

CITY OF LOS AL
3191 Katella Avenue
Los Alamitos, CA 90720

CABLE COMMISSION MTG
April 7, 2015

AGENDA
CABLE TELEVISION COMMISSION
REGULAR MEETING

Tuesday, April 7, 2015 – 7:00 p.m.

NOTICE TO THE PUBLIC

This Agenda contains a brief general description of each item to be considered. Except as provided by law, action or discussion shall not be taken on any item not appearing on the agenda. Supporting documents, including staff reports, are available for review at City Hall in the City Clerk's Office or on the City's website at www.cityoflosalamitos.org once the agenda has been publicly posted.

Any written materials relating to an item on this agenda submitted to the Cable Commission after distribution of the agenda packet are available for public inspection in the City Clerk's Office, 3191 Katella Ave., Los Alamitos CA 90720, during normal business hours. In addition, such writings or documents will be made available for public review at the respective public meeting.

It is the intention of the City of Los Alamitos to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee, or a participant at this meeting, you will need special assistance beyond what is normally provided, please contact the City Clerk's Office at (562) 431-3538, extension 220, 48 hours prior to the meeting so that reasonable arrangements may be made. Assisted listening devices may be obtained from the City Clerk at the meeting for individuals with hearing impairments.

Persons wishing to address the Cable Commission on any item on the Commission Agenda will be called upon at the time the agenda item is called or during the Commission's consideration of the item and may address the Cable Commission for up to three minutes.

1. CALL TO ORDER

2. ROLL CALL

Commissioner Clayton
Commissioner Singer
Vice Chair Hammond
Chair Underwood
Student Volunteer Ellison

3. ORAL COMMUNICATIONS

At this time any individual in the audience may address the Cable Television Commission and speak on any item within the subject matter jurisdiction of the Commission. Please state if you wish to speak on an item on the Agenda. Remarks are to be limited to not more than five minutes.

4. MINUTES

Approval of the minutes for the Cable Television Commission meeting of March 3, 2015.

5. PRESENTATIONS

None

6. DISCUSSION ITEMS

A. Rosenberg's Rules of Order

At its March 23, 2015, the City Council unanimously adopted Rosenberg's Rules of Order as a guide for meeting procedures for all meetings throughout the City. (Attachment 1)

Recommendation: Discuss and provide direction to Staff as appropriate.

B. Discussion of "Cable Operations Study" assigned to Skyline Media Productions of Irvine. (Attachment 2)

Recommendation: Discuss and provide direction to Staff as appropriate.

C. Review and discuss LATV Fund 28 Year-to-Date Activity Report. (Attachment 3)

Recommendation: Discuss and provide direction to Staff as appropriate.

D. Discussion of the goals, responsibilities and mission of LATV and the role of the LATV Commission.

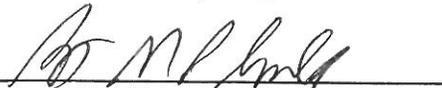
- a. At the request of Chair Underwood, we are including the Los Alamitos Television Policies and Procedures that were adopted by the City Council on November 16, 2009 (Attachment 4). This item will provide the Cable Commission with an opportunity to review and discuss the previously adopted policies and procure and give the Cable Consultants from Skyline Media the chance to review them and make any recommendations for changes based on the feedback they receive and analysis they do over the 90 day period they are engaged as consultants with the City of Los Alamitos.

7. COMMISSIONER REPORTS

At this time, Commissioners may also report on items not specifically described on the Agenda that are of interest to the community, provided no action or discussion is taken except to provide Staff direction to report back or to place the item on a future Agenda.

8. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing Agenda was posted at the City Hall, Community Center, and Museum not less than 72 hours prior to the meeting. Dated this 3rd day of April 2015.



Bret M. Plumlee
City Manager

MINUTES OF CABLE TELEVISION COMMISSION OF THE CITY OF LOS ALAMITOS

REGULAR MEETING – March 3, 2015

1. CALL TO ORDER

The Cable Television Commission met in regular session at 7:00 p.m. on March 3, 2015, in the Council Chamber, 3191 Katella Avenue, Los Alamitos, Chair Underwood presiding.

