

Resolution No.:	<u>19-480</u>
Introduced:	<u>May 21, 2020</u>
Adopted:	<u>May 21, 2020</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of the FY 2021 Cable Communications Plan

Background

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

General Provisions

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

In FY 2021, these resources must be deposited by the County in its Cable TV Special Revenue Fund, and this Cable Communications Plan directs the use of the revenues in this Fund.
2. Spending Authority under the Time Period Governed by This Plan: This Cable Communications Plan provides spending authority for FY 2021. Resources appropriated in FY 2021 that are not encumbered by the County on or before June 30, 2021 must remain in the Cable TV Special Revenue Fund and be available for spending in future years.
3. Carryover: Resources provided to the County as a result of the requirements of the Franchise Agreements with Comcast, Starpower (doing business as RCN), and Verizon, but not specifically allocated in the Cable Communications Plan to the General Fund, must remain in the Cable TV Special Revenue Fund and be available to be allocated in future years.
4. Future Fiscal Years: No estimate shown for any fiscal year after FY 2021 reflects any commitment or decision by the Council, and any such estimate should not be taken as prejudging any decision regarding activities or allocations, either in absolute or relative amounts, of expenditures for future years.
5. Management of Funds: All equipment, personnel, and other resources approved in the Cable Communications Plan for funding from the Cable TV Special Revenue Fund must be managed so that the resources are reasonably available to all users of the cable system and provide benefits to the subscribing public and the franchisee.
6. Affirmative Action and MFD Procurement Procedures: The Board of Directors of Montgomery Community Television, Inc. (MCT), doing business as Montgomery Community Media (MCM), must adopt and follow an Affirmative Action Plan and procedures for procurements from minority-, female-, and disabled-owned businesses (MFD) that take into account both the requirements of the Franchise Agreements with Comcast, Starpower (doing business as RCN), and Verizon and relevant provisions of the County Code.
7. Financial Disclosure: The County must not spend any FY 2021 funds allocated to MCT until all members of the Board of Directors and the Executive Director of MCT have filed a financial disclosure statement with the Ethics Commission for the 2019 calendar year.
8. Future Cable Plan strategy: The Executive must submit to the Government Operations and Fiscal Policy Committee a Public Education Government (PEG) Governance Board Strategic Plan that will frame FY22 budget allocations no later than January 15, 2021.

9. Reporting Requirements: The Executive must submit a separate quarterly fiscal report to the County Council detailing revenues received by source for the Cable Plan and the levels of the Cable Fund Balance no later than 60 days after the end of each quarter.

FY 2021 Cable Communications Plan Description

The FY 2021 Cable Communications Plan provides funding for cable franchise administration (Department of Technology Services, County Attorney's Office, and outside professional services); for municipal equipment and support; for public, educational, and government access programming (Office of Public Information, Council, Montgomery College, Montgomery County Public Schools, and Montgomery Community Television, Inc.); for the Interagency Technology Fund (ITF); and for other miscellaneous cable-related activities.

The attached table details the approved expenditures from the Cable TV Special Revenue Fund for the following purposes in FY 2021:

Franchise Administration

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

Municipal Support

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

to the extent that the Participating Municipalities meet all applicable matching-fund requirements in the Settlement Agreement.

County Government Access Programming

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

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

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

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

Educational Access Programming

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

Public Access Programming

- I. Funds are allocated for Montgomery Community Television, Inc., to perform services in FY 2021 specified in its contract with the County, including the following:
- (1) produce and schedule two public access channels, including disseminating information on the daily program schedule;
 - (2) train community producers and technicians in program production and assist residents and community organizations in developing locally produced or locally sponsored programming;
 - (3) provide and maintain a central access studio, field production equipment, and editing facilities for use by community producers in program production;
 - (4) maintain all video equipment provided to MCT or purchased by MCT with cable company or County funds;
 - (5) produce local interest and public affairs programming;
 - (6) promote and encourage programming representing a diversity of community interests and needs; and
 - (7) perform outreach and create programming in the down-county area.

PEG Network

- J. For FY 2021, funds are allocated for PEG equipment replacement, for joint PEG programming/promotion, PEG network engineering and administration, closed captioning of select PEG programming, and for PEG programming to provide access to cable by community organizations.

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

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

Before the PEG Governance Board may spend funds allocated for PEG joint Programming/Promotion, the Governance Board must report its Work Plan for FY2021 to the Council and the Executive.

Institutional Telecommunications

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

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

Support of the Interagency Technology Fund (ITF)

- L. In FY 2021, the Interagency Technology Fund will not receive any funding to support priority projects as approved by the ITPCC.

