

TAB 12

POINT PAPER  
BRIGHTHOUSE CABLE FRANCHISE

**PROBLEM:**

The current Time Warner (Brighthouse) Cable Television ordinance is codified in Chapter 8 of the Code. To maintain franchise agreement continuity, the proposed ordinance will codify the Brighthouse cable franchise ordinance into Appendix A-Franchises of the Code.

**BACKGROUND:**

On October 15, 2001, City Commission adopted ordinance 01-715 known as "Time Warner Cable Television Ordinance". Chapter 8, Sections 8-1 through 8-31 were repealed in their entirety and ordinance 01-715 created Sections 8-1 through 8-25, granting a non-exclusive franchise to Time Warner Entertainment-Advance/Newhouse Partnership d/b/a Time Warner Cable to operate and maintain a cable television system in the city.

City Code currently contains Appendix A-Franchises. Staff proposes that it is more efficient to codify all the City's franchise agreements in one place in the Code, specifically Appendix A.

**ALTERNATIVES:**

1. Adopt the proposed ordinance to codify the Brighthouse franchise agreement into Appendix A Franchises of the Code.
  
2. Do nothing and allow the Brighthouse franchise agreement to remain in Section 8, separate from the City's other franchise agreements.

**RECOMMENDATION:**

Staff recommends Alternative 1, the adoption of the proposed ordinance

**CITY OF PALMETTO  
ORDINANCE NO. 08 - 964**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE CITY CODE OF ORDINANCES BY REMOVING SECTIONS 8-1 THROUGH CHAPTER 8-25 FROM CHAPTER 8 AND RE-CODIFYING SAID PROVISIONS IN APPENDIX A, ENTITLED "FRANCHISES"; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

**WHEREAS**, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

**WHEREAS**, the negotiation and execution of franchise agreements with cable television providers is a lawful function of local government; and

**WHEREAS**, the City of Palmetto currently is a party to a franchise agreement with TWEAN Subsidiary, LLC, a wholly owned subsidiary of TWE-A/N; and

**WHEREAS**, said franchise agreement was erroneously codified in Chapter 8 of the City of Palmetto Code of Ordinances; and

**WHEREAS**, City staff has recommended that said franchise agreement be codified in Appendix A to the City Code of Ordinances entitled "Franchises"; and

**WHEREAS**, the City Commission has considered the recommendation of staff and determined that adoption of this ordinance is necessary and in the best interest of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF PALMETTO, FLORIDA:

**Section 1. Findings of Fact.** The above-referenced “whereas” clauses are adopted herein as findings of fact.

**Section 2. Relocated language.** The provisions codified in Chapter 8, Sections 8-1 through 8-25 of the City of Palmetto Code of Ordinances are hereby removed from Chapter 8 and placed in Appendix A, Franchises, to the City Code of Ordinances. The Codifier is hereby instructed to re-codify the specified provisions within Appendix A.

**Section 3. Repeal of Inconsistent Ordinances.** This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 4. Severability.** It is the intent of this Ordinance to comply with all applicable law and constitutional requirements. If any provision, paragraph or section of this Ordinance or the standards and codes adopted hereby, shall be determined by a court of competent jurisdiction to be inapplicable, illegal, unenforceable or unconstitutional, then to that extent such provisions or portions shall be deemed null and void, but the remaining provisions of this Ordinance shall be in full force and effect as applicable.

**Section 5. Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14 upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

**FIRST READING**            March 17, 2008

**PUBLICATION DATE**    April 7, 2008

**SECOND READING**      April 21, 2008

**PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF  
THE CITY OF PALMETTO, FLORIDA**, with a quorum present and voting, in  
regular session assembled, this 21st day of April, 2008.

**CITY OF PALMETTO, FLORIDA, BY  
AND THROUGH THE CITY COMMISSION  
OF THE CITY OF PALMETTO**

By: \_\_\_\_\_  
**LAWRENCE E. BUSTLE, JR. MAYOR**

**ATTEST:      James R. Freeman**

By: \_\_\_\_\_  
City Clerk