

April 14, 1996

Introduced By: Ron Sims

Proposed No.: 96-381

ORDINANCE NO. **12254**

AN ORDINANCE relating to cable communications, amending Ordinance 12132, Sections 1 and 5, and Ordinance 12134, Sections 2 and 4, and extending deadlines related to cable re-franchising and declaring an emergency.

PREAMBLE:

In January 1996, King County reached tentative agreement with Tele-Vue Systems, Inc., d/b/a/ Viacom Cable, including its corporate parents, subsidiaries and affiliates, ["Viacom"] and TCI Communications, Inc., including its corporate parents, subsidiaries and affiliates, ["TCI"] relating to various cable franchising and re-franchising issues. At that time the county contemplated that TCI would acquire control of Viacom's King County cable franchises by May 14, 1996. The council conditionally approved certain proposed agreements between TCI, Viacom and King County. This approval was expressly conditioned on TCI's acquisition of control of Viacom ["TCI-Viacom Transaction"] being completed by May 14, 1996. The county has now been advised that the TCI-Viacom Transaction will not be completed by May 14, 1996. Both TCI and Viacom, however, have advised the county that they expect that the TCI-Viacom Transaction ultimately will close. The council has now determined that it is in the county's best interest to extend the conditional approval deadline from May 14, 1996 until July 24, 1996. By this ordinance, the council intends to approve the extension of the deadline for the closing of the TCI-Viacom Transaction until July 24, 1996.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12132, Section 1 is hereby amended to read as follows:

Findings of Fact:

1 A. King County ("the county") previously granted
2 franchises to provide cable television service within certain
3 unincorporated areas of the county to TCI of Seattle, Inc.,
4 TCI of Auburn, Inc., and TCI of Southwest Washington, Inc.
5 (collectively "TCI").

6 B. TCI of Seattle, Inc., TCI of Auburn, Inc., and TCI
7 of Southwest Washington, Inc. seek a renewal of their
8 franchises as a single franchise, under which they will be
9 jointly and severally liable. TCI Cablevision of Washington,
10 Inc. is the corporate-parent of TCI of Seattle, Inc., TCI of
11 Auburn, Inc. and TCI of Southwest Washington, Inc. and has
12 guaranteed the performance under this franchise of TCI of
13 Seattle, Inc., TCI of Auburn, Inc. and TCI of Southwest
14 Washington, Inc.

15 C. The county commenced a proceeding which afforded
16 the public in the franchise area and TCI appropriate notice
17 and participation for the purpose of (i) identifying the
18 future cable-related needs and interests, and (ii) reviewing
19 TCI's performance under its franchises.

20 D. Subsequent to the conclusion of this proceeding,
21 TCI and the county negotiated a renewal franchise to provide
22 cable service and for construction of an institutional
23 network for public, educational and governmental use for
24 transmission and reception of voice, video and data signals.

25 E. In addition to resolving the renewal issues,
26 accepting the proposed franchise renewal, as negotiated,
27 would place the county in a position to resolve promptly
28 other outstanding, cable-related issues involving TCI, other
29 affiliates of Tele-Communications, Inc., and Tele-Vue
30 Systems, Inc., d/b/a Viacom Cable ("Viacom").

1 F. The county would not issue a franchise renewal to
2 TCI on the terms set forth in the proposed renewal franchise
3 except as part of an overall settlement contemplated by the
4 county, TCI and Viacom.

5 G. The franchise will become effective only upon TCI's
6 acquisition of control of the Viacom assets ("TCI
7 Acquisition"), pursuant to authority granted in the Transfer
8 Approval Ordinance, #96-89 & 96-90, dated January 29, 1996
9 ("Transfer Ordinance"), and only if that acquisition becomes
10 effective on or before (~~May 14, 1996~~) July 24, 1996. If
11 the TCI Acquisition is not completed by that date, this
12 franchise will be null and void.

13 H. The county has provided public notice of the
14 proposed renewal franchise negotiated as part of the overall
15 settlement of issues and has solicited public comment on the
16 proposed renewal franchise.

17 I. The county has concluded that, in the context of an
18 overall settlement, it is appropriate to renew TCI's
19 authority to provide cable television service in the county
20 subject to the terms and conditions contained in this
21 ordinance, applicable law, the proposed franchise, which is
22 attached as Attachment A, and appendices to the proposed
23 franchise, which are attached as part of Attachment A and
24 which include a metes and bounds description of the franchise
25 area (Appendix A); a certain franchise agreement, (Appendix
26 B); a certain Lease Agreement (Appendix C); unconditional
27 franchise acceptance (Appendix D); and guarantee (Appendix
28 E). Attachment A, together with its appendices, is fully
29 incorporated herein by reference.

1 SECTION 2. Ordinance 12132, Section 5 is hereby amended
2 to read as follows:

3 This franchise is granted subject to the condition
4 subsequent that the TCI Acquisition occurs on or before ((~~May~~
5 ~~14, 1996~~) July 24, 1996). Should TCI fail to satisfy that
6 condition within the time specified, this ordinance, and the
7 grant of a franchise pursuant to this ordinance, shall be
8 deemed to be null and void.

9 SECTION 3. Ordinance 12134, Section 2 is hereby amended
10 to read as follows:

11 The King County Council hereby denies the proposed
12 Transfer, until and unless: (1) Franchisee and TCI Pacific,
13 Inc. submit a signed acceptance, affirming their
14 unconditional acceptance of the Franchise, and the proposed
15 amendments to the Franchise and Franchise Agreement, in a
16 form substantially the same as that contained in Attachment
17 1, Appendix D to this ordinance; (2) Franchisee signs the
18 Lease Agreement, in a form substantially the same as that
19 contained in Attachment 1, Appendix C to this ordinance; (3)
20 TCI Pacific, Inc. signs and delivers to King County a
21 Performance Guarantee in a form substantially the same as
22 that contained in Attachment 2 to this ordinance; (4)
23 Franchisee delivers to King County any required substitute
24 insurance, performance bonds and/or security funds; (5)
25 Franchisee signs a certain Settlement Agreement, in
26 substantially the same form as contained in Attachment 3 to
27 this ordinance, between it and King County, approved for
28 signing by Ordinance No. 12133, as amended; (6) the TCI
29 Acquisition of Viacom contemplated by this Ordinance occurs
30 on or before ((~~May 14, 1996~~) July 24, 1996; and (7)

1 unconditional franchise acceptance by TCI of Seattle, Inc.,
2 TCI of Auburn, Inc. and TCI of Southwest Washington, Inc. If
3 these conditions precedent are satisfied within the time
4 limits required in the above-referenced documents, but only
5 if they are timely satisfied, then the Transfer shall be
6 deemed approved, and the King County executive is authorized
7 to approve the transfer. All of the conditions precedent
8 must be satisfied before the Transfer occurs and if they are
9 not satisfied, the request to approve the Transfer shall be
10 deemed denied as of the effective date of this Ordinance.

11 SECTION 4. Ordinance 12134, Section 4 is hereby amended
12 to read as follows:

13 If, for any reason, the consummation of the Transfer
14 that is contemplated by the Transaction Documents is not
15 completed on or before (~~May 14, 1996~~) July 24, 1996, then
16 this Ordinance, to the extent it approves the Transfer, shall
17 be null and void.
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