

*Developing and Applying
Government Access Channel Policies*

*Brad Clark
The Madison City Channel
Madison, Wisconsin*

Developing and Applying Government Access Channel Policies

Contents

1. Organizational Structure/Oversight
2. Mission Statements
3. Programming
4. Who is Eligible for Access to the Channel?
5. What's Not Allowed on the Channel?
6. How is Programming Initiated, Approved, Funded, and Scheduled?
7. What About "Outside" Programming?
8. Copyright Issues
9. Political and Election Coverage Issues
10. Retention and Duplication of Tapes
11. Hours of Programming
12. Other Issues

ORGANIZATIONAL STRUCTURE/OVERSIGHT

Each channel in the compendium is an agency or part of an agency within the City/County/Metropolitan structure.

Reports To:

Role of "Commission":

Mayor/City Mgr./City Administrator:

- Ann Arbor, MI*
- Calabasas, CA*
- St. Louis Park, MN*

Oversight/Make Recommendations:

- Ann Arbor, MI*
- Calabasas, CA*
- Madison, WI*
- Seattle, WA*

County Board/Mgr./Administrator:

- Contra Costa Cty, CA*
- Metro-Dade County, FL*

Set Policy:

- Metro-Dade County, FL*
- Indianapolis/Marion Cty, IN*
- Los Angeles, CA*
- Tallahassee, FL*

Other City Agency/Department:

- Fayetteville, AR*
- Madison, WI*
- Milwaukee, WI*
- Seattle, WA*
- St. Paul, MN*
- Tacoma, WA*

Cable Board or Commission:

- Indianapolis/Marion Cty., IN*
- Lakeville, MN*
- Meridian Township, MI*
- Murfreesboro, TN*
- Sacramento Metro, CA*

MISSION STATEMENTS

Ann Arbor, MI: “...the distribution of information...about government activities...”

Calabasas, CA: “...to provide the citizens...with information about their government...”

Contra Costa County, CA: “...quality programming on issues of countywide interest...”

Metro-Dade County, FL: “...identify, explain and promote the use of County services...”

Fayetteville, AR: “...give residents information about City government...”

Indianapolis/Marion Cty., IN: “...City-County government information to citizens...”

Lakeville, MN: “increase the accessibility of City officials and staff to citizens...”

Los Angeles, CA: “...information about policies, services and activities of City government...”

Madison, WI: “...make local government more accessible to the citizens...”

Milwaukee, WI: “...provide public service information to the citizens...”

Murfreesboro, TN: “...to provide governmental programming to the citizens...”

Ramsey/Washington, MN: “...to facilitate...the communications interests of Member Cities and Townships...”

Sacramento Metro, CA: “...distribute a variety of information about government...”

St. Paul, MN: “...increase the accessibility of...officials and staff to the citizens...”

St. Louis Park, MN: “...produce programming about City services, events and issues...”

Seattle, WA: “...to inform and involve citizens in government.”

Tallahassee, FL: “...to make local government more accessible and understandable...”

PROGRAMMING

Each channel in the compendium is in some sense their community's version of CSpan.

IN GENERAL:

<u>Types of Programming (Prioritized)</u>	<u>Program Source/Cablecasting Mode</u>
1. Emergency information (when mentioned)	1. Live cablecasts (generally of government meetings)
2. Government meetings	2. Tape-delay cablecasts (generally meetings or other events)
3. Programs providing information about local government	3. Locally-produced programming (generally <u>but not always</u> produced by channel staff)
4. Programs about local issues/public affairs	4. Programs from outside sources
5. Bulletin Board	5. Bulletin Board

ALSO:

- Other types of programming frequently mentioned:
 - Election coverage (both candidate or ballot-issue forums and Election Night)
 - Programming pulled down from satellite (Cspan I or II, for example)
 - Public Service Announcements (whether :30 “commercials” or Bulletin Board)
 - Cultural or historic programming
 - Programming providing training for City staff also deemed suitable for cablecast
- Two larger jurisdictions, Metro-Dade and Milwaukee, included repeats of local network affiliates' programming
- Indianapolis/Marion County and Tallahassee, FL specifically mentioned interactive Bulletin Boards
- St. Louis Park, MN specifically mentions that coverage of certain meetings will be provided by Nortel Cable

WHO IS ELIGIBLE FOR ACCESS TO THE CHANNEL?

