



**CITY COUNCIL FINANCE SUB/COMMITTEE WILL
MEET JOINTLY WITH SCHOOL COMMITTEE FINANCE
SUB/COMMITTEE AT 5:30 PM ON TUESDAY,
OCTOBER 30, 2018 IN THE COUNCIL CHAMBER, CITY
HALL**

1. Roll Call

2. Meeting Called To Order

2.1. Finance SC Jointly With School Committee Finance SC October 30, 2018.

Documents:

[2018 OCTOBER 30 FINANCE SC JOINTLY WITH SCHOOL COMMITTEE
FINANCE SC.PDF](#)

3. Order Of Business

3.1. Discussion - FY19 Budget.

3.1.i. PEG Funding

Documents:

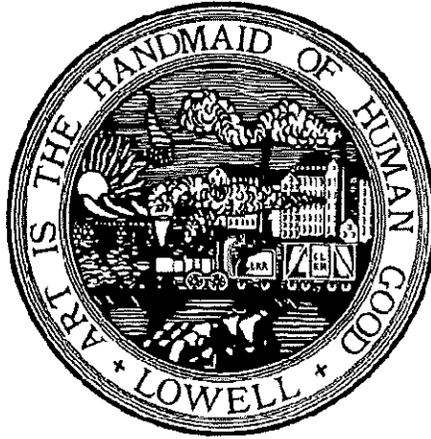
[PEG FUNDING.PDF](#)

3.1.ii. Transportation

Documents:

[TRANSPORTATION.PDF](#)

4. Adjournment



**CITY COUNCIL FINANCE SUB/COMMITTEE WILL
MEET JOINTLY WITH SCHOOL COMMITTEE
FINANCE SUB/COMMITTEE AT 5:30 PM ON TUESDAY,
OCTOBER 30, 2018 IN THE COUNCIL CHAMBER, CITY
HALL**

Discussion: FY19 Budget Discussion

The Public is invited to attend.

Finance Sub/Committee

***C. Elliott, Chair
C. Milinazzo, Member
C. Nuon, Member***

School Finance Sub/Committee

***SC. Gerard Nutter, Chair
SC. Andy Descoteaux, Member
SC. Dominik Lay, Member***

Michael Q. Geary
City Clerk



City of Lowell

Management Information Systems

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Mirán Fernandez
Chief Information Officer
Cable TV Coordinator

John Meyers
MIS Director

To: Conor Baldwin, Chief Financial Officer

From: Mirán Fernandez, Chief Information Officer

Re: PEG Funding

Date: February 26, 2018

Funding for Public, Educational, and Governmental Access Channels (“PEG”) is generally derived from cable television companies (“CATV”) through cable franchise fees which are directly regulated by the Federal Cable Act (“Act”), as well as additional laws at the state and local level. Under the Act, municipalities are entitled to a maximum of 5% of gross annual revenues (“GAR”) derived from the operation of the cable system for the provision of cable services; neither cable modem services, telephone services, nor internet services are allowed to be factored into gross revenues.

In Massachusetts, the Department of Telecommunications and Cable (“DTC”) oversees cable television franchising, promotes competition, and regulates rates and establishes basic service tier programming, equipment, and installation rates. Municipalities may negotiate a local Cable Television Franchise License (“License”) with a CATV, which may require the CATV to provide a variety of services and payments in exchange for a License to operate within the municipality. Under state law, the Local Issuing Franchise Authority (“LFA”) for the local franchise License is established as the City Manager.

While the City of Lowell has repeatedly sought multiple CATV providers to deliver services locally, Comcast of Southern New England, Inc. (“Comcast”) is the only organization that has expressed an interest in doing so to date. This is primarily because any CATV provider which might consider providing services within the City needs to account for the capital investment necessary to establish its own infrastructure. During approximately during 2001, Comcast acquired the AT&T Broadband infrastructure which enabled it to apply for a License to service the City.

Most recently, the LFA issued Comcast a License for the ten year period of 10/11/2013 – 10/10/2023. As with prior License renewals, this one included an ascertainment phase with public meetings, a City-wide survey, and meetings with various stakeholders including public safety teams, Lowell Public Schools, Lowell Telecommunications Corporation, and various other community organizations to determine proposed needs. Proposals from Comcast and the City were subsequently negotiated, and memorialized through the execution of the current License (attached).

