transportation system needs. He said a set of questions regarding the State Transportation Improvement Program (STIP) had also been issued for responses from MPOs, ACTs and advisory committees. Another set of questions related to the OTC's communications with stakeholders such as MPOs, ACTs and advisory committees, roles of committees and allocation of funds among categories. He announced that Ms. Lundberg would be attending for Ms. Vinis.

Ms. Brindle said workshop attendees would also have an opportunity to meet with the new ODOT director to discuss issues and topics of interest.

Mr. Thompson said the governor had asked ODOT and the Department of Land Conservation and Development (DLCD) to collaborate on reduction of greenhouse gas emissions and climate change goals. Meetings at the director level among ODOT, LCDC, Department of Environmental Quality and Department of Energy were now in progress.

Ms. Vinis asked if that would include increased emphasis on active transportation. Mr. Thompson said that was a topic that could be raised at the OTC workshop.

Ms. Lundberg encouraged committee members to provide input to Mr. Thompson on issues that could be raised at the workshop.

Ms. Brindle said another initiative from the governor was to put more electric vehicles in agencies' fleets, but concerns had been raised by the public that there was insufficient infrastructure to support those vehicles.

Regarding infrastructure for electric vehicles, Mr. Berney said a wind, solar and battery production facility was being developed in Umatilla County. He noted the potential connections among creating jobs, production facilities that addressed climate concerns related to transportation, and generating the state's own infrastructure.

Mr. Sorenson said a challenge with solar energy was transporting it from its source to destinations. He gave examples of how some European countries were addressing transportation issues, particularly multi-modal needs.

Mr. Smith commented undeveloped countries did not have existing infrastructure that impeded creation of infrastructure for new technologies. He noted that Coburg lacked infrastructure necessary to support electric vehicles.

In response to a comment from Ms. Reid, Ms. Brindle said she would research whether funds from the Volkswagen settlement are being used to install vehicle charging stations along Interstate 5 and report back to the MPC.

Ms. Vinis said it would be helpful to inventory and map charging stations in the region. Mr. Yeh said there were applications that could show area station locations, but it would be helpful to have that information on a statewide basis.

Mr. Hurley asked that restoration of competitive grant programs be discussed at the OTC workshop.

Mr. Thompson stated that the OTC would be meeting in Eugene on May 14-15, 2020, and a work plan for the coming year would be established.

Regional Transportation Plan (RTP) Update

Mr. Thompson stated that the RTP was updated every four years and would include an Intelligent Transportation System (ITS) plan update as well. A request for proposals for a consultant team to assist with the work had been issued and one response received. The team consisted of individuals from three firms: DKS Consulting, Jacobs Consulting and Jean Lawson and Associates. He said staff had worked with all three firms in the past and was pleased with the proposal. A final scope of work and contract was being negotiating and he expected the cost to be approximate $500,000 over a two year period. Regular reports would be provided to the MPC and expected work to begin in January or February 2020.

Follow-up and Next Steps

- **ODOT Update—**Ms. Brindle said metro area construction on rebuilding I-105 ramps had been completed and the next phase of the project would begin in February 2020. She expected work would be completed in October. She would provide updates during the project.

- **Springfield Main Street Safety Update—**Mr. Johnston reported that the project team was discussing changes to planning and scheduling based on feedback from the mayor and city council members and there would be adjustments to the presentation of alternatives to the public. He said the project schedule could be extended up to six months. An online open house would be held in February 2020.

- **Rail Update**—None.

- **LaneACT Update**—Mr. Johnston said the LaneACT would meet on December 11 and review the questions posed by the OTC, as well as discuss the ODOT area strategies proposal. He said the LaneACT was one of two ACTs selected to participate in the pilot process.

- **MTIP Administrative Amendments**—There were no questions.

- **Next Steps/Agenda Build**—Mr. Sorenson asked that a presentation on the health implications of different transportation modes at the national and local levels could be scheduled at a future meeting.

The meeting adjourned at 12:35 p.m.

