



TOWN OF FAIRFAX

STAFF REPORT

May 6, 2020

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Conduct Second Reading by Title only and Adopt an Ordinance to Terminate the Marin Telecommunications Agency (MTA) by Repealing Chapter 13.12 “Telecommunications” of the Town Code. Exempt from CEQA per CEQA Guidelines Section 15378(b)(5) and Section 15061(b)(3).

RECOMMENDATION

Read by title only and adopt “An Ordinance of the Town of Fairfax Providing for the termination of the Marin Telecommunications Agency and repealing the Telecommunications Ordinance codified in Chapter 13.12 of the Town Code.”

DISCUSSION

At its April 15 meeting, the Town Council adopted a Resolution Authorizing the Marin General Services Authority (MGSA) to Collect Franchise and PEG Access Fees from Cable Television Providers and to Exercise All Powers and Functions Associated with the Digital Infrastructure and Video Competition Act. The Council also introduced the attached Ordinance to Terminate the Marin Telecommunications Agency (MTA) by Repealing Chapter 13.12 “Telecommunications” of the Town Code. Tonight is the second reading and adoption. If adopted, it would take effect in 30 days.

It is important to note that the repeal of Chapter 13.12 will not impact the Town’s regulatory authority over wireless telecommunications facilities (including small cell facilities a.k.a. 5G), which is provided in Town Code Title 19 “Telecommunications.”

BACKGROUND

The MTA was formed in 1997 as a Joint Powers Authority (JPA) with the adoption of a “Telecommunications Ordinance” by each of its member agencies. Originally, the organization was called “Marin County Cable Rate Regulation Joint Powers Authority”. The members hoped that the organization could negotiate local franchises for all types of telecommunications facilities, thus the name was changed to the Marin Telecommunications Agency (“MTA”). However, subsequent to the formation of the MTA, changes to state and federal law eliminated local franchise authority over telecommunications entirely. MTA was left with a much more limited role.

At this point in time, the MTA’s role is primarily administrative. MTA has gone from negotiating local cable franchises to simply serving as the “local entity” authorized to collect state-mandated franchise and PEG fees on behalf of the member agencies, oversee its designated PEG access provider agreement with Community Media of Marin County (CMCM), and to audit state franchise holder records as appropriate.

Transitioning MTA functions to the MGSA will achieve greater efficiency and, in the long run, reduce overhead costs associated with the MTA, which will result in a larger proportion of cable franchise fees returning to the Town.

FISCAL IMPACT

n/a

ATTACHMENT

Ordinance

ORDINANCE NO. 847

**AN ORDINANCE OF THE TOWN OF FAIRFAX
PROVIDING FOR THE TERMINATION OF THE MARIN TELECOMMUNICATIONS
AGENCY AND REPEALING THE TELECOMMUNICATIONS ORDINANCE CODIFIED
IN CHAPTER 13.12 OF THE TOWN CODE**

WHEREAS, in 1997, the Town Council of the Town of Fairfax adopted Ordinance No. 667, approving an Agreement of Formation of the Marin Telecommunications Agency (“MTA”), a California joint powers agency pursuant to the provisions of Title 1, Division 7, Chapter 5 of the Government Code (commencing with Section 6500), and adding Chapter 13.12 to the Municipal Code.

WHEREAS, the current member agencies of the MTA are: the Cities of Belvedere, Mill Valley, and San Rafael, the Towns of Corte Madera, Fairfax, Ross, San Anselmo, Sausalito, and Tiburon, and the County of Marin (“MTA Member Agencies”).

WHEREAS, in 2006 the California Legislature approved and the Governor enacted the Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”), creating a process for the issuance of franchises by the California Public Utilities Commission and superseding locally issued franchises.

WHEREAS, subsequent to the adoption of DIVCA and other changes to state and federal law further limiting the ability of local governments to regulate telecommunications facilities, the MTA no longer takes the active policy role that it did prior to the adoption of DIVCA.

WHEREAS, the MTA Member Agencies find it desirable to terminate the MTA and delegate its duties to the Marin General Services Agency (“MGSA”), a California joint powers authority that was formed on October 1, 2005, by the City of Belvedere, Town of Corte Madera, Town of Fairfax, City of Larkspur, City of Mill Valley, City of Novato, Town of Ross, Town of San Anselmo, City of San Rafael, City of Sausalito, Town of Tiburon, County of Marin, Bel Marin Keys Community Services District, and Marinwood Community Services District.

WHEREAS, Paragraph 13 of the Agreement of Formation of the MTA provides that the MTA may be terminated by the enactment of an ordinance in substantially identical form by the majority of the MTA Member Agencies specifying such termination, with each such ordinance being adopted within no more than ninety days of each other. Upon such action, the MTA will be deemed terminated.

NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are hereby incorporated by reference.

Section 2. Termination of MTA. Pursuant to Paragraph 13 of the Agreement of Formation, the Town Council declares that this Ordinance is intended to serve to terminate the Agreement of Formation and the MTA.

Section 3. Repeal of Chapter 13.12 as of Operative Date. Chapter 13.12, “Telecommunications,” of the Municipal Code is hereby repealed, effective as of the Operative Date. The repeal of Chapter 13.12 shall not affect the Town’s consent to the termination of the Marin County Cable Rate Regulation Joint Powers Agency (“MCCRRJPA”) or the actual termination of MCCRRJPA, as provided for in Section 13.12.310 of the Municipal Code.

For purposes of this section, the “Operative Date” shall mean the later of the following two dates: (1) July 1, 2020; or (2) the date upon which a majority of the MTA Member Agencies has adopted a resolution authorizing the MGSA to collect franchise and PEG access fees and to exercise all powers and functions associated with DIVCA, as well as an ordinance of termination substantially identical in form pursuant to Paragraph 13 of the Agreement of Formation of the MTA and such ordinance of termination has become effective.

Section 4. Effective Date and Publication. This Ordinance shall be effective 30 days following its adoption by the Town Council. A summary of this Ordinance shall, within fifteen (15) days after passage, be published in accordance with Government Code Section 36933, with the names of the Councilmembers voting for and against it.

INTRODUCED at a regular meeting of the Town Council of the Town of Fairfax on the 15th day of April 2020.

PASSED AND ADOPTED this _____ day of _____, 2020, by the following vote;

AYES:

NOES:

ABSENT:

ABSTAIN:

RENEE GODDARD, Mayor

ATTEST:

Michele Gardner, Town Clerk