The License essentially provides for the following:

1. Massachusetts' Franchise License Fee payments (per State law), at the maximum of \$.50 per subscriber, *with payment made to the City.*
2. Federal PEG Access funding, at the maximum of 5% of the operator's GAR, *with 3% of the GAR made payable to the City, and 2% of the GAR made payable to Lowell Telecommunications Corporation ("Access Corporation")* per the LFA.
3. Capital Payment funding, at a rate of .7% of the operator's gross revenues, *with payment to the City.*
4. An increase of one additional PEG channel, *with a use still TBD by the City.* This brings the total number of channels available to five – two for Public Use, one for Educational Use, one for Municipal Use, and one TBD by the LFA.
5. A Telecommunications Technology Fund for telecommunications and technology-related facilities, equipment, and other related needs of the City, as determined by the LFA.
6. A continued commitment to a discount for qualifying Senior Citizens.
7. A continued commitment to the Education Connection Program, which provides: (1) high-speed Internet services to public schools, libraries, and qualifying private schools, and (2) standard cable services to schools and municipal buildings.
8. A continued commitment to maintain, manage, and expand the City's Institutional Network (I-Net), and to allow it to be used to transfer City data. The I-Net currently functions as a primary component of the City's wide area network, interconnecting 70+ locations within the City (including schools).
9. A continued commitment to PEG access programming advancements, based on technical feasibility.

While the License establishes a framework for what types of expenses may be funded, it makes it clear that all funds are paid to either the City or and the Access Corporation. No other funding is specifically identified, designated, or earmarked for any other organization, though the LFA may choose to redistribute City PEG funds at his discretion, and within the framework of the License. With regards to Lowell Public Schools (LPS), there isn't any explicit language in the contract indicating that LPS is entitled to a specific dollar amount.

The most relevant sections of the contract related to the use of funds include the following:

- 5.3 (a), which discusses the 5% Gross Annual Revenue License payment, and reads “... Said annual payments shall be used for, among other things, salary, operating and other related expenses connected to PEG Access programming and operations...”
- 5.3 (b), which indicates that “At the request of Issuing Authority each recipient of funds under this Section, Section 5.4 of Section 5.8 shall provide Issuing Authority and the Licensee at least on a quarterly basis, an accounting of expenditure of such funds. With respect to the Access Corporation and the School Department, such reporting shall be for informational review and consultation but not for authorization or approval of expenditures.”
- 5.4(b), which discusses the Capital Facilities Payments, and indicates that “The capital equipment and facilities payments made under Section 5.4(a) above, shall be for use by the Issuing Authority, the Access Corporation, the School Department, and the Greater Lowell Technical High School in such amounts as the Issuing Authority shall determine.”
- 5.13, which allows the City to fund technology related matters as follows: “Out of the capital equipment and facilities payments made by the Licensee to the Issuing Authority under Section 5.4(a), the Issuing Authority may establish and contribute to a telecommunications technology fund for telecommunications and technology-related facilities, equipment, and other related needs of the City, in a fashion that does not commercially compete with the Licensee.
- 5.17 (e), which governs the expenses related to the Institutional Network (I-Net) used as the hub/spoke backbone which interconnects 70+ locations (including all schools) as follows: “The Licensee shall be responsible for any Headend, I-Net Hub Site or other equipment necessary to make the I-Net function, including responsibility for the underlying I-Net or distribution cables, wires and amplifiers; provided, however, the City shall be responsible for any City owned equipment necessary to process I-Net signals which may need to be located in the I-Net hub, including, but not limited to, modulators, and demodulators. The Licensee shall also be responsible for equipment to enable the I-Net to interact with the Subscriber Network such that I-Net transmissions on a dedicated upstream channel to the Headend via the I-Net and downstream on a dedicated PEG Access Channel.”
- 5.17 (f), which discusses staffing as follows: “The Issuing Authority shall designate one network communications professional to interact with the Licensee on the day to day operations of the system as the I-Net Administrator.”
- Side Letter re I-Net, which memorializes the mutual understanding and agreement between the Issuing Authority and Licensee regarding various technology-related issues agreed upon. This agreement allows the City “... to utilize the I-Net for non-video purposes as the City’s Wide Area Network (WAN), with the Issuing Authority responsible for the Customer Premise

Equipment...". This agreement also allows the City "...to expand the I-Net to include up to a maximum of nine (9) sites/locations to be completed during the Renewal License period..." with the Issuing Authority agreeing "... to be responsible for construction costs associated with said expansion...".