- EVERYONE had some mention of their “eligibility policy”
- About 50% of stations say City or appropriate local government jurisdictions only
- Others say this as well BUT say access to other groups or individuals may be allowed if “sponsored” by an eligible government entity.
- Generally, the larger the community, the more strict about limiting access; Metro-Dade, Indianapolis/Marion County, Los Angeles (generally), Milwaukee, and Seattle are strict about City government access only.
- Priorities and distinctions were sometimes made between elected City officials, members of Boards or Commissions, and City Department staff
- Madison, WI, in addition to City, County, and non-profit agencies, states that “other organizations may apply for use of facilities and staff (but not access to the channel) on a fee basis.”
- Fayetteville, AR, mentioned public schools after City Departments
- Indianapolis/Marion County includes a provision allowing individuals other than municipal officials or administrators access to their channel “...for the purpose of advocating a personal viewpoint or policy...”. However, such requests “...will be reviewed for appropriateness in accordance with (channel) regulations...”

WHAT'S NOT ALLOWED ON THE CHANNEL?

- EVERYONE had some mention of “prohibited programming”
- Generally, the following no-no’s are specifically mentioned:
 - Obscenity, pornography, or indecent material;
 - Programming that is slanderous, libelous, or defamatory;
 - Programming that endorses a particular candidate, ballot issue, or issue before a local policy-making body (City Council, mostly);
 - Lotteries, gambling, or other games mentioning prizes;
 - Advertising or any other commercial, for-profit programming;
 - Programming advocating a particular religious point of view.

ALSO:

- Very few documents specifically mentioned religious programming;
- Several generally prohibit any programming that violates local, state, and federal laws, and many also mention FCC rules and regulations;
- Pornography or obscene or indecent material is usually described using just those words, although several mention “prevailing community standards” or the FCC definition of indecency;
- EVERYONE prohibits political campaigning, endorsements, or advertising; virtually everyone makes an exception for candidate or ballot-issue programs where treatment is fair and equitable;
- Most prohibit commercial advertising or endorsements of products, although most also mention that “sponsorship” or (perhaps a better word) “underwriting” of programs is allowed or even encouraged;
- Restrictions are often placed on how underwriters are given credit:
 - Mentioned only at the beginning and/or end of the program;
 - No use of company logos;
 - No “call to action” or other “advertising”-type language
- Copyright clearance must be obtained in advance for copyrighted materials used within a program or (for “outside” programming) for the entire program itself

HOW IS PROGRAMMING INITIATED, APPROVED, FUNDED, AND SCHEDULED?

Generally, these issues are addressed to a great extent early on as it's decided what persons or entities are eligible for access to the channel and what types of programming will be carried.

However, it should also be decided at the outset exactly what meetings will be covered and which Departments or Agencies will be given regular programs.

PROGRAM INITIATION AND APPROVAL:

- Generally, proposals for new programming must come from City/County/Metro Departments; Council, Boards, or Commissions; or the Mayor/City Manager/Administrator, etc., although some stations allow requests to be made either by the public directly or through one of the above entities
- Proposals are generally approved by one of four entities:
 - Station Manager and/or Cable Television Coordinator
 - Head of Department within which Station resides
 - Mayor/City Manager/City Administrator etc.
 - Cable Television Board or Commission
- Several stations list the above entities in various order of authority as well as mentioning the City/County/Metro Council as final arbiter in disputes between applicant and approver
- Keep in mind, what your "official" document states and what may happen in practice in this area may be very different

PROGRAM FUNDING:

- Generally, most stations have a predetermined budget (usually all or some percentage of the franchise fee) from which to fund ongoing meeting coverage and program production as well as new proposals
- Many stations are also funded by a "mix" of franchise fee (all or part), general City operating/capital funding, and/or special PEG funding arrangements with the local cable operator(s)
- Many stations also have a rate structure in place for some regular programs as well as new proposals which require the initiating or producing entity to foot all or part of the bill
- Donations, sponsorship, fundraising (either on the part of the station or the requesting entity), and underwriting are often suggested or encouraged, although usually with restrictions mentioned earlier; in some jurisdictions, approval by a governing board or the City Council is required in advance of accepting any money
- The ability to propose programming with money in hand is sometimes mentioned as a way to increase the chances of your project's winning approval

-Should government agencies be charged a different (lesser) rate than outside entities?

PROGRAM SCHEDULING:

-Almost exclusively stated as the province of the Station Manager and/or station staff,
although several stations mention working with the producing/requesting entity

WHAT ABOUT “OUTSIDE” PROGRAMMING?

-Defined as:

Programming produced by other “eligible” government agencies; OR
Programming acquired by these same agencies from other sources,
such as a Health Department acquiring a video on child immunization; OR
Programming produced and submitted by an independent community individual
or group; OR
Programming available through catalogues, libraries, etc.