(Transcribed by Lynn Taylor)

January 27, 2020

To: Metropolitan Policy Committee

From: Daniel Callister

Subject: Item 7.a: Amendment to FFY 2018-2021 Metropolitan Transportation Improvement Program (MTIP)

Action Recommended: Conduct public hearing

Issue Statement
Lane County requests an amendment to the MTIP that would re-program Congestion Mitigation and Air Quality (CMAQ) funds from a canceled Lane County project into two existing Lane County projects.

Background
The Metropolitan Policy Committee (MPC) previously approved the use of $1,581,186 of discretionary federal CMAQ funds for Lane County Yolanda Elementary and Briggs Middle Schools Traffic Congestion Mitigation project (STIP Key 21167). The project was canceled in October 2019 due to insufficient projected PM10 emissions benefits for the purposes of FHWA CMAQ monitoring.

Discussion
Lane County proposes to reprogram a portion of the CMAQ funds from the canceled Yolanda project into the following two Lane County projects, both of which have been previously approved by MPC for discretionary funding:

21385 – Gilham Road: Ayers Road to Mirror Pond Way

Description: Design and final construction of pavement, curb, gutter, storm water and sidewalk on Gilham Rd between Ayres Rd and Ashbury Dr, and sidewalk along westerly portion of Gilham Rd between Ashbury Dr and Mirror Pond Wy.

Total Project Est.: $1,309,757.49 (STBG, CMAQ)

- Increase Construction phase estimate by $539,564
- New Total Project Est.: $1,849,321.58

21168 – Howard Elementary & Colin Kelly MS traffic congestion mitigation

Description: Planning and Engineering for RRFB at Maxwell Rd and N Park Ave and for sidewalk infill on east side of N Park Ave between Maxwell Rd and Howard Ave.

Total Project Est.: $589,122.37 (STBG, CMAQ)

- Increase Construction phase estimate by $216,339
- New Total Project Est.: $805,461.37

Public Involvement

At their January 15 meeting, Transportation Planning Committee (TPC) reviewed the proposed amendment and recommended a Public Hearing to be held at February 6 MPC. A 30-day public comment period will be open through February 27, 2020. Action will then be requested at the March MPC meeting.

Action Recommended: Conduct public hearing

January 28, 2020

To: Metropolitan Policy Committee

From: Paul Thompson

Subject: Item 7.d: Update on Statewide Transportation Strategy (STS)

Action Recommended: Information and discussion

Background

On September 23, 2019, Oregon Governor Brown issued a letter to the Oregon Transportation Commission (OTC), the Oregon Department of Transportation (ODOT), the Land Conservation and Development Commission (LCDC), the Department of Land Conservation and Development (DLCD), the Oregon Department of Energy (DOE), the Environmental Quality Commission (EQC), and the Oregon Department of Environmental Quality (DEQ). The letter urges the "Commissions and agencies to combat the impact of climate change by implementing the Statewide Transportation Strategy (STS) as adopted by the Oregon Transportation Commission." Also included in the letter is the Governor's proposal that "a Transportation Planning Rule that directs transportation plans of metropolitan jurisdictions to meet their GHG reduction targets" is implemented.

More recently, following the November meeting of the LCDC, that Commission issued the following statement:

> "We are committed to adopting a Transportation Planning Rule that requires Metropolitan Planning Organizations and their respective local governments to collaboratively and comprehensively develop and implement transportation system plans and land use plans and actions that provide transportation choices and reduces greenhouse gas emissions consistent with LCDC's 2017 updated target requirements."

DLCD stated that the "four-agency workgroup aims to identify and implement actions to cut transportation-related greenhouse gas emissions" (the four agencies are those noted above – ODOT, DLCD, DOE, and DEQ). The statement went on to say "This new four agency effort is not a restart of DLCD's previous 2018 rulemaking on the Transportation Planning Rules. Rather, this multi-agency effort aims to develop an implementation plan for the Statewide Transportation Strategy, including changes to DLCD rules relating to Transportation Planning (Oregon Administrative Rules 660-

012) and Metropolitan Greenhouse Gas Reduction Targets (Oregon Administrative Rules 660-044).