2. ROLL CALL

Present: Commissioners Clayton, Hammond, Singer, Underwood

Student Commissioner Ellison

Absent: Commissioners None

Present: Staff Bret Plumlee, City Manager
Catherine Howard, Police Department Secretary

3. ORAL COMMUNICATIONS

Chair Underwood opened Oral Communications

Seeing no one, Chair Underwood closed Oral Communications.

4. MINUTES

Approval of the minutes for the Cable Television Commission meeting of February 3, 2015.

Motion/Second: Singer/Underwood

Unanimously Carried: The Cable Television Commission approved the February 3, 2015 Cable Television Commission meeting minutes.

5. PRESENTATIONS

Doug Wood provided an overview of LATV programming, scheduling, how programs are delivered to LATV on DVDs, formatted, loaded onto the server, and scheduled for broadcast based on priority for prime time scheduling, community relevance, content, and interest level. Local interest programs include *Winter Wonderland*, *Honored Citizens*, Council Meetings, LAUSD meetings, religious programming, South Coast Air Quality Management District meetings, and sports. He tries to accommodate community requests for specific time slots and age appropriate programming. Public Service Announcements (PSA) avoid call to action or hard sell issues, focusing more towards information on charity fundraising,

seat-belt reminders, gun-safety tips, sporting events, water conservation, etc. Mr. Wood adheres to the *LATV Policies and Procedures Guidelines*, mindful of the appearance of censorship. The concept of "Safe Harbor" means age appropriate programming is geared towards specific time slots. He rotates prime broadcasting times between Government, Public Access, and sports programs.

There was a brief discussion about the quality and quantity of Direct Community Video's coverage of Los Alamitos sporting events. While the sports coverage is condensed, the overall community response is positive.

Commissioner Clayton stated that broadcasting sports is an excellent tool to cross-promote other LATV programming.

Commissioner Singer asked if the City could measure viewership numbers and/or high volume timeslots. Mr. Wood said that both Charter and Time Warner are unwilling to share those demographics.

Mr. Wood stated that PSAs also include Community Calendar slides, and he fills the silent audio with a classical musical feed from KUSE. Jazz, hip-hop, Pandora, Swing, Big Band, and other music options were discussed. He is cautious regarding Obscenity, Profanity & Indecency (OPI) laws in conjunction with radio stations that may play songs that include profanity. He would be able to alternate different styles of music during the week.

Student Volunteer Ellison proposed consideration of playing CDs of the Los Alamitos High School band; he will check with the school.

Mr. Wood stated that he schedules specific programs, Council, Rossmoor, and LAUSD Meetings, etc., at locked-in, consistent timeslots, so residents can rely on watching those meetings; he adjusts other programming for viewership variety.

Commissioner Singer suggested that the commissioners watch several hours of LATV per week to formulate a personal assessment of the overall programming.

Chair Underwood suggested that prior to making any programming modifications; a review of the Policies and Procedures guidelines would be worthwhile.

Vice Chair Hammond expressed dissatisfaction that the LATV programming schedule is not fully or consistently published in the *News-Enterprise*; a 24-hour schedule would be helpful for residents to plan their viewing. Mr. Wood replied that the LATV Guide provides information on all upcoming programming.

Discussion ensued on the pros and cons of 24/7 programming. Does 24/7 programming benefit residents; if so, how many? Or should the server be down and resting during the middle of the night? Is the wear and tear on the equipment or server worthwhile? There is no definitive "cost per hour" calculated for running programs.

6. STAFF REPORTS

A. Requests from February 3, 2015 Meeting

Item 5: Review and discuss LATV Fund 28 Year-to-Date Activity Report.

This item was taken out of order as it was briefly discussed during the Presentation. City Manager Plumlee summarized the Year-to-Date activity as of January 31, 2015. There is not much activity unless capital funds are spent.

Item 1: Discuss direction regarding LATV workshop plan.

Commissioner Singer stated that detailed review and discussion of an LATV Workshop did not appear to be practical at this time, given that the RFQ was still pending; it might be prudent to wait until the Council announces a General Manager, who would presumably have his/her own plans on the issue.

City Manager Plumlee suggested discussion of Item 4, as a connection to the Item 1 discussion.

Item 4: Discussion of the present status of the RFQ process for the hiring of a general manager/consultant for LATV.

City Manager Plumlee stated that the City is in the middle of conducting interviews with the RFQ applicants, with the anticipation of presenting a recommendation to the March 23rd Council meeting. He suggested workshop plans could be presented and discussed with a General Manager, should the Council appoint one.

