

SACRAMENTO METROPOLITAN

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Cable
CTC Television
Commission

SUITE 2500, 700 'H' ST., SACRAMENTO, CA 95814 • (916) 440-6661

ROBERT E. SMITH
EXECUTIVE DIRECTOR

July 26, 1983

For City Council Meeting of:
August 2, 1983

To: City Council

From: Bob Smith, Executive Director
Sacramento Metropolitan Cable Television Commission

SUBJECT: INDEPENDENT BODY TO ALLOCATE COMMUNITY BENEFITS

In the staff report issued on May 17 and again on June 7, 1983 for the Cable Commission Workshop on Rebidding the Sacramento Cable Television Franchise, staff raised the issue of whether the elected officials wish to change the method of allocating community programming grants to specific nonprofit community organizations. If there was such a desire, staff suggested that the elected officials consider the concept used in other jurisdictions and form an independent access management body which would be designated as the recipient and distributor of all community programming grants.

This issue was not raised by any of the elected officials at the Cable Television rebidding workshop on July 6, 1983. As such, staff considered the issue resolved and prepared the RFP documents accordingly.

However, in considering final approval of the RFP at its meeting on July 21, 1983, the Board of Supervisors raised this matter and approved and recommended to the City Council formation of an independent community body to receive and distribute community grants for all facilities, equipment and services, except those to government entities. Attached is Ordinance Amendment language prepared by staff in response to the Board of Supervisors' direction.

If this Ordinance Amendment is adopted by both the City and the County, staff envisions the structure of the independent body to be very similar to the SC3 approved by the Commission last fall. The actual By-Laws identifying the structure, duties, and authority of this independent body would be approved by your Commission at your September meeting and will be subsequently included as part of the Draft Resolution in the RFP. Formation would occur within six months of the filing of the Certificate of Acceptance. If the independent body failed to accomplish its objectives, the funding allocated to its operations would go in trust to the Commission until a new body could be formed.

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Therefore, staff recommends that you consider the Board of Supervisors' recommendation to form an independent management body as described in the attached Ordinance Amendment language, and authorize the necessary changes to the RFP and the Draft Resolution for distribution to the prospective bidders.

Speranza Avram for
BOB SMITH, Executive Director
Sacramento Metropolitan Cable
Television Commission

Attachments

cc: Board of Supervisors
Orvell Fletcher

INDEPENDENT MANAGEMENT BODY: SUMMARY OF ORDINANCE LANGUAGE

Staff has prepared the attached Ordinance language to develop completely the independent management body concept which was approved by the Board of Supervisors on July 6, 1983 and recommended to the City Council for consideration.

In summary, the proposed language provides for the following characteristics of the independent management body:

- 1) Access - An applicant wishing to provide resources to the independent management body must first provide access to the community pursuant to the existing Ordinance language (Section 5.50.336). This continues the policy established in the Ordinance previously for public access.
- 2) Formation of Independent Body - The Independent Body will be formed by the Commission within six months after the award of the franchise. Its structure, duties, and powers will be included in the Resolution Offering the Franchise. The formation process is outlined in a new Ordinance section, 3.50.345.
- 3) Designation of Schools - School districts, as governmental entities, may be excluded from the management body grant award process. This provides for grant revenues to be processed through the existing governmental legislative bodies to school districts. (Sec. 3.50.342) This exemption, however, does not apply to the Educational Consortium, which is a separate entity from school districts.
- 4) Broader Concept - The independent management body may provide grants to entities for other than cable TV related purposes, specifically, for support of educational, charitable, literary, scientific, artistic or cultural activities in Sacramento. (Sec. 3.50.345) This would provide flexibility for the granting process over the 20-year franchise period.
- 5) KVIE And Educational Consortium Access - Applicants may directly grant access to cable channels to KVIE and the Educational Consortium without going through the independent management body. However, grants for facilities, operations, or equipment must be granted to the independent management body who will distribute them.

Where changes have been made in the proposed Ordinance language, the underlining is to indicate new language, and four asterisks (****) indicate a section of the existing Ordinance is recommended for deletion.