-This programming may be solicited or unsolicited by your station;

it may be free or it may cost money;

it may not match, may match, or may surpass the technical and aesthetic standards
your station is capable of achieving;

it may be produced using your station’s equipment or facilities but not by your
staff, depending upon your policy in that area

-Generally, smaller jurisdictions or stations just starting up may need to rely more on
outside programming of whatever definition; larger jurisdictions *presumably* may
have the resources to produce most if not all of their own programming;

-However, recall that several larger cities specifically mention replaying programming
provided by local network affiliates;

-HOM-TV (Meridian Township, MI) states in their policies that “programming of a non-
local origin is to be avoided in all but the most exceptional situations.”

-Madison has three criteria for consideration of any “outside programming:

1) Must meet appropriate technical standards as determined by staff

2) Must fit within the priorities established within Mission Statement

3) Must be “sponsored” by a City official or agency staff (which can include
City Channel staff as well);

-In general, it’s probably good to include some statement about “technical standards,”
even though it’s difficult to come up with succinct, objective language;

-However, this statement should at least include a mention about tape formats. When
the Health Department gets a video they use at their clinics which they’d like you
to run, it will almost certainly be in VHS format; an equally certain presumption
is that the video was produced in *some* professional format, and it may take some
digging to track down the format you use;

-Copyright issues must be addressed. Health may have free rein to show materials at
presentations before groups or at clinics, but that in no way implies that the
materials are therefore cleared for cablecast

-Disclaimer language may be added at the end of an “outside” program

COPYRIGHT ISSUES

- Generally two main issues involved here:
 - 1) Who owns the copyright of programming produced by or for your station, and
 - 2) When are clearances required for materials within a program in order to protect your station and governmental unit.
- The jurisdictions that addressed the first issue agreed that copyright belongs to the appropriate governmental jurisdictions;
- Madison states that "...the practical exercise of copyright control shall belong to the agency within the City which funded the production of the work."
- Madison makes further exceptions on copyright ownership based around funding:
 - 1) If program is produced for and funded by other government or non-profit entity, they will hold copyright;
 - 2) If language in a grant or other funding source which pre-exists the work identifies another entity as the copyright holder;
 - 3) Prior agreement is made granting copyright control to a different entity
- Few jurisdictions covered this issue; as public entities it may be questionable how much control municipalities would hold in any practical sense;
- Regarding the second issue, all jurisdictions that mentioned the issue required written clearance of any copyrighted programming or material used in a program;
- Music can be especially troublesome, especially when covering events which include public performances; the laws for playing copyrighted music on television are different and much stricter than those for public performances;
- Some jurisdictions may be able to afford paying annual blanket licensing fees to ASCAP and BMI; others may want to purchase buy-out music libraries;
- No mention was made of "fair-use" as any way around copyright issues;
- When in doubt, contact the City Attorney and don't run it!

POLITICAL AND ELECTION COVERAGE ISSUES

- As stated before, everyone bans political advertising;
- Virtually every jurisdiction produces forums for candidates for local public office, often with the assistance of a separate party such as the League of Women Voters; OR allows programming featuring candidates as long as each candidate receives equal time;
- Los Angeles allows candidates or ballot-measure proponents to produce at their own expense 2-3 minute “Video Presentations” to run back-to-back with other statements as possible;
- Meridian Township, MI, encourages election year programming to include the following components:
 - 1) An interview program for candidates;
 - 2) Allowing candidates to make open statements on their candidacies;
 - 3) Candidate debate forums;
 - 4) Candidate call-in shows
- Most jurisdictions define “candidate” as any person who has announced for a particular office; others limit the definition to people officially on the ballot;
- Some jurisdictions cover general election races only; others cover primaries as well;
- Most jurisdictions limit the participation of candidates for re-election in programming to their appearances at government meetings or in performance of their official duties; these limitations take effect either at some designated time period (30, 90 days) prior to an election or once that official has announced their candidacy;
- Metro-Dade County has decided that “at all times, current term elected officials may participate only in the performance of their official duties.”
- Election Night coverage is not widely mentioned, but where it is, here are some points made:
 - 1) Coverage will commence only after polls close;
 - 2) Some commentary is allowed on some stations; others allow only graphics with official returns;
- Generally, election programming or programs which look at City issues at any time must present advocacy in a fair and balanced manner, with all sides of an issue represented either in each individual program or through the opportunity for equal time.

