



EXECUTIVE DEPARTMENT

Information Technology Division

Memorandum

To: Mayor Diane Marlin
Urbana City Council

CC: Champaign-Urbana Cable & Telecommunications Commission
Jason Liggett, UPTV Station Manager (acting)
Janet Ahern, CGTV Multimedia Producer
Jeff Hamilton, Champaign Communications Manager
Jim Simon, Urbana City Attorney
Thomas Yu, Champaign Assistant City Attorney

From: Sanford Hess, Urbana IT Director

Regarding: A Proposed Ordinance to Repeal Urbana City Code Chapter 24, Article IV, Section 24-100 (Authorizing the formation of the Champaign-Urbana Cable and Telecommunications Commission)

Date: January 16, 2018

The Champaign-Urbana Cable & Telecommunications Commission was established jointly by Urbana and Champaign ordinances adopted in 1994. Its stated purpose is to “act as an advisory body to the City Councils of the City of Champaign and the City of Urbana for the purpose of overseeing the construction, development and operation of the Cable system, and the administration of the Cable franchise, and to monitor and inform the public of telecommunications legislation and policy.” At the time the establishing ordinances were adopted, neither the state nor the federal government had adopted detailed legislation and frameworks to regulate cable and telecommunications companies on behalf of citizens.

The proposal to repeal Chapter 24, Article IV, Section 24-100 originates from these considerations:

The work of the Cable Commission has been made obsolete by stronger and more detailed state and federal regulatory schemes that were put in place since Urbana’s adoption of UCC Sec. 24-100. The state and federal schemes contain “level playing field” provisions so that all cable and telecommunication franchisees are accorded the same rights in order to maintain competitiveness. To date, Urbana has entered into two local cable franchises pursuant to state and federal law, rules, and regulations: Comcast and iTV-3 (now i3 Broadband). Further, AT&T (U-verse) obtained a statewide franchise rather than entering into local franchise agreements. So, the commission’s purpose has been displaced by federal and state statutes, rules and regulations, and the terms of the respective franchise agreements (including the “level playing field” provisions) that provide the means for regulating cable and telecommunications companies locally.

The Commission requires City of Urbana staff resources. Preparation for Cable Commission regular meetings, printing packets, posting notices, attending meetings, camera operator time, post-production, webpage maintenance, and other ancillary duties add up to at least 8 hours of Urbana City staff time per quarterly meeting. (With the current absence of Jake Schumacher, more of these tasks fall upon City staff members who are already fully occupied with other efforts.) Even after Jake’s return, those work hours could be better used for other City tasks.

Repealing the ordinance aligns with Urbana City Council goals. The Effective City Government goal in the 2014-2017 Urbana City Council and Mayor Goals states that the City should “continuously evaluate the efficiency and function of its departments, boards, and commissions.” Repealing UCC 24-100 is the recommended outcome of just such an evaluation.

Repealing UCC 24-100 is supported by other key stakeholders:

The City of Champaign has reduced its involvement in the Commission. For example, it ceased providing staff support and is no longer forwarding complaint calls from its residents to the Commission.

Former Commission Chair Rick Atterberry recommended that the Commission be dissolved when he resigned in 2013. The concluding comments of his resignation memo were:

While the commission serves as a potentially valuable bully pulpit for the public in dealing with Comcast and AT&T, most of the other regulatory power the commission once had has been taken away by changes to federal and state law and FCC policy, most of which benefit the cable television and telecommunications corporations at the expense of community oversight. While, at one time, I argued the commission ought to be continued as that interface mentioned above, I now, somewhat regretfully, have come to the conclusion that the commission may have outlived its usefulness. If asked, and this is somewhat presumptuous on my part since I have not been asked, my recommendation would be that the commission, as have other commissions, be dissolved.

Options for Council to consider:

- 1) Pass the ordinance to repeal the Commission
 - a. The Information Technology Division recommends adoption of the ordinance to repeal the section of code Chapter 24, Article IV, authorizing Commission, including the provision of staff for the Commission and performance of functions for the Commission. (Because Urbana’s ordinance was issued jointly with Champaign’s ordinance, Urbana cannot simply disband the Commission.)
 - b. Urbana’s UPTV staff will continue to forward citizen complaints about cable and telecommunication franchisees to the respective franchisees as a valued service to Urbana citizens.
 - c. Urbana citizens are always welcome to suggest briefing topics that they can discuss and present to Council with recommended actions.
- 2) Merge the functions of the Cable Commission with the UPTV Commission.
 - a. This could require the re-assignment of seats, or a larger combined commission:
 - i. The Cable Commission has eight members, and UPTV has six.
 - ii. However, there are only 11 people involved, because the three Urbana Cable Commissioners are also members of the UPTV Commission.
 - b. The UPTV Commission has a short list of duties and can handle more responsibility.