These two items were tabled to a future meeting.

Item 2: Discussion of the value of inviting a representative from Alliance for Community Media (ACM) or from American Community Television to apprise the LATV Commission and the council of the progress of the CAP Act, and possible action to forward our request to the Council to authorize a presentation by one of the above reps at an upcoming Council meeting.

Chair Underwood provided a history of this issue, recommending that the commission receive a presentation about the CAP Act, its current legislative status and future impact for LATV.

Commissioner Singer inquired as to the purpose of such a presentation. He stated his preference for an unbiased, non-partisan presenter, rather than by a lobbyist with an agenda. He questioned whether this was the proper forum for such a presentation.

City Manager Plumlee suggested an alternative educational presentation to the commission, similar to what Doug Wood just provided.

Item 3: Discussion of initiative to record commission meeting beginning with pilot recording of Planning Commission, with potential to expand to other commissions.

City Manager Plumlee provided a brief summary of this item; the Planning Commission, who just moved their meetings to the third Wednesday of each month, will be the pilot commission program. Mr. Wood will facilitate this broadcast and the cost will be determined using his billable hourly.

Commissioners Singer and Clayton expressed their concern as to the value to or interest from the community. They questioned how this could benefit the station or increase viewership.

Chair Underwood believes this is a valuable tool for the community.

Vice Chair Hammond expressed his objection that Item 4 was not discussed sufficiently. He strongly objected to not discussing the RFQ further. City Manager Plumlee clarified that the item had been discussed earlier and that the commission had had several opportunities last year to provide input on the RFQ process. The City has conducted their due diligence and the Council appears satisfied with that process to date.

7. COMMISSIONER REPORTS

Commissioner Clayton requested that the commission stay "on track" with the agenda, and not discuss issues not on the agenda.

Chair Underwood stated that LATV had many successful productions to date; he spoke briefly about filming the *Americana Awards* the Saturday before.

8. ADJOURNMENT

The Cable Television Commission adjourned at 8:55 p.m.

John Underwood, Chair

ATTEST:

Bret Plumlee, City Manager



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes *Western City* magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the "ayes" and then asking for the "nays" normally does this. If members of the body do not vote, then they "abstain." Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body."

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member's desired approach with the words "I move ..."

A typical motion might be: "I move that we give a 10-day notice in the future for all our meetings."

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, "A motion at this time would be in order."
2. **Suggesting a motion to the members of the body**, "A motion would be in order that we give a 10-day notice in the future for all our meetings."
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

"Motions to amend" and "substitute motions" are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a "motion to amend" or a "substitute motion" is left to the chair. So if a member makes what that member calls a "motion to amend," but the chair determines that it is really a "substitute motion," then the chair's designation governs.

A "friendly amendment" is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, "I want to suggest a friendly amendment to the motion." The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year." The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?
Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is "no." There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, "point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

Order. The proper interruption would be, "point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, "return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.



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City of Los Alamitos

Cable Television Commission

Agenda Report
Discussion Items

April 7, 2015
Item No: 6B

To: Members of the Cable Television Commission

From: Jason Al-Imam, Administrative Services Director

Subject: Cable Operations Study

Summary: Skyline Mediacast Productions was selected by the City Council to perform a cable operations study. Skyline will be present at the meeting to discuss the scope of their study and to seek input from the Commissioners.

Recommendation: Upon the conclusion of the presentation by Skyline Mediacast Productions, the Commission and members of the community should be provided with an opportunity to provide input to the cable consultants for consideration in their study of the City's cable operations.

Background/ Discussion:

Los Alamitos Television (LATV) exists to provide public, educational, and government access television. Skyline Mediacast Productions was selected by the City Council to perform a cable operations study. Skyline will be present at the meeting to discuss the scope of their study and to seek input from the Commissioners and members of the community.

Fiscal Impact

There will be no fiscal impact for the City of Los Alamitos.