<u>Category</u>	<u>Description</u>	<u>Budget Code</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>
REVENUE	"OLD" City - Revolving	11420004-484011	\$ -	\$ -	\$ 581,772.56	\$ 503,766.67	\$ 120,000.00	\$ 120,000.00	\$ 120,100.00	\$ 120,000.00	\$ 120,000.00	\$ 120,000.00
REVENUE	"OLD" School Revolving	11440004-484011	\$ -	\$ -	\$ -	\$ -	\$ 130,125.88	\$ 300,485.24	\$ 305,932.93	\$ 288,790.49	\$ 281,558.31	\$ 258,385.68
REVENUE	"OLD" General Fund Revenue	00316421-437013	\$ -	\$ -	\$ 724,612.46	\$ 822,143.09	\$ 847,297.70	\$ 665,579.19	\$ 627,185.16	\$ 577,581.00	\$ 578,348.94	\$ 531,672.37
REVENUE	"NEW" PEG Special Revenue	17100005-484011	\$ -	\$ 1,317,849.78	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL Comast Revenue			\$ -	\$ 1,317,849.78	\$ 1,306,385.02	\$ 1,325,909.76	\$ 1,097,423.58	\$ 1,086,064.43	\$ 1,053,218.09	\$ 986,371.49	\$ 979,907.25	\$ 910,058.05

<u>Category</u>	<u>Description</u>	<u>Budget Code</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>
EXPENSES	"OLD" School - Contracted Services	11440005-530002	\$ -	\$ 9,050.00	\$ 354,983.81	\$ -	\$ 98,141.50	\$ -	\$ -	\$ -	\$ -	\$ -
EXPENSES	"OLD" School - Salary & Wages - Perm	11440005-511000	\$ -	\$ 2,079.71	\$ 110,544.56	\$ 53,765.74	\$ 54,506.98	\$ 56,757.50	\$ 53,415.93	\$ 51,696.09	\$ 49,985.00	\$ 49,029.46
EXPENSES	"OLD" School - Salary & Wages - OT	11440005-513000	\$ -	\$ -	\$ -	\$ -	\$ 717.94	\$ -	\$ -	\$ -	\$ -	\$ -
EXPENSES	"OLD" School - Equipment	11440005-588200	\$ -	\$ 27,846.00	\$ -	\$ 38,218.00	\$ 88,295.77	\$ 41,877.00	\$ 156,750.70	\$ 79,168.00	\$ 192,501.00	\$ -
TOTAL School Expense			\$ -	\$ 38,975.71	\$ 465,528.37	\$ 91,983.74	\$ 241,662.19	\$ 98,634.50	\$ 210,166.63	\$ 130,864.09	\$ 242,486.00	\$ 49,029.46



Conor Baldwin
Chief Financial Officer

MEMORANDUM

TO: Eileen Donoghue, City Manager

FROM: Conor Baldwin, Chief Financial Officer 

DATE: October 25, 2018

SUBJECT: MOTION RESPONSE: 4/24/2018 – C. Elliott – Req. City Manager report on what the [transportation budget] process is, what the state law is as to the requirements, and who is budgeting.

At the joint finance subcommittee meeting on October 16th, a motion was passed by the subcommittee to report on several financial aspects of student transportation. The following is a partial summary of current statutory requirements in the Massachusetts General Laws (M.G.L.) as they pertain to pupil transportation services in the Commonwealth. The statutes listed include school committee responsibilities, educational program requirements, and reimbursement programs. Statutes should be consulted in their entirety:

1. Chapter 71, Section 6, *Education in Out-of-Town High Schools*.
2. Chapter 71, Section 37H, *Publication of School Committee Rules and Regulations Relative to the Conduct of Teachers and Students*.
3. Chapter 71, Section 47, *Athletic Programs; School Organizations; Regulations*.
4. Chapter 71, Section 48A, *School Safety Patrols (Purchase of Traffic Safety Belts)*.
5. Chapter 71, Section 68, *Duty of Towns to Maintain Schools; Pupil Transportation; School Building Committee Representation*.
6. Chapter 71, Section 71A, *Safety Stations on Highways*.
7. Chapter 71B, Section 8, *Transportation*.
8. Chapter 74, Section 8A, *Transportation of Students*.
9. Chapter 76, Section 1, *Regulation of School Attendance; Private School Transportation*.
10. Chapter 76, Section 14, *Island Children*.