ORDINANCE CHANGES

5.50.344 RESOURCES FOR OTHERS. If an applicant for a franchise has included within its application a proposal under Alternative No. 1 pursuant to Section 5.50.336 above, the applicant **** may, for the purpose of promoting improvement in cable services to the community and influencing the motivation of the awarding authority to select the particular applicant as the Franchisee, include within their applications the commitment of services, resources or other benefits (including, but not limited to, ongoing financial support, channels or cable time thereon, personnel resources or facilities or equipment). **** Such commitments of services, resources or other benefits shall be made to the independent body established pursuant to Section 5.50.345 below. Applicants shall specifically identify the nature and extent of all services, resources or benefits committed thereto but may not identify, directly or indirectly, intended purposes or recipients of said commitments within its application.

If any applicant for a franchise shall, prior to tentative selection pursuant to Section 5.50.214 above, directly or indirectly, give or commit or attempt or agree to give or commit any services, resources or other benefits to any specifically identified party other than the County, the Cities, independent districts within the County or the independent body to be established pursuant to Section 5.50.345 below for the purpose of influencing the motivation of the awarding authority to select that particular applicant as the franchisee, said applicant's application shall be deemed rejected and no franchise shall be granted to said applicant upon the basis of such application.

An applicant who chooses not to commit services, resources or benefits as authorized by this Section shall not be disqualified from bidding or consideration in selection of the Franchisee. It is expressly declared that the factors upon which selection will be based are so numerous and subjective as to make it impossible to know in advance the relative importance of a determination by an applicant to either make or not to make such proposals in relation to other factors upon which award of a franchise will be based.

5.50.345 INDEPENDENT BODY. If an applicant who is awarded a franchise pursuant to sub-chapter 3 hereof shall have committed services, resources or benefits pursuant to Section 5.50.336, 5.50.338, or 5.50.344, the Commission shall, within six months after the filing of a Certificate of Acceptance by said applicant, establish an independent nonprofit corporation to accept, receive, and/or administer the services, resources, or benefits so committed proposed by the applicant. Said body shall not include any officer, agent or employee of the County, Cities, Cable Television Commission, the Franchisee, any named owners of the Franchisee, or any affiliate of the Franchisee. The specific duties, powers and organization structure of said body shall be as determined by the Commission and set forth in the Resolution offering the Franchise. The independent body shall be authorized by its articles of incorporation to expend such funds as are committed to it by the Franchisee for any lawful purpose advancing artistic, cultural, charitable, educational, literary, or scientific affairs within the County of Sacramento including, but not limited to, community use cable television programming. The independent body shall be authorized to expend such proportion of its funds for administrative and overhead expenses as is reasonable and necessary.

5.50.342 RESOURCES FOR PUBLIC AGENCIES. Applicants for a franchise shall be authorized, but not required, to include within their applications proposals for services, resources or benefits **** including, but not limited to, free or discounted rates for subscription to services on the Subscriber Network or Institutional Network, channels or time thereon on the Subscriber Network or Institutional Network, electronic or other equipment, use of the Institutional Network, staffing resources or other services, resources or benefits for improvement in the delivery of governmental services or efficiency of governmental operations to the County, the Cities or independent districts within the County, including but not limited to school districts. A Franchisee who has proposed the provisions of such services, resources or benefits in its application shall comply during the entire term of the Franchise with all such commitments contained in its application and the resolution offering the franchise pursuant to the terms and conditions stated therein, and the failure to provide such services, resources or benefits pursuant to the terms and conditions stated shall be deemed to constitute a material violation and breach of the Franchise Documents.

An applicant who chooses not to make such a proposal shall not be disqualified from bidding or consideration in selection of the Franchisee. It is expressly declared that the factors upon which selection will be based are so numerous and subjective as to make it impossible to know in advance the relative importance of a determination by an applicant to either make or not to make such a proposal in relation to other factors upon which award of a franchise will be based.

5.50.336 ALTERNATIVE NO. 1 - ACCESS USE. The type of Community Use Programming envisioned by this Alternative constitutes a form of access opportunity to members of the general public to produce programming in separate studio facilities with minimal instructional assistance, direction and control by a Franchisee, on a first-come-first-serve basis.

