

RESOLUTION NO. 5085-12

RESOLUTION APPROVING THE ADDITION OF THE CITY OF WEST LINN,
OREGON AS A NEW MEMBER OF THE METROPOLITAN AREA
COMMUNICATIONS COMMISSION

WHEREAS the Metropolitan Area Communications Commission, (hereinafter "MACC"), is an intergovernmental commission formed under ORS Chapter 190, with the membership of Washington County and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard and Tualatin ("Current Members"); and the Current Members are bound by an Intergovernmental Agreement ("IGA"), adopted by each jurisdiction and effective February 13, 2003; and

WHEREAS the IGA contains provisions permitting the addition of MACC members; and

WHEREAS those provisions require the unanimous approval of all Current Members of a new MACC member, following a recommendation by the MACC Board of Commissioners; and

WHEREAS the City of West Linn has expressed interest, by letter and resolution, in joining MACC; and

WHEREAS MACC has determined that the addition of the City of West Linn will not impair MACC's services to the Current Members, nor will it result in any loss of franchise fee revenue to the Current Members; and

WHEREAS on November 16, 2011, the MACC Board of Commissioners considered the criteria set forth in Section 6.B of the IGA and unanimously recommended that the Current Members approve the addition of the City of West Linn to MACC.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The Tualatin City Council hereby approves the addition of the City of West Linn as a new member of the Metropolitan Area Communications Commission.

Section 2. This Resolution shall be effective upon its adoption by the Tualatin City Council and signature by the Mayor.

INTRODUCED AND ADOPTED this 23 day of January, 2012.

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

CITY OF TUALATIN, OREGON

BY 
Mayor

ATTEST:
BY 
City Recorder



METROPOLITAN AREA COMMUNICATIONS COMMISSION

REPRESENTING: BANKS, BEAVERTON, CORNELIUS, DURHAM, FOREST GROVE, GASTON, HILLSBORO, KING CITY, LAKE OSWEGO, MILWAUKIE, NORTH PLAINS, RIVERGROVE, TIGARD, TUALATIN AND WASHINGTON COUNTY
Cable TV Franchise Regulation • Telecommunications Advice and Support • Public Communications Network (PCN) • Tualatin Valley Community TV

MACC STAFF REPORT

Add the City of West Linn as a New Member to MACC

Prepared by the staff of the Metropolitan Area Communications Commission
December 2011

MACC RECOMMENDS ADDING THE CITY OF WEST LINN AS A NEW MEMBER OF MACC

At their November 16th meeting, the Board of Commissioners (Commission) of the Metropolitan Area Communications Commission (MACC) unanimously recommended that your jurisdiction, along with the other 13 MACC members, approve the addition of the City of West Linn to the MACC membership.

MACC Intergovernmental Agreement and the Role of Your Jurisdiction – Your City is a member of the MACC Intergovernmental Agreement (IGA). The IGA requires that every member jurisdiction approve the addition of any new member. While the MACC Commission has the responsibility for reviewing new member jurisdictions and *recommending action* by the existing membership, each current MACC member jurisdictions *must accept* West Linn in order for it to become a member – if any one of the affected jurisdictions votes no, it vetoes the approval.

Jurisdiction action is typically accomplished through a resolution. A draft resolution is attached (see Attachment A – Draft Approval Resolution). MACC staff will be present at the Council meeting to answer any questions you have, and we welcome questions in advance.

Background – With the upcoming renewal of the MACC/Comcast cable franchise (by February 1, 2014), this is the appropriate time to determine whether new members are appropriate. The MACC Commission extended an invitation to nearby communities in the Spring of 2011 and the City of West Linn expressed interest in MACC membership.

On November 16, the MACC Commission considered the criteria set out in the IGA and determined that West Linn would be a positive addition to MACC. A Resolution (see Attachment B - MACC Recommending Resolution) recommending that current member jurisdictions approve of West Linn's membership was unanimously passed by the Commission.

Benefits to Existing Members of Adding West Linn

- A small drop in MACC operating costs. Each member pays for MACC services based on its percentage of franchise fees generated by member jurisdictions' cable television subscribers. Therefore, since MACC's costs are relatively fixed, additional members will result in lower cost for all members.
- Greater clout resulting from an additional 6,000 cable subscribers when negotiating a new franchise with Comcast.
- Additional contributions to MACC's PEG/PCN Grant Fund. At the time a new franchise is negotiated with Comcast, West Linn would contribute its proportionate share to the Grant Fund.

Interim IGAs until Comcast Renewal. In order to be part of the Comcast renewal process, the addition of West Linn must be approved no later than March 2012. This will allow their full participation in the franchise renewal process, including the significant franchise needs assessment work.