Submitted By:



Jason Al-Imam
Administrative Services Director

CITY OF LOS ALAMITOS
FUND 28 - Los Alamitos TV
Year-to-Date Activity (as of 2/28/15)

Revenues:

Time Warner PEG Fees	\$ 7,928.00
Verizon PEG Fees	15,365.00
Event Filming Reimbursement	6,500.00
Investment Earnings	240.07
Total Revenues	30,033.07

Expenditures:

Contractual Services	100.00
Event Filming	2,166.66
Garage Vehicle Charges	1,067.00
Total Expenditures	3,333.66

Revenues Over Expenditures	26,699.41
Beginning Fund Balance - 7/1/14	115,409.36
Ending Fund Balance - 2/28/15	\$ 142,108.77

11-16-09

LOS ALAMITOS ACCESS TELEVISION

POLICIES AND PROCEDURES

(Adopted: November 16, 2009)

1.0 Goals of LATV

1.1 Los Alamitos Access Television ("LATV") exists to provide public, educational, and governmental (hereafter "PEG") programming to the communities of Los Alamitos and Rossmore, and the community served by the Los Alamitos Unified School District. LATV's mission is to broadcast programming of local interest and/or benefit, which may not exist but for the support of PEG operations. Our goal is also to provide and support individuals, schools and non-profit organizations in the community with the opportunity to produce and broadcast their own quality programming to the community.

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2.0 Distribution

Los Alamitos Access Television programming will be distributed primarily on Channel 3 (hereafter "cablecast") as carried by the local cable television franchisees, currently Time-Warner and Verizon Communications. It will also be distributed via internet technologies (hereafter "webcast").

3.0 Program Content

3.1 LATV will not broadcast Public Access, Educational or Governmental (PEG) programming that it has determined to violate federal or state requirements.

3.2 **No Commercial or Offensive Programming.** LATV shall be used only for noncommercial purposes. However, advertising, underwriting, or sponsorship recognition expressly authorized in advance by the City may be carried for the purpose of funding PEG-related activities. An agreement between the City and a consultant to air programming may include such authorization. Members of the public shall not include any advertising in their public access programming. Members of the public may, however, include reference(s) to, underwriting or sponsorship in any public access programming if the reference(s) to underwriting or sponsorships appear in the opening or closing credits of a program that is at least 30 minutes in length. The opening or closing credits must occur within the first 2 or last 2 minutes of any public access program.

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LATV will not be obligated to air programming which contains any of the following:

- a. Programming which constitutes or promotes any lottery or gambling enterprise in a manner which is in violation of any applicable local, state, or federal law.
- b. Programming which solicits funds in a manner prohibited by applicable law.
- c. Material which is obscene as defined by applicable law.
- d. Material which constitutes libel, slander, invasion of privacy or publicity rights, unfair competition, violation of trademark or copyright, or which might violate any local, state or federal law.
- e. Programming which advocates incitement to unlawful action (as addressed under Brandenburg v. Ohio, 395 U.S. 444 (1969) or other applicable federal or state law.

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Unlawful incitement is currently generally defined under Brandenburg v. Ohio, 395 U.S. 444 (1969) as follows:

Advocacy of the use of force or of law violation where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

- f. Material which has a reasonable probability of creating an immediate danger of damage to property or injury to persons.
- g. Advertisements or sponsorship programming, which in the determination of the station General Manager, does not have a primary purpose of supporting the station's PEG-related activities.

4.0 Non Discrimination Policy

LATV shall not discriminate against potential users of its channel space on the basis of race, color, creed, national origin, sex, sexual preference, age, religious belief, social philosophy, economic status, or physical ability.

5.0 Programming & Scheduling

5.1 City to Foster Educational Programming and Create Governmental Programming. In addition to encouraging public access programming, the City should take steps to ensure, via its own actions, that the following programming will be produced for use by LATV:

Educational Programming. The station manager shall work with the Los Alamitos Unified School District and the local colleges (CSU Long Beach, Long Beach Community College, Cypress College, Golden West College) and local schools to provide quality education access programming.

Governmental Meetings. LATV shall broadcast live coverage of all meetings of the Los Alamitos City Council. The station manager shall work with the City of Los Alamitos, the Rossmore Community Services District, and the Los Alamitos Unified School District to provide coverage for government access programming.