Applicants desiring to propose this Alternative shall include the following within their applications:

- a. That one (1) or more (specifying the number) channels on the Subscriber Network will be made available exclusively for the type of Access Use Programming prescribed by this Section;
- b. If two (2) or more channels are to be made available for such use, a specification of the Tier or Tiers of Service in which all such channels except the one (1) included in Basic Service will be placed;
- c. A description of the location, nature and extent of separate and independent studio facilities, production equipment, personnel resources and other resources to be provided in connection with such Access Use and Community Use Programming, designed in such a manner as to permit operation by members of the public with minimal training and supervision;
- d. A commitment to make the studio facilities, production equipment, personnel resources, other resources and channel(s) available for use, program production and broadcasts twenty-four (24) hours per day; seven (7) days per week, during the term of the Franchise; the actual number of days per week and hours per day such resources are available for use, program production and broadcasts being subject to regulation from time to time by the independent authority created pursuant to **** Section 5.50.345, below;
- e. A commitment to operate and provide the studio facilities, production equipment, personnel resources, other resources, channel(s) broadcast time and programming opportunity at the sole cost of the applicant without any charge whatsoever;

- f. A statement of the nature and extent of all training to be offered by the applicant respecting equipment operation and training required as a condition of facility and equipment use and operation by members of the public; and
- g. A commitment to allow use of the studio facilities, production equipment, personnel resources, other resources, and channel(s) for the production and broadcast of Community Use Programming by member of the general public, including individuals and local non-profit community organizations, on a first-come-first-serve basis during the term of the franchise.

5.50.334 APPLICATION CONTENTS. Applicants for the Initial CATV Franchise shall be authorized, alternatively, to propose in their applications: (i) no Community Use Programming, by making no reference to Community Use Programming therein; (ii) to propose Community Use Programming in the form of and in accordance with Alternative No. 1, as described by Section 5.50.336, below; or (iii) to propose Community Use Programming in the form of and in accordance with the provisions of Alternative Nos. 1 and 2, as described by Sections 5.50.336 and 5.50.338, below.

An applicant who proposes Community Use Programming in its application shall include in the application the following in relation to the Alternative or Alternatives proposed:

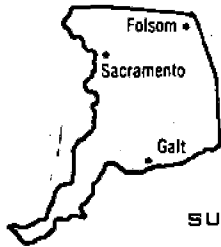
- a. Any standard or criteria which will be utilized in connection with the following matters:
 - (1) The time made available for and Community Use Programming covering candidates for public elective offices during election campaigns;
 - (2) Program quality control;
 - (3) The legality of program content and violation of the legal rights of others;
 - (4) Any and all pre-conditions of whatever kind or nature relating to use by third parties of studio facilities or production equipment and broadcast of programming presented thereby.

- b. The source and amount of operational funding provided for the independent body established by the Commission pursuant to Section 5.50.345.

Meeting 8-2-83 LORRAINE

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ROBERT E. SMITH
EXECUTIVE DIRECTOR

August 3, 1983

To: Members, Sacramento Metropolitan Cable Television Commission

From: Bob Smith, Executive Director
Sacramento Metropolitan Cable Television Commission

Subject: CITY COUNCIL ACTION REGARDING INDEPENDENT BODY

At last night's City Council meeting, the Council voted 7-0 to disagree with the Board of Supervisors' recommendation of July 21st to eliminate direct grants to community groups and allow a non-profit independent body to receive and distribute grant monies.

This action results in a split between the two governing bodies. Unless the City Council and the Board take further action to agree on this issue, the Ordinance will remain unchanged.

Staff recommends that the Board take no action on this matter and allow the current Ordinance provisions to prevail. Attempting to reach a compromise at this late date could delay the franchising process and result in the later submission of bids.

Some of staff's concerns regarding the availability of grant monies to groups not involved during the franchising process could be allayed under the existing Ordinance by the bidders allocating such money to the independent body they are required to set up. In the previous franchise proposals, this was accomplished by the allocation of revenues to the independent body for distribution to community agencies. Nothing in the current Ordinance prevents the new bidders from making similar contributions for the non-profit body to distribute.

BOB SMITH, Executive Director
Sacramento Metropolitan Cable
Television Commission

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