Discussion
Within the past week, staff has learned that at their March 19-20 meeting, LCDC will bring Portland Metro in to share their experiences with their climate smart communities activities. LCDC is also interested in a non-Portland MPO perspective. In particular, they want to hear about other experiences with Scenario Planning and/or Strategic Assessments, hear what is needed in other regions to be able to move forward, and hear input in three identified key policy areas:

- Local vs Regional approach to implementing the STS and GHG reduction measures and actions
- Monitoring and enforcement (essentially, jurisdiction) of MPOs/regions
- Funding

Other specifics to think about include:

- Given that MPOs don't have land use authority, how do we think about regional success in reducing GHG emissions?
- What should, or can, be in the state's Transportation Planning Rule (TPR)?
- What funding is needed for MPOs to accomplish this work?
- What combination of stick and carrot is best?
- What do MPOs need to help work with local communities?

Staff is asking MPC members to engage in discussion and provide initial thoughts. If the MPC is interested in having this region provide input to LCDC in March, staff will work over the next month to develop specific talking points that may be conveyed to LCDC at their next meeting, and return to the March 5, 2020 MPC meeting for further discussion and direction.

Action Recommended: Information and discussion

KATE BROWN
Governor

September 23, 2019

Bob Van Brocklin
Oregon Transportation Commission
Kris Strickler
Oregon Department of Transportation
355 Capitol St. NE
Salem, OR 97301

Jerry Lidz, Robin McArthur
Land Conservation and Development Commission
Jim Rue, Director
Department of Land Conservation & Development
635 Capitol St. NE # 150
Salem, OR 97301

Janine Benner, Director
Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

Kathleen George
Environmental Quality Commission
Richard Whitman, Director
Oregon Department of Environmental Quality
700 NE Multnomah St., Suite #600
Portland, OR 97232-4100

Dear Colleagues,

I urge your Commissions and agencies to combat the impacts of climate change by implementing the Statewide Transportation Strategy (STS) as adopted by the Oregon Transportation Commission.

One of the most cost effective strategies to reduce greenhouse gas (GHG) emissions from the transportation sector in Oregon is to integrate land use and transportation planning in ways that reduce the frequency and distance that people must drive. Compact, mixed-use cities with plenty of options for walking, cycling, and public transit not only reduce per capita GHG emissions but also provide the most equitable transportation access for every resident.

By adopting the STS in 2018, the Oregon Transportation Commission provided the tools that every metropolitan jurisdiction needs in order to develop and implement land use and transportation plans that will reduce GHG emissions from the transportation sector. It is now time for your four agencies to organize an implementation plan for the STS.

Like the Department of Environmental Quality and the Department of Energy, DLCD and ODOT are climate change agencies, and going forward all state and metropolitan transportation planning work needs to be designed to support achieving the state's GHG reduction goals.

254 STATE CAPITOL, SALEM OR 97301-4047 (503) 378-3111 FAX (503) 378-8970
WWW.GOVERNOR.OREGON.GOV

As you begin this work, I would like to propose the following:

- The establishment of GHG emissions reduction performance measures.
- Implementing a Transportation Planning Rule that directs transportation plans of metropolitan jurisdictions to meet their GHG reduction targets.
- That ODOT identifies options for financial and technical assistance to the metropolitan jurisdictions to utilize in crafting transportation/land use scenario plan(s) that meets their GHG reduction target.
- That responsibility for the implementation and integration of the STS be at the highest level of the agency, with regular and direct reporting to the Governor's Office and respective commissions.

Please be assured that the Governor's office will be closely involved in this effort. I welcome your feedback and appreciate the enthusiasm you and the agencies you oversee have expressed to begin this work. Now is the time.

