AN ORDINANCE
BY COUNCILMEMBER CLAIR MULLER

03-O-1956

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CODE OF ORDINANCES SO AS TO CREATE A TELECOMMUNICATIONS POLICY AND ADVISORY COMMITTEE (TELEPAC) AND TO PROVIDE DUTIES THEREFORE; AND FOR OTHER PURPOSES.

WHEREAS, technological innovations are making a variety of new audio, video and data transfer telecommunications technologies available; and

WHEREAS many existing and new telecommunications systems require the placement of facilities under, on, and over the City streets and on both private and public structures to provide telecommunications services to subscribers and users; and

WHEREAS, substantial public concern has been raised as to the appropriateness of the City's approval process for these requests; and

WHEREAS, the increased number of telecommunications suppliers seeking to locate these facilities in the streets increases burdens on the physical infrastructure of the streets, as well as increasing the administrative work load of various City agencies in evaluating the impact of these facilities; and

WHEREAS, in order to manage these increased burdens, the City must expand its planning for the use of the streets, foster public/private cooperation, ensure that the public receives fair compensation for ongoing and comprehensive use of public property by private entities, and ensure that the City's regulations regarding the use of the streets are adequate to protect the health, safety and welfare of City residents and that administrative costs are covered; and

WHEREAS, within the limits of preemptive federal and/or state law, the City should do every thing possible to promote open and fair competition among telecommunications providers within the City; to ensure that new telecommunications services are made available to City of Atlanta residents and businesses on a fair and nondiscriminatory basis; to ensure that the principle of universal access to telecommunications services is upheld within the City; to ensure that public, education, and government access to video programming channels is preserved; to promote the safe and efficient use of the streets by telecommunications providers; to ensure that new telecommunications technologies do not interfere with the City emergency communications systems; to ensure that public receives fair compensation for the use of the public rights-of-way and the costs of approving and, if necessary, monitoring the various devices sought to be installed by telecommunications providers; and to ensure that the City itself has access to telecommunications services which improve public safety, public access to government and the efficient delivery of public information and services.

WHEREAS, in light of the developments and circumstances described above, it is necessary and appropriate for the City of Atlanta to promote the public health, safety and general welfare of its citizens by creating the Telecommunications Policy and Advisory Committee, also known as TelePAC.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

SECTION 1: That Chapter 34 shall be amended to change the title from "Cable Communications" to "Cable and Telecommunications".

SECTION 2: That Chapter 34 shall be amended so as to create the Telecommunications Policy and Advisory Committee, also known as TelePAC, which shall consist of thirteen (13) members, which shall be established as a "public board", and shall include the following:

DIVISION 1. TELECOMMUNICATIONS POLICY AND ADVISORY COMMITTEE (TelePAC)

Section 34-1. Statement of Purpose.

The purpose of the Telecommunications Policy and Advisory Committee (TelePAC) is as follows:

(1) To review the operation and function of public, educational, and government access channels in order to increase public access to technology and community information;
(2) To review cable and telecommunications right-of-way franchise agreements to ensure compliance with General Terms and Conditions of those franchise agreement and to the effective management of the public right-of-way;
(3) To promote the development of advanced technologies that will help to build partnerships and achieve community goals; and
(4) To make recommendations to the Mayor and City Council regarding cable, telecommunications, and other information technologies.

Section 34-2. Definitions.

Council means the Atlanta City Council.

City means City of Atlanta, Georgia.

Committee means the Telecommunications Policy and Advisory Committee or TelePAC.

Telecommunications means the one- or two-way transmission of messages, information, and/or programming by electronic means, including the provision of facilities for the generation, transmission, switching, signaling, control and/or reception of messages,

information and./or programming; provided however that "telecommunications" shall not mean broadcasting as defined in 47 U.S.C. Section 153(o).

Charter means the Charter of the City of Atlanta.

Section 34-3. Establishment; appointment of members.

