

CITY OF LOS ALAMITOS

3191 Katella Avenue
Los Alamitos, CA 90720

AGENDA CABLE TELEVISION COMMISSION SPECIAL MEETING

Thursday, May 21, 2015 – 5:30 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, 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 shall sign in on the Oral Communications Sign In sheet which is located on the podium once the item is called by the Chairperson. At this point, you may address the Commission for up to THREE MINUTES on that particular item.

1. **CALL TO ORDER**

2. **ROLL CALL**

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

3. **SPECIAL ORDERS OF THE DAY**

A. Review of Policies and Procedures for LATV

Recommendation:

1. The Commission shall decide one of the following:

- a. Decide to hold the Policies and Procedures discussion after the Cable Consultants have finished their "Vision Study" and set a meeting for a discussion for a future date; or,
- b. Continue with the discussion of Policies and Procedures at this meeting.

4. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the following locations: Los Alamitos City Hall, 3191 Katella Ave.; Los Alamitos Community Center, 10911 Oak Street; and, Los Alamitos Museum, 11062 Los Alamitos Blvd.; not less than 24 hours prior to the meeting.



Bret M. Plumlee, City Manager



Date

City of Los Alamitos

Cable Television Commission

Agenda Report Special Orders

May 21, 2015
Item No: 3A

To: Chair John Underwood and the Members of the Cable Commission

From: Bret M. Plumlee, City Manager

Subject: Review of Policies and Procedures for LATV

Summary: The Cable Commission should determine whether or not it would be more productive to hold the discussion regarding Policies and Procedures until after the Cable Consultants have finished their "Vision Study" or whether it desires to continue with the discussion of Policies and Procedures at this meeting.

Recommendation:

1. The Commission shall decide one of the following:
 - a. Decide to hold the Policies and Procedures discussion after the Cable Consultants have finished their "Vision Study" and set a meeting for a discussion for a future date; or,
 - b. Continue with the discussion of Policies and Procedures at this meeting.

Background

On May 5, 2015, the Cable Commission continued the discussion of the goals, responsibilities and mission of LATV. At that meeting, it was requested that a workshop be held to continue that discussion and to review LATV's Policies and Procedures.

Discussion

At the May 18, 2015 City Council meeting, the Cable Consultants (Skyline) provided the Council with an update on the status of the cable operations study. The goal of the study is to outline a long-term fiscally sustainable model for LATV. Skyline will outline several different models for LATV, which will be presented to the City Council in July 2015. Based on the results of the study and the direction provided by City Council, a framework for LATV will be developed that will guide the future of LATV.

The topic of today's Cable Commission workshop was discussed at the City Council meeting on May 18th in terms of the timing of when policies and procedures should be developed. Concern was expressed regarding the preparation of policies and

procedures prior to the completion of Skyline's study. Comments were made that it would be more productive for Skyline to spend their time on gathering data and compiling information for their study and as a result Skyline will not attend the workshop.

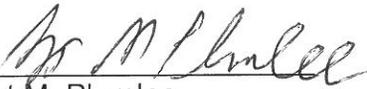
Since a set of policies and procedures are principles, rules and guidelines formulated to reach long-term goals, it may be more productive for the Cable Commission to develop policies and procedures once Skyline's study has been completed and after the City Council has provided direction regarding the future of LATV.

If the Cable Commission agrees to continue with the discussion of Policies and Procedures at this meeting, the Cable Commission can consider reviewing the most current version of the Policies and Procedures governing Los Alamitos Access Television. The LATV Policies and Procedures (**Attachment 1**) were amended and adopted by the City Council on November 16, 2009 and include the language that was ordered by the judge upon settlement of the Katz litigation several years ago.

Fiscal Impact

None

Submitted By:



Bret M. Plumlee
City Manager

Attachment: 1. Los Alamitos Access Television Policies and Procedures

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, and which will most likely not air anywhere else. Our goal is also to provide individuals, schools and non-profit organizations in the community the opportunity to produce and broadcast their own quality programming to the community.

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. Members of the public shall not include any advertising, underwriting or sponsorship in any programming.

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. 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 Rossmoor 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

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:

- 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. Rebroadcasts of City Council meetings.

- d. Rebroadcasts of meetings of the Rossmoor Community Services District and the Los Alamitos Unified School District.
- e. Programs produced by LATV (which may include bulletin board messages).
- f. Programs produced by another public agency
- g. Live series programs produced by a Los Alamitos Producer.¹
- h. Live single programs produced by Los Alamitos Producers
- i. Taped series programs produced by Los Alamitos Producers
- j. Taped single programs produced by Los Alamitos Producers
- k. Live series programs produced by Non-Los Alamitos Producers using LATV facilities
- 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.

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 may occupy more than five hours of total available airtime per week.

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 Alamitos 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.

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.

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:

- 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 not shall 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 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 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

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.

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.

