

TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: ADMINISTRATIVE SERVICES

DATE: JULY 30, 2007 CMR: 324:07

SUBJECT: STATUS OF AT&T'S PROJECT LIGHTSPEED INITIATIVE IN PALO ALTO

This is an informational report and no Council action is required.

BACKGROUND

In September 2006, the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) was signed into law. This new law changed the franchising and regulatory structure for the provision of cable television services in California. Under DIVCA, video service franchises are granted exclusively by the California Public Utilities Commission (Commission) rather than by local franchising entities. On March 30, 2007, the Commission issued a California Video Franchise to AT&T. DIVCA requires AT&T to notify the City prior to offering video service. On March 30, 2007, AT&T notified Palo Alto that it plans to offer television service to Palo Alto residents no sooner than 10 days from the date of its notification.

DISCUSSION

AT&T, as part of its Project Lightspeed Initiative, plans to make a significant investment in its California network to provide customers with new Internet protocol or IP-based services. AT&T's Project Lightspeed Initiative involves extending its existing fiber optic network deeper into neighborhoods, closer to customer homes. This will involve placing new above-ground utility cabinets in the public rights-of-way and connecting them to existing Serving Area Interface (SAI) cabinets using underground conduit. AT&T's new cabinets will provide fiber optic capability for neighborhoods of approximately 200 to 500 homes and will connect to its existing copper distribution network. SAIs serve as the connection point for copper distribution lines into customer homes. In some cases, the existing SAI will need to be upgraded.

When AT&T's Project Lightspeed Initiative is complete, it will be positioned to offer Palo Alto residents a broad new suite of integrated, advanced services. AT&T plans to offer "U-verse TV", voice and high-speed Internet access services. In addition to making faster high speed Internet service available, Lightspeed will provide customers with the ability to manipulate and share data and messages over various IP-based devices. For example, customers will have the option of having their voicemail, email and faxes delivered to one electronic mailbox and will be able to access and review those messages from an IP-enabled device in either a voice or text format. AT&T anticipates rolling out service to Palo Alto residents in early 2008.

AT&T Utility Cabinets

New above-ground utility cabinetry is a necessary component of AT&T's network upgrade. These cabinets are approximately four feet tall by four feet wide by two feet deep. AT&T plans to install 50 to 60 of these cabinets in Palo Alto.

AT&T has told the City that these cabinets are best installed above ground. This is because AT&T's Lightspeed technology consists of high-speed electronic circuitry needed to light the fiber-optics and convert the fiber signal to a bandwidth that can be transmitted over copper to residences. If this electronic circuitry were to be placed underground, it would need to be in a controlled environment free from moisture and excessive temperatures. It would also have to be placed in a vault large enough for access by technicians for routine maintenance and repair. The vault would need lighting, ventilation, cooling, waterproofing, backup power, and emergency water pumping. Because of these factors, AT&T indicates that it is not feasible to place cabinets underground. In addition, there is not enough room in many residential public rights-of-way for large underground vaults.

In accordance with the Palo Alto Municipal Code, AT&T's new utility cabinets are subject to architectural and street work permit review and approval. In processing AT&T's architectural review applications, staff has required review by a landscape architectural consultant and the Public Works Managing Arborist. The purpose of this review is to ensure that each proposed cabinet is placed in a location with the least impact on the street trees and visual quality of the neighborhood. This review may result in changes to the placement of cabinets and the use of organic vegetation to visually screen cabinets.

To date, AT&T has submitted three batches of architectural review applications for a total of 37 cabinets (9 in the first batch, 7 in the second and 21 in the third). Of these, 35 have received staff level architectural review approval. As part of the conditions of approval, AT&T must provide notice to the neighbors immediately adjacent and directly across the street from the proposed cabinet location. More recently, staff has begun to provide courtesy notices to a wider distribution of neighbors regarding the proposed cabinet location. As part of the noticing process, residents have opposed two cabinet locations. As a result, AT&T withdrew those two cabinet locations.

Only one AT&T cabinet has been installed to date. This cabinet is located in the Downtown Library frontage on Bryant Street. Six cabinets have received street work permit approval and will be installed in the next four to six months; the remaining cabinets are awaiting street work permit approval.

Carriage of Public, Educational and Government (PEG) Channels

DIVCA requires AT&T to carry Palo Alto's seven PEG channels on its system. DIVCA also has certain requirements related to channel placement and signal quality. In May 2007, the City began to make arrangements with AT&T for the activation of these channels. During this process, the City found that AT&T's PEG plan may be in violation of DIVCA, as follows:

- PEG channel number and placement concerns: DIVCA requires that PEG channels not be separated numerically from other basic channels and that they be assigned the same channel numbers as Comcast (channel numbers 26, 27, 28, 29, 30, 75 and 76.) AT&T's plan does not

satisfy this requirement. Under the AT&T plan, subscribers will access PEG channels from one channel location (channel number 99). A subscriber then must pass through several screens before getting to a list of PEG channels, making it difficult for subscribers to find these channels on the AT&T system. Since the City has spent a significant amount of time and money to brand and market its current PEG channel numbers, staff is concerned that AT&T's plan will not fulfill its DIVCA obligations in this area.

- PEG signal quality concerns: DIVCA requires that PEG channels be of similar picture and sound quality as the commercial channels carried by AT&T. AT&T has told the City that its PEG plan results in inferior PEG signal quality in comparison with other commercial video channels on its system. In addition, AT&T has stated that it only supports a picture resolution of 320x240, which represents less than one-fourth of the original picture resolution. The City is concerned that AT&T's PEG plan will result in a PEG signal that is noticeably inferior to other video channels on the AT&T system.

At a meeting with AT&T on May 29, 2007, AT&T told the City that its compliance with these DIVCA requirements is not technically feasible. On June 13, 2007, the City documented its concerns and asked AT&T to provide a detailed explanation of why its compliance is not technically feasible (Attachment A). To date, AT&T has not responded to these alleged violations or taken any steps to address the City's concerns. If AT&T is not willing to correct these problems, the City may be forced to consider legal action.

RESOURCE IMPACT

In 2006, Palo Alto received approximately \$581,000 in franchise fees and \$316,000 in PEG fees from Comcast Corporation. Staff anticipates that a portion of these fees will be paid by AT&T in the future as it gains market share from the incumbent cable provider.

POLICY IMPLICATIONS

The AT&T franchise will bring cable service competition to Palo Alto and give community members a new choice in cable providers.

ENVIRONMENTAL REVIEW

The Director of Planning and Community Environment has determined that the three batches of AT&T Project Lightspeed utility cabinets submitted to date are categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3. This Section exempts certain projects from CEQA that consist of installation of small new equipment and facilities in small structures.

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ATTACHMENTS:

Attachment A: June 13, 2007 Letter to AT&T