Action

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

The Council approves the attached Cable Communications Plan as described in this resolution and appropriates cable communications grant resources and settlement funds as provided in the Cable Communications Plan and this resolution and any amendments to either that the Council adopts for FY 2021.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council

FY21 APPROVED CABLE COMMUNICATIONS PLAN (in \$000's)

	ACT FY19	APP FY20	Est FY20	REC FY21	Proj. FY22	Proj. FY23	Proj. FY24	Proj. FY25	Proj. FY26	
1	BEGINNING FUND BALANCE									
	443	90	346	1,064	1,080	754	(457)	(2,782)	(6,233)	
2	REVENUES									
3	Franchise Fees	16,661	16,235	15,980	15,185	14,570	13,868	13,169	12,470	12,284
4	Gaithersburg PEG Contribution	78	144	-	-	-	-	-	-	-
5	PEG Operating Grant	3,854	3,848	3,705	3,489	3,793	3,786	3,784	3,782	3,782
6	PEG Capital Grant	6,182	5,932	5,882	5,622	5,662	5,526	5,391	5,255	5,255
7	Interest Earned	251	263	210	159	153	153	153	153	153
8	TFCG Application Review Fees	160	150	125	250	350	350	300	300	250
9	Miscellaneous	-	-	-	-	-	-	-	-	-
10	TOTAL ANNUAL REVENUES	27,186	26,572	25,903	24,706	24,528	23,683	22,797	21,960	21,724
11	TOTAL RESOURCES-CABLE FUND	27,629	26,662	26,248	25,769	25,608	24,438	22,340	19,178	15,491
12	EXPENDITURE OF RESTRICTED FUNDS									
13	A. EXPENDITURE OF RESTRICTED CAPITAL FUNDS									
14	Municipal Capital Support									
15	Rockville Equipment	863	847	840	847	368	359	350	342	342
16	Takoma Park Equipment	205	198	196	198	189	184	180	175	175
17	Municipal League Equipment	205	198	196	198	189	184	180	175	175
18	MUNICIPAL PEG/INET CAPITAL SUBTOTAL	1,273	1,243	1,232	1,243	745	727	709	692	692
19	PEG Network Capital Grant	737	759	759	759	759	759	759	759	759
20	NON-CIP PEG CAPITAL SUBTOTAL	737	759	759	759	759	759	759	759	759
21	ultraMontgomery - CIP	680	680	680	680	680	680	680	680	680
22	FiberNet - CIP	3,840	3,750	3,750	3,081	3,496	3,496	3,496	3,496	3,496
23	CIP EXPENDITURE SUBTOTAL	4,520	4,430	4,430	3,761	4,176	4,176	4,176	4,176	4,176
24	CAPITAL SUBTOTAL (Must be > or = to Line 6)	6,530	6,431	6,421	5,763	5,680	5,662	5,644	5,627	5,627
25	B. EXPENDITURE OF RESTRICTED MUNICIPAL FUNDS									
26	Municipal Franchise Fee Distribution									
27	City of Rockville	753	739	718	739	665	633	601	569	561
28	City of Takoma Park	231	227	224	227	204	194	184	175	172
29	Other Municipalities	257	250	245	250	220	210	199	189	186
30	SUBTOTAL	1,241	1,216	1,187	1,216	1,089	1,037	984	932	918
31	Municipal Operating Support									
32	Rockville PEG Support	260	250	250	250	247	246	246	246	246
33	Takoma Park PEG Support	441	428	412	428	421	421	420	420	420
34	Muni. League PEG Support	441	428	412	428	421	421	420	420	420
35	SUBTOTAL	1,142	1,105	1,074	1,105	1,089	1,087	1,087	1,086	1,086
36	SUBTOTAL	2,383	2,321	2,260	2,321	2,179	2,124	2,071	2,019	2,005
37	TOTAL EXPENDITURES OF RESTRICTED FUNDS	8,913	8,753	8,681	8,083	7,859	7,787	7,716	7,646	7,632
38	NET TOTAL ANNUAL REVENUES	18,273	17,819	17,221	16,622	16,669	15,897	15,081	14,314	14,092
39	NET TOTAL RESOURCES-CABLE FUND	18,717	17,909	17,567	17,686	17,749	16,651	14,624	11,532	7,859
40	EXPENDITURES OF NON-RESTRICTED FUNDS									
41	OFFICE BROADBAND PROGRAMS									
42	C. OBP FIBERNET OPERATING									
43	FiberNet - DTS Personnel Charges	547	609	970	1,115	1,148	1,183	1,218	1,255	1,293
44	FiberNet - DTS Operations & Maintenance	1,331	1,374	1,374	1,391	1,391	1,391	1,391	1,391	1,391
45	FiberNet - DTS Network Operations Center	560	910	910	910	910	910	910	910	910
46	FiberNet - DOT Personnel Charges	122	109	110	99	115	119	122	126	130
47	FiberNet - DOT Operations & Maintenance	316	291	290	291	291	291	291	291	291
48	FiberNet - DOT Miss Utility	622	489	489	488	488	488	488	488	488
49	SUBTOTAL	3,499	3,782	4,142	4,294	4,344	4,382	4,421	4,461	4,503
50	D. OBP COMMUNITY TECHNOLOGY									
51	TFCG Application Review	177	230	195	230	350	350	300	300	250
52	B. FRANCHISE ADMINISTRATION									
53	Personnel Costs - Charges for County Atty	122	121	120	114	118	121	125	128	132
54	Personnel Costs - OBP Community Technology	960	1,098	699	748	771	794	818	842	868
55	Operating	116	68	68	144	144	144	144	144	144
	Engineering & Inspection Services	177	78	78	-	-	-	-	-	-
56	Legal and Professional Services	185	475	475	475	475	250	250	250	250
57	SUBTOTAL	1,737	2,070	1,634	1,712	1,858	1,660	1,637	1,665	1,644
58	E. OBP DIGITAL EQUITY									
59	Personnel Costs			211	200	206	212	219	225	232
60	Youth and Arts Community Media			100	100	100	100	100	100	100
61	SUBTOTAL	-	-	311	300	306	312	319	325	332
62	F. OBP COMMUNITY ENGAGEMENT									
63	Personnel Costs	835	882	668	546	562	579	597	614	633
64	Operating Expenses	37	31	32	99	99	99	99	99	99
65	Contracts - TV Production	36	87	87	87	87	87	87	87	87
66	Community Engagement			91	91	91	91	91	91	91
67	Closed Captioning			163	163	163	163	163	163	163
	Technical Operations Center (TOC)			9						
	New Media, Webstreaming & VOD Services	32	58	58						
68	SUBTOTAL	940	1,059	1,109	986	1,002	1,019	1,036	1,054	1,073
69	G. MEDIA - PEG NETWORK									
70	Operating Expenses	134	181	181	181	181	181	181	181	181
	Community Engagement	91	91							
	Closed Captioning	95	163							
	Technical Operations Center (TOC)	27	9							
	Youth and Arts Community Media	100	100	-						
71	SUBTOTAL	447	544	181	181	181	181	181	181	181