Additional City Controlled Programming. LATV shall provide guaranteed time slots for additional programming produced under the direction of the City. LATV shall be solely responsible for the creation and scheduling of programming in these time slots. The duration and exact time of said time slots shall be established in agreements with the contracted operator of LATV. Such programming may include, but is not required to include, coverage of local community or sporting events, and local news. When determining which types of additional such programming to produce, the following shall be considered beneficial:

- The ability of the program to build regular viewership
- High production quality
- Programming which can raise funds for the operation of PEG-related activities
- Programs of direct interest and benefit to the serviced community

5.2 Scheduling of Programming. All guaranteed time slots shall be allocated according to the following systematic, non-discriminatory basis, to programming that meets all requirements of this policy:

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- a. Live meetings of the Los Alamitos City Council.
- b. Live meetings of the Rossmoor Community Services District, and the Los Alamitos Unified School District

c. Programs produced by the City and/or its designee(s) (which may include bulletin board messages).

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d. Programs produced by another public agency

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e. Rebroadcasts of meetings of the Rossmoor Community Services District and the Los Alamitos Unified School District. ¶

e. Live series programs produced by a Los Alamitos Producer.¹

f. Live single programs produced by Los Alamitos Producers

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g. Taped series programs produced by Los Alamitos Producers

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h. Taped single programs produced by Los Alamitos Producers

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i. Rebroadcasts of City Council meetings.

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j. Rebroadcasts of meetings of the Rossmoor Community Services District and the Los Alamitos Unified School District.

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k. Live series programs produced by Non-Los Alamitos Producers using LATV facilities

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l. Live single programs produced by Non-Los Alamitos Producers using LATV facilities

m. Taped series programs produced by Non-Los Alamitos Producers using LATV facilities

n. Taped single programs produced by Non-Los Alamitos Producers using LATV facilities

o. Bicycled series programs²

p. Bicycled single programs

First run programs will be favored over repeat programs. If time slots remain available, then they shall also be allocated according in the following order of priority (from highest priority to lowest). Playback times and dates requested or suggested by program producers will be considered to the extent they are consistent with these requirements.

If a programming slot was awarded to any particular producer pursuant to priorities g through p, then the same producer shall not be provided an additional time slot unless no other submitting would otherwise qualify for a programming slot.

¹ A "Los Alamitos Producer" shall be an LATV certified producer who also is any of the following: (1) a resident of Los Alamitos; (2) an owner of a business located in Los Alamitos; (3) a student enrolled in a school located in Los Alamitos; and (4) a producer producing a show for and about a non-profit organization which rents or owns property in Los Alamitos.

² A "bicycled" program is a program produced by a non-LATV certified producer without the use of LATV facilities.

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In order to ensure that access to LATV is available to the entire community, no group of shows produced by the same non-public agency producer (i.e. Public Access Programming) may occupy more than five hours of total available airtime per week, unless no other programming is available.

If City has determined that a producer has knowingly violated the provisions of this policy, the City shall not broadcast any programming from that producer for a period of six months.

5.3 Los Alamos Access Television will make every reasonable, good-faith effort to notify all access producers of the broadcast date or dates of their respective programs. However, LATV reserves the right to preempt scheduled programs to present special or time sensitive programming.

6.0 Delivery Technical Requirements

All video programs submitted for cablecast must comply with the technical requirements specified below:

6.1 Only the following formats will be accepted for playback on the community use portion of channels managed by LATV, in current order of preference:

6.1.1 Digital files (AVI, MOV, MP4, etc.) on a portable hard drive storage device. Because of the dynamic and rapidly changing advancements in digital formats, producer shall confirm the preferred format with LATV before submitting.

6.1.2 DVD (DVD-R preferred).

6.1.3 Videotape (DV, Mini-DV formats preferred, followed by S-VHS and VHS), but only if they will deliver a clear and unbroken picture to cable subscribers.

6.2 Audio must be clearly understandable and at audible levels without distortion.

6.3 The following technical information must be recorded on the submitted DVD or tape:

- a. 30 seconds of color bars and "zero level" tone as a separate chapter on the DVD, or at the head of a tape.
- b. Color bars should be followed by five (5) seconds of black.
- c. The black section should be followed by a 10 second slate with program title, exact length, name of producer, and production date.
- d. The slate should be followed by a 10 second countdown which includes two (2) seconds of black before the program begins.
- e. The program title should be shown near the beginning and at the end of the program.
- f. Program credits must appear at the end of the program.
- g. Any disclaimers required must be included at the beginning and end of the program material to be cable cast.
- h. At least 60 seconds of black must be recorded after the end of the program.