Sincerely,

Kate Brown

Governor Kate Brown

KB, bf, ejhr

cc: Karmen Fore, Director, Oregon Solutions

MTIP Amendments
Transportation Planning Committee
January 15, 2020

I. Reprogram CMAQ to Existing Projects (**Key# 21167, 21385, 21168**; Lane County) *requested 1/3/20*
Action requested – Recommendation to MPC for public hearing

Lane County - Yolanda Elem and Briggs MS traffic congestion mitigation (21167)
Complete missing sidewalks, bike lanes and critical connections on Yolanda Ave, 23rd St and 31st Ave (Lane County & City of Springfield)

- CMAQ-funded project canceled in 2019
- CMAQ funds to be reprogrammed into two existing Lane County CMAQ projects

Lane County – Gilham Road: Ayers Road to Mirror Pond Way (21385)
Design and final construction of pavement, curb, butter, storm water and sidewalk on Gilham Rd between Ayres Rd and Ashbury Dr, and sidewalk along westerly portion of Gilham Rd between Ashbury Dr and Mirror Pond Wy.

- Add $539,564 CMAQ to 2021 CN phase
- Amended CN phase total: $1,273,166

Lane County – Howard Elementary & Colin Kelly MS traffic congestion mitig (21168)
Planning and Engineering for RRFB at Maxwell Rd and N Park Ave and for sidewalk infill on east side of N Park Ave between Maxwell Rd and Howard Ave (Lane County & City of Eugene)

- Add $216,339 CMAQ to 2021 CN phase
- Amended CN phase total: $598,339

II. Slips Resulting from 2020 Obligation Review (**20294, 21164**; Eugene)
Action requested – TPC approval

Eugene - Coburg Rd - Ferry St RR Br and Willamette R Br (20294)
Bridge #06648: Cleaning, preparation and spot paint; concrete overlay and other repairs per inspection report. Bridge #40056: Deck sealing, crack repairs to girder top/deck interface, epoxy injection cracks, repair spalling. Perform seismic analysis and preliminary design for seismic strengthening on bridges #06648, 40056 and 07214A.

- Slip CN phase from 2020 to 2021

Eugene – High Street protected bikeway (21164)
Two-way protected bike lane with painted buffers on west side of High Street between 19th and 6th Ave includes dedicated bicycle signals at 18th, 13th, 11th, 10th, 8th, 7th, 6th Avenues, and Broadway.

- Slip CN phase from 2020 to 2021

III. Move funds within Project (**Key# 20504**; ODOT) *requested 12/19/19*
Action requested – TPC approval

ODOT - OR58: Goshen -Pheasant Lane (20504)
Grind existing surfacing and inlay the travel lanes. (Single Lift Inlay + Localized Asphalt/Concrete Pavement Repair) Update ADA as required.

- Reduce 2020 CN phase estimate by $150,000 (NHPP)
- Increase PE phase by $150,000 (NHPP)

IV. Slip CN Phase (**Key# 21378**; Eugene) *requested 1/10/20*
Action requested – TPC approval

Eugene – 8th Avenue streetscape and bikeway (21378)
Reconstruct roadway, move curbs, widen sidewalks, install protected bike lanes relocate street tree zone, convert 8th Ave to two-way street.

- Slip 2020 CN phase to 2021
- Extend project limits west from Willamette Street to Lincoln Street.

Informational

At the November TPC meeting an amendment was approved to use $867,048.33 FTA 5339 savings from LTD Bus Replacement Program (20951) to add to an existing project to replace older EmX buses (21339). Shortly afterwards LTD received an updated estimate which resulted in the need to increase the amount of FTA 5339 savings to be used by another $136,738.67. Given the urgency of the need, the fund source, and the spirit of the November TPC approval, the original figure has been adjusted in the STIP amendment to reflect the updated estimate.

M I N U T E S

Metropolitan Cable Commission
Eugene Public Library—Bascom/Tykeson Room—100 West 10th Avenue
Eugene, Oregon

December 5, 2019
12:40 p.m.

PRESENT: Lucy Vinis, Chair; (City of Eugene); Joe Berney, Pete Sorenson (Lane County); Christine Lundberg (City of Springfield)

Anne Davies (Lane Council of Governments); Pam Berrian (City of Eugene); Tim Goodman (Comcast).