(a) *Establishment of Committee.* There is hereby created a Telecommunications Policy and Advisory Committee of the City of Atlanta. The Committee shall consist of thirteen (13) voting members, all of which shall be confirmed by Council.

(b) *Appointment of Committee members.* No person shall be eligible to serve as a member of the Committee who is a cable or telecommunications provider or is employed by a cable or telecommunications provider within the City that may have business before the Committee. No person shall be eligible to serve on the Committee who is currently employed by the City. Committee members shall be appointed as follows:

(1) Two (2) members shall be appointed by the Mayor.
(2) Seven (7) members shall be appointed by Council: two (2) appointed by each "paired" Council district, and one (l) shall be appointed by the President of Council, thereby creating the seven (7) members.
(3) Two (2) members shall be appointed by the Atlanta Planning Advisory Board, who shall be selected from their membership, by their board.
(4) One (1) member shall be appointed by the Atlanta Regional Commission, who shall be selected from their board.
(5) One (1) member shall be appointed by the Metro Atlanta Chamber of Commerce, who shall be selected by their board.

(c) *Composition of Committee.* Appointments, qualifications and composition of the Committee shall be consistent with the requirements of Section of the Charter. Membership of the Committee shall consist of: people with expertise in fields related to the Committee's work, including, but not limited to telecommunications management and telecommunications engineering; people with expertise in the area of public, educational, and government access to telecommunications and information services technologies; and people who represent the interests of consumers and the general public.

(d) *Committee Meetings.* The Committee shall meet at least once each month. The Commissioners/Directors, or their designee, of the Departments of Planning, Public Works, Information Technology, and Communications shall attend Committee meetings upon request and shall fully cooperate with the Committee in fulfilling their function, power and duty.

Section 34-4. Terms; vacancies; compensation.

(a) *Term of office.* The Council shall designate three (3) members who are first appointed shall serve a term of one year, the next three (3) who are first appointed shall serve for terms of two years, and four (4) who are first appointed shall serve for terms of three years. Thereafter, members shall serve for terms of three years. No member may serve for more than two (2) consecutive terms. At its first meeting, and annually thereafter, the Committee shall elect a chair, vice-chair, and secretary from among its members for a term of one year.

(b) *Resignation/Removal of Committee Members.* Any member whom the Committee certifies to have missed three regularly scheduled meetings of the Committee in any 12-month period without prior authorization of the Committee shall be deemed to have resigned from the Committee effective on the date of the written certification from the Committee.

(c) *Compensation.* Member shall serve without compensation.

Section 34-5. Functions; powers; duties.

The TelePAC shall serve as an advisory body to the Mayor and Council. In their advisory capacity, the committee shall:

(1) Review the operation and function of public, educational, and government access channels, and make appropriate recommendations to the Mayor and City Council
(2) Review existing cable and telecommunications right-of-way franchise agreements to ensure compliance with the General Terms and Conditions of those franchise agreements and report findings to the Mayor and City Council, via a quarterly report provided to the Chair of the City Utilities Committee.
(3) Assist the Mayor and City Council in negotiating or renegotiating any cable and/or telecommunications franchise agreement by reviewing proposals and then making appropriate recommendations.
(4) Research and advise the Mayor and Council about advances in the field of telecommunications and impact of such advances on the City.
(5) Make recommendations to the Mayor and Council in establishing policies regarding the use and occupation of the public rights-of-way for installation of telecommunications facilities.
(6) Make recommendations to the Mayor and Council in establishing policies that would facilitate the deployment of new technologies within the City, maximize the availability of telecommunications services to City residents and businesses, preserve City property and resources, and protect the health, safety and welfare of City residents.

SECTION 3: That upon this legislation becoming law, the Municipal Clerk shall immediately notify the officials and boards directed to select members of the Telecommunication Policy and Advisory Committee of the adoption of this legislation,

and request the selection or designation of members within two weeks following such notification.

SECTION 4: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.