However, West Linn will remain under its current, separate Comcast franchise until MACC's renewal is completed (through 2013). A transition period is needed to accommodate this gap. The individual IGA West Linn has already adopted (see attached Resolution - Attachment C) provides for this interim period.

Significant provisions of the IGA include:

Franchise Fee Support – West Linn will pay the same proportionate share of franchise fees as current MACC members. West Linn will support MACC operations (18%) and PEG Access – TVCTV (10%) for a total of 28%.

Franchise Administration – Upon approval, MACC will immediately assume the administrative duties of West Linn's Comcast franchise. MACC staff can absorb the issues and demands of the city within its current staffing and budget.

PEG Access Support - The City of West Linn currently contracts with Willamette Falls TV (WFTV) for Public Access services and for their council meeting coverage. The city is expected to end its contractual relationship with WFTV on June 30, 2012 and coverage of West Linn meetings would become TVCTV's responsibility on July 1st. West Linn citizens will be able to use TVCTV Public Access services at our new Beaverton facility. Switching West Linn public meetings from WFTV to TVCTV will require some new equipment, but those costs will not affect current members' fees or grant fund opportunities.

Future Services to the New Members: Following the adoption of a new franchise with Comcast (in 2014), West Linn will enjoy the same benefits as other MACC members, including use of the PCN, access to the MACC PEG/PCN Grant Fund, and all TVCTV services. West Linn will gain a seat at the MACC Commission table and will adopt, with the current MACC members, a new, updated MACC IGA during the renewal process.

Commission Action – the MACC Board of Commissioners unanimously recommends that the MACC jurisdictions approve West Linn's membership.

If you have questions about this process, the City of West Linn or MACC's recommendation, please contact your City's MACC representative. MACC staff: Fred Christ, MACC Policy and Regulatory Affairs Manager is available at 503-645-7365 x206, or via email: fchrist@maccor.org.

Enclosed Attachments: A – Draft Approval Resolution
B – MACC Recommending Resolution (11/16/11)
C – Pending MACC/West Linn IGA
D – Questions and Answers Regarding MACC
Membership

Attachment A

[City/County of _____, Oregon]

RESOLUTION No. _____

**A RESOLUTION APPROVING THE ADDITION OF THE CITY OF WEST LINN,
OREGON AS A NEW MEMBER OF THE METROPOLITAN AREA
COMMUNICATIONS COMMISSION**

WHEREAS, the Metropolitan Area Communications Commission, (hereinafter "MACC"), is an intergovernmental commission formed under ORS Chapter 190, with the membership of Washington County and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard and Tualatin ("Current Members"); and

WHEREAS, the Current Members are bound by an Intergovernmental Agreement ("IGA"), adopted by each jurisdiction and effective February 13, 2003; and

WHEREAS, the IGA contains provisions permitting the addition of MACC members; and

WHEREAS, those provisions require the unanimous approval of all Current Members of a new MACC member, following a recommendation by the MACC Board of Commissioners; and

WHEREAS, the City of West Linn has expressed interest, by letter and resolution, in joining MACC; and

WHEREAS, MACC has determined that the addition of the City of West Linn will not impair MACC's services to the Current Members, nor will it result in any loss of franchise fee revenue to the Current Members; and

WHEREAS, on November 16, 2011, the MACC Board of Commissioners considered the criteria set forth in Section 6.B of the IGA and unanimously recommended that the Current Members approve the addition of the City of West Linn to MACC.

Now, therefore,

BE IT RESOLVED BY THE [CITY COUNCIL/BOARD OF COMMISSIONERS]:

Section 1. The [City Council/Board of Commissioners] hereby approves the addition of the City of West Linn as a new member of the Metropolitan Area Communications Commission.

Section 2. Effective Date.

This Resolution shall be effective upon its adoption by the [City Council/Board of Commissioners] and signature by the [Mayor/Chair].