WELCOME AND INTRODUCTIONS

Ms. Vinis welcomed everyone to the Metropolitan Cable Commission meeting. Those in attendance introduced themselves.

CALL TO ORDER

Ms. Vinis called the meeting to order.

APPROVAL OF MINUTES

Ms. Lundberg, seconded by Mr. Sorenson, moved to approve the July 5, 2018; October 4, 2018; June 6, 2019 and October 3, 2019, minutes as presented.

Mr. Sorenson clarified that the 2018 meeting were attended by Commissioners Leiken and Farr rather than Mr. Berney and himself and he had determined that the minutes were accurate.

The motion passed, 4:0.

METROPOLITAN CABLE COMMISSION

Update on Federal Communications Commission (FCC) Third Report and Order (In-Kind Fee Offset)

Ms. Davies summarized that on November 25 the National Association of Telecommunication Officers and Agents (NATOA) joined a motion in federal court to stay the FCC order. She said her memorandum of November 22, 2019, provided an update on the FCC's denial of a request made to the agency to stay the order. She said a draft letter from the commission to Lane County's congressional delegation was included in the agenda packet and the language had been updated to reflect current actions. She noted that the last sentence in the third paragraph was incomplete and proposed adding …*decision to adhere to the FCC order would be detrimental to the municipalities* to the end of the sentence.

Mr. Sorenson, seconded by Ms. Lundberg, move to send the letter to Representative DeFazio, Senator Ron Wyden and Representative Merkley, with the changes noted by Ms. Davies. The motion passed, 4:0.

The meeting adjourned at 12:50 p.m.

(Recorded by Lynn Taylor)

January 27, 2020

To: Metropolitan Cable Television Commission

From: Anne Davies, Lane Council of Governments

Subject: MPC 8.b Update on FCC Third Report and Order (In-Kind Franchise Fee Offset)

I. The FCC Order Update

The FCC's In-Kind Order became effective September 26, 2019. The Order, however, did not make it clear how the Order would be implemented. For instance, it was not clear whether the cable companies were expected to reach out to the local franchising authorities (LFA) to negotiate how in-kind payments, like provision of gratis cable TV programming services to government buildings and schools, would be valued, or how or when LFAs could decide that, considering that they would need to pay for the services, they no longer desired to receive them.

A. Associated Litigation

Organizations representing local government, NLC (National League of Cities), NATOA (National Association of Telecommunications Officers and Agents), and others challenged the Order in federal court. They also filed a request with the FCC that the effectiveness of the Order be stayed pending the resolution of the litigation. On November 6, 2019, the Media Bureau of the FCC denied the stay request.[1] However, in explaining why a stay was not warranted, i.e., why the LFAs would not be irreparably harmed if the stay was not granted, the Media Bureau interpreted the original Order to require cable companies to reach out to LFAs to negotiate terms. *See* Stay Order, para. 21. The industry has requested clarification of that language in the stay order. The FCC has not yet ruled on the clarification request.

The NLC also filed a request for stay in federal court (6th Circuit Court of Appeals). The FCC and industry representatives opposed the request. Briefing in federal court is expected to continue through the spring of 2020, and a final ruling is not likely to be issued until 2021.

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[1] You can find the stay denial order here: https://docs.fcc.gov/public/attachments/DA-19-1149A1.pdf

B. Associated Legislation

Senator Ed Markey (D-Mass.) and Representative Anna Eshoo (D-Calif.) recently introduced two pieces of legislation that aim to overturn the Order by redefining franchise fees to include only financial payments, and excluding gratis in-kind services. S. 3218 and H.R. 5659.[2] Four Oregon Congressional members have signed on as co-sponsors. These bills are not the same bills the Cable Commission addressed in recent letters sent to Representative DeFazio and Senators Wyden and Merkley. These newer bills are more directly aimed at the FCC Cable In-Kind Order.