ORDINANCE NO. 2017-12-069

**AN ORDINANCE TO REPEAL URBANA CITY
CODE CHAPTER 24, ARTICLE IV, SECTION 24-100**

(Champaign-Urbana Cable and Telecommunications Commission)

WHEREAS, the City of Urbana (the “City”) is a home rule unit of local government pursuant to Article VII, Section 6 of the Illinois Constitution of 1970 and may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the creation and dissolution of boards and commissions to assist with the performance and functioning of its governmental affairs; and

WHEREAS, on or about February 21, 1994, the City adopted Ordinance No. 9394-69 which created and established the Champaign-Urbana Cable and Telecommunications Commission which creation and establishment is currently memorialized in Chapter 24, Article IV, Section 24-100 of the Urbana City Code (hereinafter, Section 24-100”); and

WHEREAS, Section 24-100 has been amended on one or more occasions including by Ordinance No. 9596-112 adopted on or about June 3, 1996 and Ordinance No. 9697-121 adopted on or about April 21, 1997; and

WHEREAS, the current stated purpose of the Champaign-Urbana Cable and Telecommunications Commission is to “act as an advisory body to the City Councils of the City of Champaign and the City of Urbana for the purpose of overseeing the construction, development and operation of the Cable system, and the administration of the Cable franchise, and to monitor and inform the public of telecommunications legislation and policy” UCC Sec. 24-100; and

WHEREAS, since the adoption of Section 24-100 there have been significant changes in state and federal laws, rules and regulations governing the operation of cable television and telecommunication companies, and franchises thereof; and

WHEREAS, the Illinois Commerce Commission and the Federal Communication Commission provide extensive regulation of cable television and telecommunication services and activities; and

WHEREAS, much of the Champaign-Urbana Cable and Telecommunications Commission responsibilities have been subsumed by state and federal law and their respective regulatory agencies.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, AS FOLLOWS:

Section 1. Chapter 24, Utilities, Article IV, Cable Television Franchises, Section 24-100, Commission Established, of the Urbana City Code shall be and hereby is repealed effective upon adoption of this Ordinance.

Section 2. Effective upon the adoption of this Ordinance, the City of Urbana shall refrain from appointing any persons to serve on and shall cease all participation in the Champaign-Urbana Cable and Telecommunications Commission.

Section 3. Effective upon adoption of this Ordinance, all terms of those commissioners which have been appointed by the City of Urbana to serve on the Champaign-Urbana Cable and Telecommunications Commission shall be deemed to and hereby expire.

Section 4. Chapter 24, Utilities, Article VI, Public, Education, Government Access Cable Television, Section 24-152, Composition, shall be and hereby is amended as follows with the text denoted with strikeouts representing text of said section to be deleted from the Urbana City Code and with text denoted with underlines representing text to be included in said section of the Urbana City Code.

The UPTV commission shall be composed of nine (9) commissioners. ~~Four (4) commissioners shall be the same individuals who serve as the city's four (4) members of the Champaign-Urbana Cable and Telecommunications Commission.~~ One (1) commissioner shall be appointed by the mayor with the approval of the council and shall be chosen from among the members in good standing of Urbana Public Television. One (1) commissioner shall be appointed by the mayor with approval of the council from nominees named by the Board of the Urbana Park District. One (1) commissioner shall be appointed by the mayor with approval of council from nominees named by the Board of Urbana School District No. 116. One (1) commissioner shall be appointed by the mayor with approval of council from nominees named by the Board of the Urbana Free Library. One (1) commissioner shall be appointed by the mayor, with approval of council, from residents of the city. Four (4) commissioners shall be appointed by the mayor, with approval of council, regardless of such appointees' residences.

Section 5. Chapter 24, Utilities, Article VI, Public, Education, Government Access Cable Television, Section 24-153, Terms, Initial Appointment, Vacancies, Removal of Members, Attendance, shall be and hereby is amended as follows with the text denoted with strikeouts representing text of said section to be deleted from the Urbana City Code and with text denoted with underlines representing text to be included in said section of the Urbana City Code.

~~(a) The appointment, terms, removal, vacancies and attendance requirements of the four (4) UPTV commissioners who are also the city's members of the Champaign-Urbana Cable and Telecommunications Commission shall be governed by the provisions of section 24-100 of this Code.~~

~~The provisions in this subsection (b) govern the five (5) UPTV commissioners who are not also the city's members of the Champaign-Urbana Cable and Telecommunications Commission.~~

~~(1) Each of these commissioners shall serve a term of three (3) years except as hereinafter provided.~~

(a) The initial term of one (1) commissioner shall expire on June 30, 1998. The initial terms of two (2) commissioners shall expire on June 30, 1999. The initial terms of the two (2) new commission positions created by ordinance in the year 2004 shall expire on June 30, 2006. Within thirty (30) days following the expiration of the term of each of those commissioners, a successor shall be appointed by the mayor with the approval of the council, and the successor shall serve for a term of three (3) years.

(b) The terms of the four (4) commissioners who have been appointed to the commission by virtue of their appointment to the Champaign-Urbana Cable and Telecommunications Commission shall expire on the date or dates, as the case may be, when their terms on the Champaign-Urbana Cable and Telecommunications Commission otherwise would have expired but for the repeal of Urbana City Code Section 24-100. Thereafter, the terms of these four (4) commissioners shall be for three (3) years.

~~(3c)~~ Should one of these commissioners resign or be removed from the commission, a successor shall be appointed by the mayor and shall serve for the unexpired period of the vacated term.

~~(4d)~~ These commission members shall be expected to attend all regular meetings of the UPTV commission. If a member fails to attend more than half (1 / 2) of the scheduled meetings in any one (1) fiscal year (July 1 through June 30), the member may be asked to resign, or may have his or her name submitted to the mayor and city council with a recommendation for termination and replacement of such member.

~~(5e)~~ These members of the commission may be removed by the mayor with the approval of a majority of council for good cause.

Section 6. Notwithstanding anything to the contrary contained in this Ordinance, the City of Urbana shall retain such records pertaining to and/or created by, for or on behalf of the Champaign-Urbana Cable and Telecommunications Commission by the City of Urbana and any of its employees in compliance with the laws of the State of Illinois concerning the retention and destruction of local governmental records.

Section 7. Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 8. This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action accrued or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired or affected by this Ordinance.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2018.

AYES:

NAYS:

ABSTAINED:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this _____ day of _____, 2018.

Diane Wolfe Marlin, Mayor