FY21 APPROVED CABLE COMMUNICATIONS PLAN (in \$000's)

	ACT FY19	APP FY20	Est FY20	REC FY21	Proj. FY22	Proj. FY23	Proj. FY24	Proj. FY25	Proj. FY26
72 H. MEDIA - PIO, COUNCIL, M-NCPPC									
73 Public Information Office									
74 Personnel Costs	714	842	837	832	857	883	909	937	965
75 Operating Expenses	4	11	11	11	11	11	11	11	11
76 SUBTOTAL	718	853	848	843	868	894	921	948	976
77 County Council									
78 Personnel Costs	641	641	637	663	680	700	721	743	765
79 Operating Expenses	17	11	11	11	11	11	11	11	11
80 Contracts - TV Production	88	153	153	153	153	153	153	153	153
81 General Sessions and Committee Meetings	100	100	100	100	100	100	100	100	100
82 SUBTOTAL	845	904	900	927	943	964	985	1,006	1,029
83 MNCPPC									
84 Operating Expenses	24	24	24	24	24	24	24	24	24
85 Contracts - TV Production	98	99	99	99	99	99	99	99	99
86 SUBTOTAL	122	123	123	123	123	123	123	123	123
87 SUBTOTAL	1,686	1,881	1,872	1,893	1,935	1,981	2,028	2,077	2,128
88 I. MEDIA - MONTGOMERY COLLEGE									
89 Personnel Costs	1,506	1,555	1,555	1,588	1,636	1,685	1,735	1,787	1,841
90 Operating Expenses	221	209	209	209	209	209	209	209	209
91 SUBTOTAL	1,727	1,764	1,764	1,797	1,844	1,894	1,944	1,996	2,050
92 J. MEDIA - MONTGOMERY CO PUBLIC SCHOOLS									
93 Personnel Costs	1,657	1,679	1,678	1,648	1,698	1,749	1,801	1,855	1,911
94 Operating Expenses	133	121	121	121	121	121	121	121	121
95 SUBTOTAL	1,790	1,800	1,800	1,770	1,819	1,870	1,923	1,977	2,032
96 K. MEDIA - MONTGOMERY COMMUNITY MEDIA									
97 Personnel Costs	2,096	2,166	2,166	2,240	2,307	2,376	2,448	2,521	2,597
98 Operating Expenses	65	54	54	54	54	54	54	54	54
99 Rent & Utilities	459	493	493	535	513	523	533	544	555
100 New Media, Webstreaming & VOD Services	23	23	23						
100 SUBTOTAL	2,644	2,736	2,736	2,829	2,874	2,953	3,035	3,119	3,206
101 L. COMPENSATION ADJUSTMENTS									
102 MCG Personnel Cost Adjustments									
103 FY20 Collective Bargaining Agreement		(21)	(21)						
104 TOTAL EXPENDITURE OF UNRESTRICTED FUNDS	14,469	15,614	15,528	15,763	16,164	16,252	16,525	16,857	17,149
105 TOTAL EXPENDITURE OF RESTRICTED FUNDS	8,913	8,753	8,681	8,083	7,859	7,787	7,716	7,646	7,632
106 TOTAL EXPENDITURES - PROGRAMS	23,382	24,367	24,209	23,846	24,023	24,039	24,240	24,503	24,781
107 M. OTHER									
108 Indirect Costs Transfer to Gen Fund	757	875	875	843	831	856	882	908	935
109 Telecom Transfer to the Gen Fund	5	-	-	-	-	-	-	-	-
110 Transfer to the General Fund	2,542	-	-	-	-	-	-	-	-
111 Legislative Community Communications NDA	540	-	-	-	-	-	-	-	-
112 Transfer to the Gen Fund-M-NCPPC	100	100	100	-	-	-	-	-	-
113 SUBTOTAL	3,944	975	975	843	831	856	882	908	935
114 TOTAL EXPENDITURES	27,326	25,342	25,185	24,689	24,854	24,895	25,122	25,411	25,716
115 N. ADJUSTMENTS									
116 Prior Year Adjustments	(42)	-	-	-	-	-	-	-	-
117 Encumbrance Adjustment	-	-	-	-	-	-	-	-	-