6.4 The following minimum information must be included on labels affixed to the videocassette and the videocassette box:

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- a. Producer's/provider's name and phone number
- b. Program title
- c. Exact length of program
- d. Production date
- e. Episode number and program description (series programs only)

6.5 Length of Programs. Programs submitted for cable casting are encouraged to conform to the time frames of 12 minutes, 26 minutes, or 52 minutes, as applicable, to allow for end of program announcements, sponsorship recognition, etc.

6.5.1 Programs over 60 minutes in length will be allowed only for special events or for coverage of lengthy meetings, or similar events.

6.5.2 Programs shorter than 15 minutes in length may be grouped together in a video "shorts" format.

7.0 City Responsibilities

The City intends to do the following:

- a. Provide and maintain a studio facility that can be used to conduct workshops to train qualified public access producers and to create, produce and edit public access programming.
- b. Schedule day-to-day operation of the studio facility.
- c. Schedule all programming to appear on LATV.
- d. Ensure that all public access producers are made aware of and comply with all procedures and policies regarding user eligibility, producer privileges and responsibilities, program content, funding procedures, equipment and studio use, the responsibilities of a producer, appropriate commercial and non-commercial information, required copyright information and clearances for music or appearances on camera, scheduling of qualified crew, technical delivery requirements, and required acknowledgements and disclaimers, all content submission and appeals procedures, and any and all other procedures as may be legally required for public access programming submitted to the City of Los Alamitos.

8.0 Mobile Production Truck Access

The production van is only used by station staff, and not public access producers, unless prior written approval is provided by the Los Alamitos City Manager.

9.0 Complaints Regarding Program Content

- A. Prior to airing a program, LATV shall not review a show for the purposes of reviewing the subject matter, unless it has received a tip that the programming may one of the following: (1) commercial advertising or programming (including any program the primary purpose of which is to sell a product or service, such as "infomercials"); (2) a program which contains lottery information prohibited by applicable law; (3) a program which solicits funds in a manner prohibited by applicable law; (4) unprotected obscenity (as defined in Miller v. California, 413 U.S. 15 (1973) or then applicable federal or state law); (5) unprotected incitement to unlawful action (as addressed under Brandenburg v. Ohio, 395 U.S. 444 (1969) or then applicable federal or state law); or (6) a program which contains indecent content. In no event shall a program be

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removed from air or moved to a time slot between 10:00 pm and 6:00 am (in the case of indecent content) unless and until the initial review has been conducted. The City Manager or his designee shall make a determination regarding such potentially inappropriate content. LATV shall make reasonable attempts to notify the producer of the show that such a review is taking place.

- B. The City of Los Alamitos, the Los Alamitos Television Corporation, LATV-3 and anyone connected with those entities shall not be responsible for any libelous or slanderous content in any program.
- C. Obscenity is currently generally defined under Miller v. California, 413 U.S. 15 (1973) as follows: (1) when an average person, applying contemporary community standards, would find that the show, taken as a whole, appeals to the prurient interest; and (2) when the show depicts or describes, in a patently offensive way, sexual conduct as defined by state law; and (3) when the show, taken as a whole, lacks serious literary, artistic, political or scientific value.
- D. Unlawful incitement is currently generally defined under Brandenburg v. Ohio, 395 U.S. 444 (1969) as follows: advocacy of the use of force or of law violation where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- E. If the designated City employee reviews the program and concludes that it constitutes programming described in (A) above ("Challenged Program"), LATV may pull the show from the air or, in the case of indecent content, move it to a time slot between 10:00 pm and 6:00 am while at the same time making reasonable attempts to notify the producer before taking such action. In all cases, within twelve (12) hours of taking such action, LATV shall provide written notice to the producer that his or her show has been removed from the air or moved to a 10:00 pm to 6:00 am time slot and the reason under (A) for such action. Such written notice shall be delivered to the most current electronic mail or postal address on file with LATV. All producers shall be responsible for maintaining current information with LATV.
- F. The producer of the Challenged Program shall have the right, but not the obligation, within forty-eight (48) hours of receiving notice that his or her program has been removed from the air or moved to a 10:00 pm to 6:00 am time slot, to submit a request to LATV for a binding hearing before a neutral third party hearing officer selected through the Office of Administrative Hearings (OAH) ("Hearing Officer")³. If the producer does not elect to utilize this administrative process, he or she shall have the right to pursue other legal remedies, as provided for by law.
- G. LATV will submit the Challenged Program at issue to the Hearing Officer promptly (within one (1) business day of the producer's request for an appeal). Within two (2) business days of submission of the Challenged Program, both the producer and LATV shall be permitted to file a written brief of no more than ten (10) pages to the Hearing Officer, unless the Hearing Officer determines, in his or her sole discretion, to allow more or less written argument. In addition, there shall be no hearing scheduled before the Hearing Officer, unless requested by the producer or LATV, or unless the Hearing Officer determines, in his or her sole discretion, that a hearing is needed. If a hearing is requested or determined to be necessary by the Hearing Officer, such hearing shall be scheduled within two (2) business days of submission of the Challenged Program. The Hearing Officer shall use all reasonable efforts to limit the