II. Status of the Eugene, Springfield, and Lane County Comcast Cable Franchise Renewal

The current franchise is due to expire in June of this year. The current expiration date was set last year, when it became clear that the parties were struggling to come to agreement on Comcast's proposed Competitive Equity provisions and the speculation was increasing that the FCC would issue an Order addressing gratis services

Based on the uncertainly surrounding the FCC Order, the anticipated timeframe for final resolution of the litigation challenging the Order, and the potential impact of the litigation on franchise negotiations, staff recommend an extension of the franchise for an additional two years. This would make the expiration date June 30, 2021. Staff presented this option to Comcast, but has not yet heard back. If Comcast agrees, each jurisdiction would separately process an Extension Ordinance.

Attachments:

1. BB&K Newsletter: "Top Telecommunications Issues of 2020"
2. Press Release re "Protecting Community Television Act"

[2] Copies of the legislation can be found at https://www.congress.gov/bill/116th-congress/senate-bill/3218/text and https://www.congress.gov/bill/116th-congress/house-bill/5659

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

Top Telecommunications Issues of 2020

Threats to Local Rights

Local governments are advocating in many venues to preserve their sovereignty and property rights. Both individually, and as part of the U.S. Conference of Mayors, National League of Cities, National Association of Counties and National Association of Telecommunications Officers and Advisors, they seek to retain the right to establish the terms, location and design rules for siting wireless devices in the rights of way. These efforts are under way simultaneously in the courts, at the Federal Communications Commission, in Congress and before state legislatures. Finally, municipal leaders must be aware of "Buy One, Get One Free" laws at the state level. First adopted in Texas, the law excuses a telephone and cable service provider from paying the less expensive of the company's telecommunication right of way fees or cable franchise fees.

Challenge the FCC's Small Cell Orders and Support for H.R. 530 and S 2012 — Legislation to Reverse those Orders

In 2018, the FCC adopted a new "industry-friendly" legal standard for what constitutes a prohibition, or effective prohibition, of services under sections 253(a) and 332(c)(7). It established new rules to restrict local permitting, accelerate decision timelines and cap fees for attachments and use of rights of way for small cells at an approximation of a locality's costs – well below market value. Almost 100 local governments and local government organizations, including NLC, USCM and NATOA formed a coalition to challenge the small cell order. Litigation is pending before the U.S. Ninth Circuit Court of Appeals, where oral argument will take place on Feb. 10, 2020. Legislation (H.R. 530/S. 2012) to overturn the FCC's small cell order was introduced in Congress by Rep. Anna Eshoo (D-Calif.) Sen. Dianne Feinstein (D-Calif.). Local government must support these efforts.

What Local Government Leaders Need To Do:

1. Request that your congressional delegation co-sponsor H.R. 530 and S. 2012.
2. Support the appeal of these new FCC rules to ensure you retain the right to manage the look and feel of your community and obtain fair compensation for use of your assets.
3. Work with your community to develop a proactive approach to planning for wireless entry into the rights of way and adopt aesthetics, undergrounding, spacing and other desired requirements. Review your ordinances and processes to ensure they meet the new rules and shorter shot clocks.

Local Governments are Challenging the FCC's Order Granting a Cable Operator the Right to Reduce their Franchise Fees By Hundreds of Millions of Dollars

On Aug. 2, 2019, the FCC adopted an order that empowers a cable operator to reduce its franchise fees in an amount equivalent to the market value of non-financial franchise obligations, such as: cable services to government buildings and schools, discounts for seniors, veterans and poor families and other obligations. Estimated losses are in the 10s of millions of dollars. In addition, the FCC has stated that it will review, within the year, the ability of a cable operator to reduce cable franchise fees by the fair market value of channel capacity dedicated to the carriage of Public, Education and Government channels. This could costs local governments hundreds of millions in franchise fees. Legislation to overturn the FCC's order by redefining franchise fees to include only financial payments was introduced by Sen. Ed Markey (D-Mass.) and Rep. Anna Eshoo (D-Calif.) (S. 3218/H.R. 5659).

What Local Government Leaders Need To Do:

- Request that your Congressional delegation co-sponsor H.R. 5659 and S. 3218.