Attachment B

Amended November 17, 2011

METROPOLITAN AREA COMMUNICATIONS COMMISSION

RESOLUTION 2011- 06

A RESOLUTION RECOMMENDING APPROVAL BY THE MACC MEMBER JURISDICTIONS OF THE ADDITION OF THE CITIES OF HAPPY VALLEY and WEST LINN AS MEMBERS OF MACC and AUTHORIZING THE ADMINISTRATOR TO EXECUTE INTERGOVERNMENTAL AGREEMENTS WITH THE CITIES OF HAPPY VALLEY and WEST LINN

WHEREAS, MACC is organized by intergovernmental agreement originally entered into in April 1980, most recently amended as of February 13, 2003 (the "MACC IGA") with Washington County and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard and Tualatin as participating signatories (together, the "MACC Jurisdictions"); and

WHEREAS, the MACC IGA permits the addition of new members by unanimous consent of the MACC Jurisdictions; and

WHEREAS, the cities of Happy Valley and West Linn ("Prospective Members") have requested membership in MACC; and

WHEREAS, the Commission has considered the criteria set forth in Section 6.B of the MACC IGA and recommends that the Prospective Members become members of MACC; and

WHEREAS, the Prospective Members' current cable franchise agreements are materially different from the MACC Jurisdictions' current cable franchises, which differences require a separate intergovernmental agreement between the parties until the Prospective Members' franchises are renewed on the same terms as the MACC Jurisdictions' franchises, at which time the parties intend to amend the MACC IGA to include the Prospective Members' and

WHEREAS, the Commission approves the terms of the separate intergovernmental agreements between MACC and the cities of Happy Valley and West Linn, subject to unanimous approval of the MACC Jurisdictions.

THEREFORE BE IT RESOLVED by the METROPOLITAN AREA COMMUNICATIONS COMMISSION:

Section 1. Recommendation to Member Jurisdictions.

The Commission hereby recommends that each of the MACC Jurisdictions consent to the addition of the cities of Happy Valley and West Linn as members of the Metropolitan Area Communications Commission, with all benefits and responsibilities set forth in the MACC IGA and the applicable Intergovernmental Agreement attached hereto as Exhibits A and B.

Section 2. Authorization to Sign IGA with the City of Happy Valley.

The MACC Administrator is authorized to sign an Intergovernmental Agreement with the City of Happy Valley substantially in the form attached hereto as Exhibit A, provided that the City

adopts the IGA no later than December 16, 2011, and after the MACC Administrator has received unanimous consent from the governing body of each MACC Jurisdiction for the addition of the City of Happy Valley as a MACC member.

Section 3. Authorization to Sign IGA with the City of West Linn.

The MACC Administrator is authorized to sign an Intergovernmental Agreement with the City of West Linn as adopted by the City on November 14, 2011 and attached hereto as Exhibit B, after the MACC Administrator has received unanimous consent from the governing body of each MACC Jurisdiction for the addition of the City of West Linn as a MACC member.

Section 4. Effective Date.

This Resolution shall be effective upon its adoption by the Commission and signature by the MACC Chair.

**ADOPTED BY THE BOARD OF COMMISSIONERS OF THE METROPOLITAN AREA
COMMUNICATIONS COMMISSION THIS 16TH DAY OF NOVEMBER, 2011.**



Chris Barhyte, MACC Chair

INTERGOVERNMENTAL AGREEMENT

Between

CITY OF WEST LINN, OREGON

and the

METROPOLITAN AREA COMMUNICATIONS COMMISSION

This Agreement is made and entered into by the City of West Linn, a municipal corporation of the State of Oregon (hereafter the "City") and the Metropolitan Area Communications Commission (hereafter "MACC") an intergovernmental commission established in accord with ORS Chapter 190.

RECITALS

WHEREAS, MACC is organized by intergovernmental agreement originally entered into in April 1980, most recently amended as of February 13, 2003 (the "MACC IGA") with Washington County and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard and Tualatin as participating signatories (together, the "MACC Jurisdictions"); and

WHEREAS, the MACC IGA permits the addition of new members by unanimous consent of the Member Jurisdictions; and

WHEREAS, the City desires to become a member of MACC; and

WHEREAS, the City's current cable franchise agreement is materially different from the MACC Jurisdictions' current cable franchises, which differences require a separate agreement between the parties until the City's franchise is renewed on the same terms as the MACC Jurisdictions' franchises, at which time the parties intend to amend the MACC IGA to include the City.

NOW, THEREFORE, in consideration of the mutual promises, agreements, and covenants contained herein, the City and MACC agree as follows:

ARTICLE 1 - PURPOSE OF AGREEMENT

The purpose of this Agreement is to add the City as a new member of MACC, with all benefits and obligations of membership as set forth in the MACC IGA, including but not limited to negotiation, administration and regulation of the City's cable franchise agreement(s).