118 TOTAL ADJUSTMENTS	(42)	-	-	-	-	-	-	-	-
119 FUND BALANCE	346	1,320	1,064	1,080	754	(457)	(2,782)	(6,233)	(10,224)
120 FUND BALANCE PER POLICY GUIDANCE	1,366	1,332	1,305	1,248	1,206	1,150	1,090	1,034	1,015
121 O. SUMMARY - EXPENDITURES BY FUNDING SOURCE									
122 Transfer to Gen Fund-Indirect Costs	757	875	875	843	831	856	882	908	935
123 Transfer to Gen Fund-Mont College Cable Fund	1,727	1,764	1,764	1,797	1,844	1,894	1,944	1,996	2,050
124 Transfer to Gen Fund-Public Schools Cable Fund	1,790	1,800	1,800	1,770	1,819	1,870	1,923	1,977	2,032
125 Transfer to CIP Fund	4,520	4,430	4,430	3,761	4,176	4,176	4,176	4,176	4,176
126 Transfer to Gen Fund-Other	2,542	-	-	-	-	-	-	-	-
127 Transfer to Gen Fund-Telecom	5	-	-	-	-	-	-	-	-
128 Transfer to the General Fund-Legislative Branch NDA	540	-	-	-	-	-	-	-	-
129 Transfer to the Gen Fund-M-NCPPC	100	100	100	-	-	-	-	-	-
130 FUND TRANSFERS SUBTOTAL	11,980	8,970	8,969	8,171	8,671	8,796	8,924	9,057	9,193
131 Cable Fund Expenditure of Unrestricted Funds	10,952	12,050	11,964	12,196	12,500	12,488	12,658	12,884	13,067
132 Cable Fund Direct Expenditures	15,345	16,373	16,215	16,519	16,183	16,099	16,198	16,354	16,523
133 Cable Fund Personnel	3,941	4,281	4,231	4,318	4,458	4,591	4,729	4,871	5,017
134 Cable Fund Operating	11,404	12,091	11,984	12,200	11,726	11,508	11,469	11,483	11,505

Notes:

- These revenues and expenditures are based on the Executive's recommended budget. The projected future expenditures, revenues, transfers, and fund balances may vary based on changes not assumed here to fee or tax rates, usage, inflation, future labor agreements and other factors.
- Franchise fees and PEG revenues are subject to municipal pass-through payment. Municipal payments are estimates. Actual payments will be calculated based upon actual revenue received, subscriber numbers and formulas specified within the Municipal MOUs.
- Restricted revenue and expenditures: Certain Cable Fund revenues other than franchise fees, and corresponding expenditures (Municipal Franchise Fees/Pass-throughs, PEG Capital/Equipment Grants, and PEG Operating Revenue) are contractually required by franchise, municipal, and settlement agreements, and by the County Code, and may only be used for permissible federal purposes and in a manner consistent with applicable agreements.
- Montgomery Community Television, Inc., d/b/a Montgomery Community Media, is designated as a sole source contractor to provide community access media services.
- Fund balance per policy guidance is calculated as 8% of total non-restricted revenues (franchise fees, tower fees, and investment income).
- The Cable Television Communications Fund provides a fund transfer to Montgomery County Public Schools and Montgomery College and to support MCPS-TV and Montgomery College Television.
- Subtotals may be adjusted due to rounding.