Perhaps the most relevant statute, as it relates to the discussion in the Joint Finance Subcommittee, is Chapter 71, Section 68 of the Massachusetts General Laws (*attached hereto*). Costs related to the transportation of students, both in-district and out of district are not reported as maintenance of effort items by the city and therefore do not count towards the city's annual net school spending requirement. The various categories of municipal expenses that may be credited towards the net school spending requirement are set forth in 603 CMR 10.04.



Conor Baldwin
Chief Financial Officer

The City's position, as has always been, is that the School Department funds transportation out of the total appropriation approved each year by the City Council. Each year in the budget, the City Council votes on a recommended single, lump sum appropriation for the School Department's annual funding. This amount is intended to fund all costs associated with the city's educational system, including the transportation of students. The budget for transportation is compiled and managed by the school administration, as is the case with all other educational expenses. Procurement for transportation services is also administered by the school department, with assistance from the city's Chief Procurement Officer and staff. City Administration does not participate in the development of the specifications for the bid, including the number of assets, routes, or other details. Special education transportation has not historically been coordinated with Purchasing at City Hall. It is also exempt from bidding requirement pursuant to the Uniform Procurement Act (M.G.L. c. 30B, §1(b)(8)).

Throughout the Commonwealth, municipalities approach budgeting for school expenses in various ways. Some cities like Lowell, Lawrence, and Fall River, appropriate a line-item lump sum to the school department each year. Cambridge, on the other hand, breaks out the educational appropriation into four categories: salaries & wages, other ordinary maintenance, travel & training, and extraordinary expenses. Springfield also breaks out the educational appropriation into two categories: general school department and transportation. If Lowell were to contemplate a change to way the funding is appropriated to the schools, it is worth noting that any transfers between the appropriation categories would then require an affirmative vote of both the School Committee and the City Council. Currently, under the existing model in Lowell, the School Committee can transfer funds between expenses without Council approval once they have been appropriated in the fiscal year budget. According to their budget, in FY2019 the Lowell Public Schools budgeted approximately \$9.6 million for all transportation (\$4.423 million for regular transportation and \$5.16 million for special education transportation).

Please let me know if there are any questions.

Part I ADMINISTRATION OF THE GOVERNMENT**Title XII** EDUCATION**Chapter 71** PUBLIC SCHOOLS**Section 68** DUTIES OF TOWNS TO MAINTAIN SCHOOLS; TRANSPORTATION OF CHILDREN; SCHOOL BUILDING COMMITTEE REPRESENTATION

Section 68. Every town shall provide and maintain a sufficient number of schoolhouses, properly furnished and conveniently situated for the accommodation of all children therein entitled to attend the public schools. If the distance between a child's residence and the school he is entitled to attend exceeds two miles and the nearest school bus stop is more than one mile from such residence, and the school committee declines to furnish transportation, the department, upon appeal of the parent or guardian of the child, may require the town to furnish transportation for children in grades kindergarten through six for a part or for all of the distance between said child's residence and the school. If said distance exceeds three miles, and the distance between the child's residence and a school in an adjoining town giving substantially equivalent instruction is less than three miles, and the school committee declines to pay for tuition in such nearer school, and for transportation in case the distance thereto exceeds two miles, the department, upon like appeal, may require the town of residence to pay for tuition in such nearer

school for children in grades kindergarten through six, and if necessary provide for transportation for a part or for the whole of said distance to, such nearer school for children in said grades. Nothing contained in the preceding two sentences shall be construed to limit the obligation of regional school districts to provide transportation for all school children in grades kindergarten through twelve, pursuant to the provisions in section sixteen C of this chapter. No school committee shall be compelled to furnish transportation on a private way. In the case of transportation provided to students that is not required by this section or by any other general or special law, a school committee may assess fees to the transported student up to an amount sufficient to cover the costs incurred by the district; provided, however, that no student eligible for free or reduced lunch, under the federal school lunch program, shall be required to pay the fee; and provided further, that a school committee may choose to exempt families at other income levels as it may determine. The school committee, unless the town otherwise directs, shall have general charge and superintendence of the schoolhouses, shall keep them in good order, and shall, at the expense of the town, procure a suitable place for the schools, if there is no schoolhouse, and provide fuel and all other things necessary for the comfort of the pupils. Each school shall comply with the requirements regarding pesticide applications as set forth in sections 6C to 6I, inclusive, of chapter 132B. Whenever a town shall undertake to provide a schoolhouse, the town shall appoint at least one member of the school committee, or its designee, to serve on the agency, board or committee to which the planning and construction or other acquisition of such schoolhouse is delegated.