³ Utilizing the OAH shall be the default process, due to its experience and cost effectiveness. If deemed necessary, however, LATV and the producer may mutually agree to utilize another neutral hearing organization, firm or individual. If an alternative is mutually agreed upon, all remaining hearing procedures and requirements provided for here shall still apply.

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hearing time, in the interests of prompt appeal regarding first amendment rights and in the interests of cost. The hearing shall be held in or nearby Los Alamitos, if possible, but in no event further away from Los Alamitos than the cities of Irvine or Los Angeles. The hearing shall be video or audio recorded, but need not be transcribed by a court reporter unless the producer and/or LATV request and pay for such transcription. The video or audio recording need not be certified.

- H. This administrative appeals process shall not be subject to the Administrative Procedures Act or any other formal arbitration or appeals process; rather, it shall be limited to the process provided for herein, as well as any other procedures determined to be necessary by the Hearing Officer in his or her sole and absolute discretion. Formal rules of evidence shall not apply, but the Hearing Officer may admit, in his or her sole discretion, evidence which he or she finds to be relevant, probative and supported by sufficient indicia of reliability.
- I. The Hearing Officer's sole jurisdiction shall be to determine whether the designated City employee properly concluded that the Challenged Program constitutes programming described in (A) above. Review by the Hearing Officer must be completed within three (3) business days of submission of the Challenged Program, unless the Hearing Officer determines, in his or her sole discretion, that additional time is needed. The Hearing Officer's decision shall be in writing, shall include findings of fact and conclusions of law, shall be provided to all parties at the same time, and shall be final and not subject to appeal to any person or administrative or judicial entity. All documents making up the administrative record shall be provided to and maintained by the City Clerk of the City of Los Alamitos, and shall be retained and disclosed to any person pursuant to the terms of the California Public Records Act.
- J. If the Hearing Officer determines that LATV was within its rights to remove the Challenged Program from the air or to move it to a 10:00 pm to 6:00 am time slot, LATV and the producer shall each pay fifty percent (50%) of the costs of the Hearing Officer. If the Hearing Officer determines that LATV was not within its rights to remove the Challenged Program from the air or to move it to a 10:00 pm to 6:00 am time slot, LATV shall pay one hundred (100%) of the costs of the Hearing Officer. In no event shall either LATV, the City of Los Alamitos, LATV-3, or anyone connected with those entities be responsible or liable for any other costs, fees (including, but not limited to, attorney or expert fees), or expenses incurred or claimed by the producer for the Challenged Program. Similarly, in no event shall the producer be responsible or liable for any other costs, fees (including, but not limited to, attorney or expert fees), or expenses incurred or claimed by LATV, the City of Los Alamitos, LATV-3, or anyone connected with those entities for the Challenged Program.
- K. If the Hearing Officer concludes that LATV was not within its rights to remove the Challenged Program from the air or to move it to a 10:00 pm to 6:00 am time slot, LATV will make all reasonable efforts to find a time slot(s) for the program to air to make up for the time(s) that the program did not air.
- L. If the Producer opts to use the administrative appeals process provided for herein, it shall be the sole and exclusive remedy available to LATV, the City of Los Alamitos and the producer, and no party shall have the right to judicial review or appeal.

10.0 Further Revisions to Policy

It is requested that, within 120 days of the effective date of this policy, any Consultant or other party operating LATV provide the City Manager a list of recommended revisions to this policy. The City intends to consider all recommended revisions to the policy received within that time frame.

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