RETENTION AND DUPLICATION OF TAPES

RETENTION:

- EVERYONE that mentioned the subject made it clear that their videotapes of meetings were not the official record or minutes of the meetings; that duty remains with (generally) the City or County Clerk's office;
- However, several jurisdictions mentioned that their tapes were subject to the same "open records" requirements as other public records or documents, and were therefore open to inspection by the public or other media upon request;
- Tapes of meetings were usually under different guidelines than other programs, with retention times as short as one week (Indianapolis/Marion County) to as long as two years (Ann Arbor for City Council meetings and Tallahassee for City Commission meetings); average is probably around 90 days;
- Several jurisdictions mention meeting tapes being retained as per applicable state statutes;
- Several jurisdictions will retain meeting tapes longer than their standards upon request of public or staff or elected officials;
- Masters of other programming are generally kept much longer; many stations archive masters or (as in Los Angeles) keep them for three years minimum;
- "Work" or raw footage tapes are kept anywhere from one year (Los Angeles) to one month (Madison) following completion of a project

DUPLICATION:

- Most jurisdictions mention the availability of dubs of meetings or other programs to other City staff or the general public;
- Everyone charges a small fee (generally around \$10 - \$20 per program or per hour of meeting coverage); dubs may be free or may cost less if a blank tape is supplied;
- Most jurisdictions make a point of asking that a blank tape accompany a request; several simply state that a blank tape must be provided;
- Many documents mention that fees will be waived for participants in producing programs or for guests on shows (again if a blank tape is supplied);
- Many set limits on the number of dubs they will make of a program (3, for example) in-house; more than the limit, a referral is made to a local duplication house;
- St. Louis Park provides dubs free to City staff with blank tape, \$10 without a tape, and \$20 per hour to the public; they also allow sale of the master tape of the previous meeting of a Board for \$5 after its next meeting;
- Los Angeles requires duplication costs to be included in the budget for programs;

- Other ways of providing access to programs include:
 - allowing tapes to be borrowed (Calabasas, CA);
 - making copies available through the library system (Sacramento Metro);
 - allowing appointments to view tapes (Calabasas, Madison); and
 - setting up special "Viewer Request" replay times (Madison, although once we move to an automated Master Control this will be difficult)

HOURS OF PROGRAMMING

- Many documents specifically state that they program the channel 24 hours a day, seven days a week, usually with a combination of live, taped, and character-generator bulletin board;
- Ann Arbor lists specific weekday and weekend hours for live and taped programming;
- Fayetteville mentions an ultimate goal of 24 – 7 programming; they also mention that CSpan II is regularly scheduled during “off hours”;
- Meridian Township states that up to ten weeks per year of programming may be canceled due to equipment maintenance or because of break periods at Michigan State University;
- Tallahassee mentions the goal of annually increasing their daily average of live and taped programming;
- Although few documents mention it, there’s a presumption that many jurisdictions utilize automated Master Controls

OTHER ISSUES

The following issues were also addressed by one or more jurisdictions' documents and may be considered for inclusion:

- Balance** between station's role in disseminating government information vs. discussing local issues and allowing advocacy of different points of view;
 - Use of disclaimers on programming;
 - What programming actually does reflect the official viewpoint of the City? Only Council meetings, where policy is actually set?
- Access to facility/equipment:** Are other persons besides station staff allowed to use station equipment?
 - What about trained City staff? Other non-profit or community groups? What about the public?
 - Are there separate, "prosumer" camcorders or player/monitor units available? To City staff, public?
- Meeting coverage guidelines:** Generally included to ensure fairness and avoid "video editorializing"
 - Can be quite detailed and specific, such as:
 - Camera always on person speaking;
 - No reaction shots;
 - pre- and post- meeting consisting of wide shot with audio pulled down;
 - Meetings covered gavel-to-gavel;
 - No editing allowed except for technical reasons;
 - Text of agenda keyed at bottom of frame
- Process for scheduling programming:**
 - Station staff vs. City staff or other requester;
 - How far in advance?
 - Who provides approval, and is there an appeal process?
 - Do deadlines of local media TV listings factor in?
- Video text / Bulletin board policies:**
 - Who's eligible? Government staff, non-profits, public?
 - How far in advance must material be submitted?
 - How long an announcement (in words) is allowed?
 - What about graphics, photos, video or audio?
 - Is there a fee for access?
- Your station as a production facility:**
 - Will facilities only be used for cablecast materials?
 - Is a role as the City's video production facility for training, outreach, and other non-cablecast materials appropriate?

-Chargeback rates? Are they different than “for cablecast” productions?

-Pre-emption of scheduled programming

-Program logs: How are these kept, and how is access to them managed?

-Tape Library: How is this managed, and does the public have access to it?