Join the Local Government Coalition to Fight the FCC's Proposal to Expand OTARD Rules to Hub and Relay Antennas (Cell Sites)

The FCC released a Notice of Proposed Rulemaking proposing to expand the Over-the-Air Reception Devices rules to cover hub and relay antennas, the equivalent of small cell towers outside of the rights of way. While Congress intended for the OTARD rule to protect consumers' rights to install satellite dishes, the FCC is now seeking to expand the rule to bar localities' zoning authority over equipment that 5G providers will use to transmit signals. The OTARD rules expansion from consumer equipment to network elements flies in the face of Congress' stated intent, and also may permit 5G providers to install their antennas without notifying – let alone complying with – local requirements. Local governments must make their concerns heard at the FCC.

What Local Government Leaders Need To Do:

- While comments and reply comments have been filed, additional support and visits to the FCC to oppose this proposal are needed.

Protect Local Governments' Rights to Manage and Obtain Fair Compensation for Use of the Rights of Way

As rights of way become ever more valuable for locating wireline and wireless communications infrastructure, localities face ever-increasing assaults at the state and federal levels to limit local control over, and charges for use of, the rights of way. Such efforts accelerate as legislatures and regulators push to promote 5G infrastructure deployment to support the Internet of Things, including autonomous and connected vehicles. This threat has reappeared in Congress with reintroduction of the Thune-Schatz STREAMLINE Act (S 1699).

There is a new threat on the horizon. Texas this year enacted the first of what has been called the "Pay Me Half" or "Buy One, Get One Free" bills. In Texas, if a company is both a phone and cable company, they soon will only have to pay the larger of the two rental rates. Texas was the first state to pass a state franchise law and the first to pass a state small cell bill. We can similarly expect to see "Pay Me Half" bills in other states.

What Local Government Leaders Need To Do:

1. Understand these threats, and the false narrative upon which they are based, to best position your community to protect its interests. Share with your federal and state elected officials your position, including the successes you have achieved in bringing broadband to your residents. Call upon your state and national associations to champion your cause.
2. Inform your congressional delegation that you oppose S. 1699. Engage in the policymaking process early and often, and join with other local governments in resisting these efforts to demonize local government and indirectly subsidize the broadband industry at the expense of local communities, without regard for local challenges.

Preserve the Option of Municipal Broadband, Public-Private Partnership and New Approaches for Networks

Municipalities throughout the country are searching for the best way to ensure that their communities are served by advanced networks that offer high-speed Internet at reasonable prices.

What Local Government Leaders Need To Do:

- Encourage your community to actively engage in broadband planning and identify the best approach for your community to speed broadband deployment, consistent with legal limits on your own local authority.

Please contact one of the following BB&K Telecommunications attorneys if you'd like more detail on how your community can address these threats. To learn more, visit bbk.law.com/Telecom2020.

Gerard Lavery Lederer (202) 664-4621 **gerard.lederer@bbklaw.com**	Joseph Van Eaton (202) 486-0770 **joseph.vaneaton@bbklaw.com**
Gail Karish (213) 605-1603 **gail.karish@bbklaw.com**	Harriet Steiner (916) 551-2821 **harriet.steiner@bbklaw.com**
Joshua Nelson (916) 551-2859 **joshua.nelson@bbklaw.com**	Rebecca Andrews (404) 273-3418 **rebecca.andrews@bbklaw.com**
John Gasparini (202) 897-7384 **john.gasparini@bbklaw.com**	Andrew McCardle (213) 787-2543 **andrew.mccardle@bbklaw.com**
Mark DeSantis (202) 370-5327 **mark.desantis@bbklaw.com**	Bennett Givens (213) 617-7497 **bennett.givens@bbklaw.com**

In addition, Best Best & Krieger attorneys represent local governments on a myriad of municipal issues including, but not limited to: water, education, labor and bond issues. Please visit www.bbklaw.com for more information.

