



Memorandum

TO: Public Safety, Finance and
Strategic Support Committee

FROM: Tom Manheim

SUBJECT: Report on Public and Educational
Cable Access Transition Planning

DATE: September 12, 2007

Approved

Kay Wines

Date

9/12/07

SUBJECT

The intent of this memorandum is to provide an update on the City's project to transition Public and Educational (PE) Access cable programming facilities, as required under the Comcast Franchise approved by the City Council in December 2006, to a new management structure and facility under the San José Community Media Access Center (SJCMAC).

BACKGROUND

Historically in San José, Public, Educational and Governmental (PEG) access channels on the Comcast system have been managed by three distinct entities. Comcast manages the Public channel 15, The Community College Network (comprised of Foothill/DeAnza, West Valley, Mission, San José City and Evergreen Community Colleges) in co-operation with San José State University and the Santa Clara County Office of Education manage programming for Educational channels 27 and 28, and the City manages Government channel 26 (*CivicCenter Television*).

The Public Access facility offered by Comcast is extremely limited and under funded. Educational access consists exclusively of telecourses and other program distribution and does not offer any funding or assistance with effective use of media technologies to the educational institutions mentioned above. Government access is funded entirely by the City and receives no cable operator contribution. In December 2006, the City Council approved a renewed franchise with Comcast.

As a result of the new franchise, Comcast will cease providing any facilities or support for public access and is instead providing funding that can only be used for these purposes. The City has hired Sue Buske of The Buske Group to assist in the transition to a new single Public and Educational (PE) access facility to be managed by a non-profit that will largely be funded through the funding

from Comcast. The new managing body will be called the San José Community Media access Corporation (SJCMAC). Government access will continue to be City-managed and will take a portion of funding made available through the cable franchise. It should be noted that in April 2007, the California Public Utilities Commission approved AT&T's proposal for a state franchise under which it will serve the City of San José. As AT&T begins serving San Jose, we would expect some additional revenue to support the PE Access.

HISTORY

At the start of San Jose's cable franchise renewal effort seven years ago, the City carried out an extensive public input and community needs assessment process to identify San José's "cable-related needs and interests" as defined under Federal law. The needs assessment process was guided by a Community Needs Assessment Task Force composed of a group of community, educational, and civic leaders. Buske facilitated the Task Force. The process involved the following tasks:

1. Two telephone surveys of San José residents;
2. Twelve community focus group workshops (attended by 142 people, including citizens and representatives of 98 San José community groups, organizations, institutions, and government agencies) to help identify current and future cable-related needs and ascertain attitudes about the existing PEG access operations and programming;
3. Distribution of questionnaires to the focus group participants that were designed to identify community cable-related needs and interests regarding PEG access and attitudes regarding the future usage of a variety of new cable communication services;
4. Meetings with educational institutions (K-12 and post secondary);
5. Meetings with community groups and organizations;
6. Meetings with the staff of the cable company's local programming operations in San José and inspection of their production facilities;
7. Analysis of information gathered through the review of local strategic, long range, and technology plans; and
8. The completion of an extensive series of reports documenting the findings and recommendations.

As a result of this extensive public input process the Community Needs Assessment Task Force formed a group called the Board of Conveners (BOC) to establish a nonprofit organization to manage public and educational access in San José.

The BOC conducted a study of best practices in public and educational (PE) access management and organizational structures. The model selected is based on some of the unique characteristics of public access programming, which is different from other forms of television broadcast. All decisions about programming content are made by the individuals and organizations that are creating the programming, rather than by the management of the access facility. Under the First Amendment, only extremely limited categories of speech are prohibited such as obscenity and libelous/slanderous content. It is important to note that in instances where access management refuses to air a program based on questionable content, the creator of the programming may assert a claim of unlawful

ensorship, even if a court subsequently deems the content to fall within these limited categories of unprotected speech. While the City has representation within the organization in the form of a Board seat, any of these issues of questionable content and free speech will be between the individual producer and the organization, not between the individual and the City. As a result of that study, articles of incorporation and by-laws were created for an organization that would manage the public and educational access channels and provide services to the community through the management of one or more Community Media Centers.

The BOC went through an extensive public application process to permit community members, community organizations, and institutions to submit applications for persons to serve as the initial Board of Directors for the new organization. A Board of 15 people was identified for the new organization, the San José Community Media Access Corporation (SJCMAC). The Board met and went through an intensive orientation process, elected its officers, and started committee work to begin to plan for the future deployment of the public and educational access channels and the Community Media Center.

