

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: A-3

DATE: February 14, 2008

SUBJECT: First Reading of Ordinance No. 980-08 (Attachment A) to extend the cable television franchise agreement with Tele-Vue Systems, Inc. (now Comcast) to May 31, 2008.

CONTACT PERSON: Deborah Knight, City Administrator



ISSUE:

This issue before the City Council is to have First Reading of Ordinance No. 980-08 (Attachment A) to extend the cable television franchise agreement with Tele-Vue Systems, Inc. (now Comcast) to May 31, 2008.

SUMMARY:

Extending Cable TV Franchise Agreement

This report recommends having First Reading of Ordinance No. 980-08 (Attachment A) to extend the cable television franchise agreement with Tele-Vue Systems, Inc. (now Comcast) to May 31, 2008.

The original franchise agreement expired on August 8, 2004. The Cable TV ordinance is codified in Section 5.28 of Sultan Municipal Code. In December 2006, the City Council approved Ordinance No. 946-06 extending the franchise agreement to March 31, 2007 and again under Ordinance 950-07 until September 30, 2007. The Consortium has finalized its negotiations with Comcast. The draft franchise is with Comcast for approval by Comcast corporate counsel. The franchise should be ready for its required public hearing prior to June 1, 2008.

Cable TV Franchise Negotiations

Since February 2006, the City has been working with its partners in the East County Cable Consortium (Snohomish, Monroe, and Lake Stevens) and a consultant, River Oaks Communications to complete the franchise negotiations with Comcast. Negotiations with Comcast were difficult on several points as a result of new market conditions and a concern about increasing competition from telephone providers. These issues have been resolved.

FISCAL IMPACT:

There is no fiscal impact as a result of extending the existing franchise agreement.

BACKGROUND:

As required by federal law, the City of Sultan and its East County Cable Consortium partners formally began the cable franchise renewal process in April 2004. On June 11, 2004, Comcast Cable Communication responded with a proposal.

Based on information gathered by a 2004 regional needs survey, the Consortium issued a request for proposals for a consultant to negotiate with Comcast on behalf of the Consortium. Since then, the Consortium has hired three firms to provide professional services to renew the franchise agreement and ordinance. The owner of the first firm hired by the Consortium passed away and the services of the second firm were not acceptable to the Consortium. River Oak Communications was retained by the Consortium in February 2006.

ANALYSIS:

The negotiating environment has been effected by potential Federal and State legislation and the Consortium's previous compromise points have yielded little from Comcast. Comcast has communicated concerns about the competitive changes within the cable industry by both satellite and telephone cable services and an equal business environment.

The consortium was concerned about the impact of bundling of cable, telephone, and internet services on franchise fees, authorizations for extension of the agreement, cable services to municipal buildings, low income senior discounts, and other issues.

A new condition that impacted the negotiating environment is a recent Washington State Supreme Court decision that has held the City of Renton liable to a contractor for a franchisee's late movement of their infrastructure based on their franchise agreement. City staff will be recommending a contractual hold harmless to address this issue; however, since this is a new and emerging issue, we expect some additional negotiating time with Comcast.

RECOMMENDED ACTION:

- 1. I move that the City Council have First Reading of Ordinance No. 980-08 extending the cable television franchise agreement to May 31, 2008.**

ATTACHMENTS:

- A. Ordinance No. 980-08

CITY OF SULTAN
Sultan, Washington

ORDINANCE NO. 980-08

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, AMENDING ORDINANCE NO. 950-07, AS PREVIOUSLY AMENDED BY SUBSEQUENT ENACTMENTS; EXTENDING UNTIL MAY 31, 2008 A NONEXCLUSIVE CABLE TELEVISION FRANCHISE GRANTED TO TELE-VUE SYSTEMS, INC., PURSUANT TO CHAPTER 5.28 OF THE SULTAN MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND AUTHORIZING THE MAYOR TO EXECUTE AN ACKNOWLEDGEMENT OF EXTENSION OF CABLE FRANCHISE.

WHEREAS, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, all codified in Title 47 of the United States Code, authorize local Governments to grant franchises for the provision of cable television service within their corporate boundaries, and

WHEREAS, the City of Sultan conferred a non-exclusive cable television franchise to Tele-Vue Systems, Inc. by Ordinance No. 502 (the "Franchise"); and

WHEREAS, on November 18, 2002 the merger of AT&T Corp, with Comcast was completed, and the name of Tele-Vue's ultimate parent changed from AT&T Comcast Corporation to Comcast Corporation, and

WHEREAS, the Franchise expires by its own terms on August 8, 2004; and

WHEREAS, the term of the Franchise was extended by an Acknowledgment of Extension and Ordinance No. 859-04 to November 11, 2004; and

WHEREAS, the term of the Franchise was extended by an Acknowledgement of Extension and Ordinance No. 866-05 to May 12, 2005; and

WHEREAS, the term of the Franchise was extended further by an Acknowledgement of Extension and Ordinance No. 878-05 to November 10, 2005; and

WHEREAS, the term of the Franchise was extended further by an Acknowledgement of Extension and Ordinance No. 878-05 to June 10, 2006; and

WHEREAS, the term of the Franchise was extended further by an Acknowledgement of Extension and Ordinance No. 946-06 to March 31, 2007; and

WHEREAS, the term of the Franchise was extended further by an Acknowledgement of Extension and Ordinance No. 950-07 to September 30, 2007; and

WHEREAS, the City of Sultan, in conjunction with other cities, has been negotiating a franchise renewal in accordance with Section 626 of the Cable Communications Policy Act of 1994; and

WHEREAS, negotiations with Comcast Cable, Inc. are expected to be complete by May 31, 2008;

NOW, THEREFORE, to provide continued service to the residents of the City and to provide an opportunity to finalize negotiations, it is hereby ordained by the City Council of the City of Sultan, Washington as follows:

Section 1. The Mayor of the City of Sultan is hereby authorized to execute that certain Acknowledgement of Extension of Franchise attached to the Ordinance as Attachment A.

Section 2. Sultan Municipal code Section 5.28.020 (D) is amended to read as follows:

5.28.020(D) Term

This franchise or renewal and all rights, privileges, obligations and regulations pertaining thereto shall commence on the effective date of Ordinance No. 980-08 and shall expire on May 31, 2008. Notwithstanding 5.28.360 relating to franchise renewal, negotiations for renewal of the franchise agreement shall commence in the year 2001.

Section 3. Should any provision of this Ordinance be declared unlawful, the remaining portions of this Ordinance shall remain fully lawful and in effect.

Section 4. This Ordinance shall become effective five days after publication as required by law.

PASSED by the City Council and APPROVED by the Mayor this 28th day of February 2008.

CITY OF SULTAN

By _____
Carolyn Eslick, Mayor

ATTEST:

By _____
Laura Koenig, City Clerk

Approved to Form:

By _____
Kathy Hardy, City Attorney

Published: _____