FOR IMMEDIATE RELEASE

Contact: Giselle Barry (Markey) 202-224-2742

Senator Markey and Rep. Eshoo Introduce Legislation to Protect Community Television

Washington (January 21, 2020) – Senator Edward J. Markey (D-Mass.), a member of the Senate Commerce, Science and Transportation Committee, and Rep. Anna G. Eshoo (CA-18), senior member of the House Energy and Commerce Committee, today introduced the Protecting Community Television Act, legislation to ensure that community television operations continue to receive the resources they need to educate and inform viewers in the cities and towns where they operate.

Currently, local governments are permitted to require as part of cable franchise agreements that cable companies meet demonstrated community needs by providing in-kind contributions that benefit schools, public safety buildings, and public, educational, and government (PEG) channels, also known as community television stations. However, in August, 2019, the FCC voted to permit cable companies to assign a value to these contributions and then subtract that amount from the franchise fees the cable operator pays the local community. As a result, local governments will have to decide between supporting PEG stations in cable franchise agreements and supporting other important services for critical community institutions like schools and libraries.

"In the current era of media globalization and consolidation, it is more important than ever that we stand up for the platforms that lift up small and local voices," said Senator Markey. "Across the county, community television studios catalyze civic engagement and provide Americans with news and information they need. The need for media by communities for communities is only increasing. I'm proud to partner with Congresswoman Eshoo and so many of my colleagues in the Senate on this important legislation."

"Community television is a critical part of our society, giving a voice to nonprofits, artists, and other community members who otherwise struggle to be heard," said Rep. Eshoo. "The FCC's attempt to gut these important voices is shameful, and I'm proud to introduce legislation with Senator Markey that will protect community television and ensure local voices can be heard."

A copy of the legislation can be found at https://www.markey.senate.gov/download/protecting-community-television-act-2020.

The Protecting Community Television Act clarifies that the franchise fees that cable companies provide local governments only include monetary assessments, not in-kind contributions. Senators Tammy Baldwin (D-Wisc.), Tina Smith (D-Minn.), Ben Cardin (D-Md.), Chris Van Hollen (D-Md), Bernie Sanders (I-Vt.), Chris Murphy (D-Conn.), Maggie Hassan (D-N.H.), Jeff Merkley (D-Ore.), Jeanne Shaheen (D-N.H.), Richard Blumenthal (D-Conn.), Ron Wyden (D-Ore.), Kirsten Gillibrand (D-N.Y.), Marie Hirono (D-Hawaii), Elizabeth Warren (D-Mass.), and Amy Klobuchar (D-Minn.) have co-sponsored the new legislation.

Endorsers of the legislation include National Association of Counties, National League of Cities, United States Conference of Mayors, National Association of Telecommunications Officers and Advisors, Alliance for Community Media, MassAccess, TeleCommUnity, and Texas Municipal League.

"As advocates for community media across Massachusetts, MassAccess is proud to announce its support for the bill known as the Protecting Community Television Act," said David Gauthier, President, MassAccess. "I thank Sen. Ed Markey and Rep. Anna Eshoo for leading this important legislation, which corrects what we see as an erroneous ruling made last year at the Federal Communications Commission relative to cable franchise fees. The FCC's action was a gift to the cable industry, and this bill would reestablish the protocol that had been agreed to for decades prior."

"Ensuring that communities across the country have the resources to meet the communications needs of Americans lies at the heart of the Telecomm Act," said Mike Wassenaar, President & CEO, The Alliance for Community Media. "At a time when local newspapers and newsrooms are diminished, and local media jobs are being lost, community television stations in America are trying to fill a critical gap in local journalism and civic information. Congress should be stepping up to make certain that local community television stations are not shuttered and that local media jobs are preserved. The Alliance for Community Media thanks Senator Markey and Representative Eshoo for their leadership on this issue."

In July 2019, Senator Markey led 15 of his colleagues urging the FCC to protect PEG stations. In February, Rep. Eshoo wrote to the FCC opposing its proposal to reduce access to community television.

There are more than 1,500 public, educational, and governmental studios/operations and an estimated 3,000 PEG channels in America. Religious programming represents 30 percent of local access programming. Tens of thousands of hours of programming is produced by veterans, seniors, the disabled and ethnic, minority and second language groups.