ANALYSIS

Purposes of SJCMAC

SJCMAC was established to encourage and support the use of public and educational access resources among a wide range of individuals, organizations, and institutions within the City of San José and to promote a free exchange of ideas and information in the City. SJCMAC's role is to support, manage, produce, and distribute noncommercial community programming in a non-discriminatory manner. Organizations with similar goals exist in hundreds of communities nationwide, including many nearby California communities that are also served by Comcast (ranging in size from Monterey, Mountain View and Santa Rosa to Sacramento and San Francisco).

SJCMAC Board Membership

The model for SJCMAC assumes that it will be a membership organization where anyone interested in creating a program will pay a nominal fee to become a member and use the facilities. The SJCMAC Board of Directors is a mix of representatives from key institutional partners and interested members of the public. Seven Board members are appointed by designated community organizations to represent a broad category or constituency within the community. The role of the persons seated in these designated Board seats is not to represent their specific appointing organization but rather to represent that identified constituency. Each designated appointing entity appoints one person to be seated as a Board member. The appointing entities are as follows:

- Evergreen Valley College/San José City College
- Santa Clara County Office of Education
- Silicon Valley Council of Nonprofits
- City of San José

- San José-Santa Clara Office of the League of Women Voters
- San José State University
- United Neighborhoods of Santa Clara County

The other eight Board Seats can be filled by any interested member of the community who applies to be on the Board. The SJCMAC membership votes on applicants for these seats. In addition, the Board can appoint from three to five members to provide professional expertise in areas such as legal, financial, and technology.

Services to be provided by SJCMAC

SJCMAC will be responsible for operating one or more Community Media Centers (CMC). The organization will also be responsible for operating the public and educational access channels and distributing community based video content on the Comcast and AT&T cable/video systems. While SJCMAC will be seeking grants and other sources of funding, its primary source of funding will be the 1% of gross revenues that is designated for Access programming in both the Comcast and AT&T franchises. This is projected to be about \$1.2 million in annual revenues over the ten year term of the franchise and will be allocated to both operating and capital costs. A CMC is a video and computer production facility that is available for public use. It typically includes a studio, editing equipment, and field production equipment that can be checked out and used to record content throughout the community. Access to equipment and facilities will be open to all those who receive training or who receive a certification from SJCMAC that they have met the training requirements.

SJCMAC will also provide training on video/computer techniques necessary to create videos that can be broadcast over the local public and educational access, streamed on the Internet, or made available on DVD, and the organization will be responsible for providing all of the necessary support services that will permit the CMC and the public and educational access channels to function. These services include broadcast of programming/content, equipment maintenance, develop and manage volunteers, outreach, promotion and public relations.

CURRENT STATUS

The Comcast Franchise provided an 18 month window within which the City must create a new management structure and facility to provide PE Access in San Jose. Under the franchise, Comcast will cease providing these services on July 1, 2008. This is a very aggressive schedule to create the new facility. With such a compressed timeframe, work began last spring. The most pressing goals on the timeline are: 1) filling of vacant Board seats; 2) location of a new facility; and 3) recruitment of an Executive Director.

Board Membership

The original SJCMAC Board took a hiatus following its creation several year ago while the City negotiated the terms for the franchise renewal. Because so much time has elapsed, a number of the initial Board members were no longer available to serve. Several of the institutional partners

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selected new representatives to fill their “designated” seats. A Board search subcommittee was formed and a memo was sent to Council on July 5th, 2007, seeking nominations for vacant “elected” seats. Interviews are being conducted throughout the month of September. Should the pool received be inadequate, further outreach will be conducted.

Facility Location

A new facility will need to be identified and either purchased or leased. A facility search subcommittee was formed in order to evaluate all available options. Facilities currently under consideration include vacant/surplus City facilities, educational institution sites and facilities available for rental or purchase on either the open market or at a discounted rate as a charitable contribution. Additionally, partnerships with affinity organizations are being explored to determine whether a space sharing strategy might be feasible.

Executive Director Recruitment

An Executive Director search committee was also formed and a national recruitment was undertaken. The position was posted on a number of commercial and nonprofit recruiting websites and outreach was done to professional organizations of cable access operations regionally and nationwide. Several strong candidates have emerged and interviews will be conducted during the month of September. Once an Executive Director has been hired, among his/her first tasks will be the hiring of other key staff.

SUMMARY

The challenges are large and the timeframe is short. It is only through resuming previous work that such a timeline would ever be feasible. The past work included extensive outreach and community participation and will require the continuation of such activities as the process continues. Through the efforts of the SJCMAC, consultants and City staff, the transition plan is being executed on schedule with the hopes for assumption of Public and Educational access services by SJCMAC in mid-2008. While Comcast litigation and changes in state and Federal law have significantly delayed the availability of adequate cable access services to residents and organizations in San José, 2008 should be a year in which many past and current efforts come to fruition.



Tom Manheim
Communications Director