ARTICLE 2 - TERMS AND CONDITIONS

2.1 General Terms. Except as expressly set forth herein, the City and MACC agree to be bound by the terms and conditions of the MACC IGA, which by this reference is incorporated herein in its entirety with the exception of Exhibit A thereto as amended by Resolution 2005-04, which sets forth the allocation of franchise fee revenues for MACC administration and support for Public, Educational and

Government ("PEG") Access. In lieu of the obligations of the Member Jurisdictions set forth in Exhibit A of the MACC IGA, the City agrees to allocate twenty eight percent (28%) of its franchise fees for both MACC administration and support for PEG Access (the "Franchise Fee Allocation"). The City and MACC agree that this amount approximates the contribution made by Member Jurisdictions as set forth in Exhibit A of the MACC IGA. The City will direct the cable operator(s) to remit all franchise fees to MACC, which may retain twenty eight percent (28%) of the franchise fees and shall, within 30 days from the due date of the cable operator(s)' payment, forward the remainder to the City.

2.2 Additional City Obligations. The parties acknowledge that the basic costs associated with the connection between City facilities, the cable system and MACC shall be included as part of the Franchise Fee Allocation. To the extent such costs exceed \$35,000, the City agrees to pay any and all additional costs associated with restructuring physical telecommunications equipment (e.g., Comcast and MACC equipment costs), and any necessary fiber connections between City facilities and the cable system, to enable the cablecast of PEG programming to and from MACC's facility and/or the cable operator. Any costs paid by the City pursuant to this Section shall be in addition to the City's Franchise Fee Allocation.

2.3 MACC Obligations. In addition to the obligations set forth in Section 2.1, MACC agrees to provide the following services as part of the Franchise Fee Allocation (unless otherwise noted):

- a. Staff necessary to produce live coverage of up to a combined total of four City Council meetings and work sessions per month at no cost to the City, provided that the meetings are held at facilities with cameras and other necessary equipment. MACC agrees to produce additional meetings beyond that required in the previous sentence at a cost of \$35.00 per hour, provided that MACC receives sufficient advance notice and a trained staff person is available. If two staff persons are required, the hourly rate will be \$55.00.
- b. Video productions highlighting events or aspects of the jurisdiction, referred to as "deliverables," on the same proportionate basis (according to franchise fees derived from customers within the jurisdiction) as other MACC Jurisdictions. For FY 2012, MACC will provide up to one (1) deliverable to the City.
- c. As part of the transition, MACC will work with the City to assist in identifying a possible local studio alternative to TVCTV in Beaverton, and/or a local distribution option for equipment borrowing by City residents.

ARTICLE 3 - TERM OF AGREEMENT

3.1 Effective Date. This Agreement shall take effect only after an affirmative recommendation from the MACC Commission and the unanimous consent of all Member Jurisdictions as required by Sections 4.D(2) and 6.B of the MACC IGA. This Agreement shall take effect on the date of last signature below, provided that the requirements in the preceding sentence have been met.

3.2 Term and Termination. Consistent with Section 6 of the MACC IGA, this agreement is perpetual and shall remain in effect until (i) the MACC IGA is terminated as provided therein; (ii) the City withdraws from MACC as provided in Sections 4.D and 6.D of the MACC IGA; or (iii) the MACC IGA is amended to include the City as a party thereto and such amendment is duly executed by the City.

ARTICLE 4 - AMENDMENTS

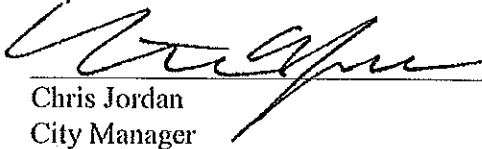
This Agreement may be amended only as permitted in Section 7.D of the MACC IGA.

The City and MACC hereby agree to all provisions of this Agreement and the MACC IGA as incorporated by reference into this Agreement. Each person signing below represents that he/she is duly authorized to execute this Agreement on behalf of the affected party.

FOR the Metropolitan Area Communications
Commission

FOR the City of West Linn, Oregon

Bruce Crest, Administrator
MACC



Chris Jordan
City Manager

Date

Nov. 15, 2011
Date

MACC MEMBERSHIP for WEST LINN

Questions and Answers

Q: Will the addition of West Linn increase my jurisdiction's costs?

A: No. There will be no greater (and probably marginally less) cost to current MACC members if West Linn joins.

Q: Will the addition of West Linn decrease services to my jurisdiction?

A: No. Services to West Linn will be funded by West Linn at the same rate that MACC members pay.

Q: What are the benefits to my jurisdiction if West Linn is added to MACC?

A:

- 1) The cost to any individual member will probably go down by a small margin.
- 2) The bargaining power of MACC will increase a bit due to the addition of approximately 6,000 additional subscribers to the MACC base.
- 3) Some economies of scale are added at MACC by adding a jurisdiction that borders existing jurisdictions.

Q: What is the downside of adding West Linn?

A: There is no downside that we can think of.