



## Town of Garrett Park

Incorporated 1898

To: Mayor and Town Council  
From: Gene Swearingen  
Subject: Cable Franchise Agreements  
Date: July 11, 2016

At the June 13 Town Council meeting the Council introduced Ordinance 2016-4 regarding the Cable Franchise Agreement with Comcast and requested that the Town Manager research answers to questions regarding the agreement for the July meeting.

Those questions and answers are:

What happens if the Council does not approve the agreement?

Comcast would continue to have the right to provide its services within the Town. The Town would not be eligible to receive franchise fees or PEG grants and would not be party to any other restrictions the County might require of Comcast.

What is the Franchise fee and how is that money used?

The franchise fee is paid by the provider to Montgomery County for the right to provide cable services within the county. As negotiated by the County, the fee is 5% of the gross revenues earned by Comcast from its subscribers. The fees are shared by the County and the municipalities party to the agreement. In FY 2016, Garrett Park received \$14,000 in Franchise Fee revenue; \$11,000 from Verizon and \$3,000 from Comcast. Franchise Fee revenue goes into the operating budget of the Town with no restrictions on how it can be used.

What is the PEG Grant and how is that money used?

Public, Education and Government (PEG) grants are paid by Comcast and Verizon to the various government parties to the Franchise agreement based on the number of subscribers in the municipality. Under the new Comcast agreement, the PEG grant usage is restricted to either capital

equipment or operating expenses related to providing cable television programming. Under the Cable Franchise Agreement, PEG grant funding goes to the County which then disburses it to the municipalities. Through a previous arrangement, the municipalities' share of PEG grant money is paid directly to the Maryland Municipal League which then passes it directly to Montgomery Municipal Cable (MMC). MMC operates a channel and provides programming for the member municipalities. The Town's share of the PEG grant from both Comcast and Verizon is approximately \$6,000 annually.

Can we amend the Memorandum of Understanding with the County to stop sending the Town's share of the PEG grant money to Montgomery County Cable?

Yes, we can withdraw from that arrangement at any time, there are no restrictions. Several other local municipalities have withdrawn because they were dissatisfied with the services of MMC.

What are "Drops" and do we receive them from Verizon as well as Comcast?

Drops are the connections from the subscriber to the cable provider. The subscriber pays a monthly fee for that connection. Under the Comcast agreement the town receives free drops in Town-owned buildings.

It is recommended that the Council approve the Cable Franchise agreement. It is further recommended that the Council approve the amendment of the two MOUs with the County to have the Town's share of the PEG grant sent directly to the Town rather than MML and MMC. It is further recommended that the Town negotiate with Verizon to receive the two drops and to use them to reduce the cost of our new Verizon communication lines. Finally, it is recommended that the Town create a reserve account for the PEG funds to be used for communications projects under the guidelines of the grant.

# **Town of Garrett Park**

## **Ordinance 2016-4**

### **Granting a Non-Exclusive Franchise for the Operation of a Cable Television System**

**Proposed for Approval on July 11, 2016**

**Whereas**, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland, including the Town of Garrett Park general power to pass such ordinances not contrary to the Constitution of Maryland or the public general law; as deemed necessary in order to assure the good government of the municipality; to protect and preserve the municipality's rights, property, and privileges; to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

**Whereas**, Maryland Code, Local Government Article, Section 5-204(d) and Section 1-708(c), as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to grant a franchise for a cable television system; and

**Whereas**, Section 78-17 of the Charter of the Town of Garrett Park authorizes the Town Council to pass ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents and visitors in the Town and for such other police or health matters as it may deem necessary; and

**Whereas**, Comcast of Potomac, LLC has applied for renewal of its non-exclusive franchise for the operation of a cable television system within Montgomery County, Maryland, including within the corporate limits of the Town of Garrett Park (the "Town"); and

**Whereas**, on behalf of the Town and other participating municipalities, Montgomery County, Maryland has negotiated a franchise agreement renewal with Comcast of Potomac, LLC, upon the terms and conditions set forth in that certain Cable Franchise Agreement by and between Montgomery County, Maryland and Comcast of

Potomac, LLC, and has conducted a public hearing on said Franchise Agreement on August 3, 2015 (the "Franchise Agreement"); and

**Whereas**, the Franchise Agreement was approved by the Montgomery County Council on February 9, 2016 with an effective date of April 1, 2016; and

**Whereas**, the Franchise Agreement is to be administered by Montgomery County, Maryland within the Town, according to Montgomery County Chapter 8A: and

**Whereas**, the County administration of the Franchise Agreement is agreed to by the Town through an Agreement to Implement the Cable Franchises of both Comcast and Verizon Franchise; and

**Whereas**, the Town Council introduced this Ordinance in public session assembled on the 13<sup>th</sup> day of June, 2016;

**Whereas**, the Town Council, after proper notice to the public, has considered the Ordinance at public hearings held on the 13<sup>th</sup> day of June, 2016 and on the 11<sup>th</sup> day of July, 2016; and

**Whereas**, the Town Council, after proper notice to the public, has considered the Ordinance for approval on the 11<sup>th</sup> day of July, 2016, and

**Whereas**, the Town Council finds that the ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents and visitors in the Town,

**Now, therefore** the Garrett Park Town Council does hereby approve the foregoing uncodified Ordinance:

BE IT ORDAINED AND ORDERED, that the Town Council, acting under and by virtue of the authority given it by the Maryland Code and the Town of Garrett Park Charter, hereby grants a non-exclusive franchise for the operation of a cable communications system with the following conditions:

1. Comcast of Potomac, LLC shall enter into an agreement with the Town of Garrett Park upon the same terms and conditions as are set forth in the Franchise Agreement; and

2. The franchise within the Town of Garrett Park shall be effective from the effective date of the Franchise Agreement until the end of the term of the Franchise Agreement in the unincorporated areas of Montgomery County; and

3. The MOU with Comcast and Verizon shall be amended to have the Town's share of the PEG grant come directly to the town rather than to the Maryland Municipal League or to Montgomery Municipal Cable; and

4. The Town shall create a reserve account for the PEG funds to be used for purposes allowed by the terms of the PEG grant; and

5. The Town shall negotiate with Verizon to receive two drops to be used by the Town to reduce the cost of the Town's new Verizon communication lines.

AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council, acting under and by virtue of the authority granted to it by the Maryland Code and the Town of Garrett Park Charter, that:

1. The Mayor is hereby authorized to execute any and all documents necessary to effectuate the intent and purpose of this Ordinance including Memoranda of Understanding with the County for both Comcast and Verizon franchises.

2. If any part or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the Ordinance as a whole or any remaining part thereof; and

3. This Ordinance shall take effect on August 1, 2016.

ATTEST:

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Gene Swearingen, Town Manager  
Town of Garrett Park

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