

**Council Meeting: June 9, 2009****SUBJECT: Channel 26 Public Access Television: Programming Options
(Study Issue)****REPORT IN BRIEF**

Staff has brought forth this study issue to allow Council the opportunity to review programming options for Channel 26, Sunnyvale's public access cable channel. Policy regarding programming Channel 26 has not changed since its inception and for the last several years this channel has been under-utilized, and will likely remain so until policy is updated.

Staff has identified several possible paths forward, some at no or low-cost to the General Fund. Staff recommends Council designate Channel 26 as a second government access station, allowing an expansion of programming with little impact to the General Fund.

BACKGROUND

Federal Communications Commission regulations have established that cable television franchise authorities, such as the City of Sunnyvale, may require cable operators in their area to create and carry public access, educational access and government access – known as “PEG” – channels within their cable spectrum. This is the authority under which Council first created KSUN, the government access station, channel 18, now channel 15.

In 2000, Council approved RTC 00-241, creating public access Channel 60, since moved to Channel 26. A subsequent RTC, 02-110, further defined the City's public access television station. Public access stations are, typically, electronic soap boxes from which members of the public may broadcast their own non-commercial programs, espousing whatever viewpoint they like. When Council authorized this new channel, it established a one-year pilot program. To participate in this program, a requirement was included that any producer, as program-providers were known, must have a signed agreement with the De Anza College TV Center. The impetus for this requirement was to ensure programming was produced on professional-level equipment to ultimately provide a technically high-quality program. The original direction from Council established there would not be a commitment of staff time to the public access channel. The reason for this was the very small number of producers and the expectation that as the number of producers grew, there would have to be an

accountable level of staff involvement to handle scheduling, interactions with producers and the public and handling/coordinating program content tapes and DVDs.

Initially, four producers were identified to participate in the pilot program. Over the years, however, the number of producers expanded then dwindled; currently there are but two: Don Yeager (*On the Move*) and Pat Kapowich (*Kapowich on Real Estate*).

OCM's Communications Office is responsible for the operation of the City's cable television stations. Since Council's original direction regarding the public access station (Channel 26) mandated there be no budgetary expenditures related to the station's operation, staff has been restricted from pursuing expanded programming for this channel. In addition, the now-antiquated rules for qualifying producers have essentially barred staff from approving any new program producers for the station.

In its January 2009 Study and Budget Issues Workshop, Council considered OCM-04: Channel 26 Public Access Television: Programming Options. This issue was brought forward by staff to determine Council's wishes for the future of Channel 26. Staff believes the policy established by the enabling and subsequent RTCs from 2000 and 2002 needs to be updated to allow expanded programming on Channel 26.

More recently, a Councilmember has expressed an interest in methods of paying for Channel 26 operations and who might operate the station on a day-to-day basis. Neither of these operational issues is addressed in this RTC, which focuses on Council policy. Once Council has determined the programming it would like Channel 26 to provide, staff will explore various means of implementing that policy direction.

EXISTING POLICY

7.2A.4b: Achieve a community in which all community members are well-informed about local issues, City programs and services; and promote and encourage volunteerism in City and community affairs.

DISCUSSION

This study was designed to do two things: first, determine the station designation and programming focus for Channel 26.

Second, determine possible criteria for approving program producers.

Channel 26 Station Designation

In determining the station designation, there are four options available to Council: (1) public access, (2) educational access, (3) government access, or (4) abandon station operations all together. The current designation is public access.

The real issue is how can the City best utilize Channel 26? It is at Council's discretion that Channel 26 is currently used for public access. It can, by Council action, be designated a government access channel (like KSUN) as a second vehicle to carry whatever non-commercial programming the City wishes, such as satellite-fed cultural programming, meetings of other government bodies, such as school districts or county agencies, or additional board and commission meetings. Alternatively, it could be turned into another educational channel; this would be in addition to the already-existing Channel 28 educational channel. The City has no programming control over Channel 28, as it is run by the schools. Finally, Channel 26 could be abandoned altogether.

Option 1

Council does have the authority to change the designation of Channel 26 from "public access" to "government access," which would, in effect, create a true sister station to KSUN. Other cities, such as El Segundo, have successfully followed this approach. Creating a second government access station would enable the City to provide additional programming to residents without adversely affecting the broadcast and replay schedules for Council and Planning Commission meetings as mandated by City policy. At such time as Council may wish to expand broadcasting to include additional board or commission meetings, the second government access channel would provide an appropriate platform. Satellite equipment can be purchased using PEG funds – without any General Fund impact – to provide a diverse realm of programming at no cost to the City, including material from the University of California, arts and cultural programming and the California Channel. Given there are only two producers currently providing programming to Channel 26, it is not likely a change in programming content would be viewed by the general public as anything but positive. When AT&T U-verse begins carrying KSUN's signal, they will also pick up Channel 26 at the same time. It should be noted that should Council so direct, a government channel can in fact be used to carry not only government programs, but also educational and public access programs.

Designating Channel 26 as a government access station would provide the City with the widest range of options in program content. The City would be able to broadcast City meetings, meetings of other governmental bodies, informational meetings and presentations, material from City departments, nonprofit organizations and education-related organizations. Programming could include locally-produced specialty programs, such as high school sporting events,

drama presentations, debates and similar programming. Council may authorize the use of programming time for public opinion commentary, an information bulletin board, similar to what is on KSUN, and satellite-fed programming from a variety of sources, including the California Channel, the University of California, the Annenberg Foundation, etc.

Some of these options do have costs attached to them. Locally-produced programs, such as a high school football game, require field production staff and equipment. In some cases, such as at Fremont High, there are film clubs or other groups that are quite capable of creating broadcast-ready video without cost to the City. As they are students, their time is limited and the City should not expect a high-level of products from them, but they are a potential source for program content. Satellite programming is generally without cost to the City. In the City of Cupertino, fine arts programming was provided from a satellite feed and according to Cupertino staff, was very well received by residents. Cupertino no longer carries this programming, however, due to a change in direction in how their channel is programmed.

While Council may authorize Channel 26 to be used to some extent for public opinions to be presented, the caveat is that a true public opinion “soapbox” cannot be controlled in terms of what is said. On a channel that has been designated as public access by the local franchising authority, this is expected and should not surprise a viewer. On a government access station, however, there could be an implied endorsement of the statements since they are being aired on a government access channel. There are techniques staff can employ to visually separate the public opinion from any City position, however, which could make a public opinion program viable.

The one remaining negative about this type of programming is that there could be a cost involved (see Fiscal Impact section) if the City produces such programming. Whatever designation option Council chooses, policy will need to be developed to simplify the processes involved in operating Channel 26.

Option 2

Council could retain Channel 26’s designation as a public access channel, but direct an expansion of public programming. Rather than be limited by agreements with outside institutions or a specific list of producers, if Council decides to expand the inventory of local producers, policies to define producer qualifications should be adopted (see Attachment “A”). This would continue the original “electronic soapbox” concept of Channel 26 as established by Council, but with a larger number of participants. This option would, however, increase the amount of staff time involvement directly with the number of program producers accepted.

Just as Council has the authority to define what kind of programming goes on a government access station, it also may do the same for a public access station. Thus, if Council were so inclined, it could authorize satellite-fed programming or other content to be broadcast on Channel 26 as a public access station. A negative to this approach, however, is that this could be confusing to the public, from where there is a general expectation that public access stations carry public opinion and community-produced programs. This confusion could be avoided by designating Channel 26 as a government access station.

Under current operating policies, Channel 26 public access producers provide the Communications Office with a finished product ready to be broadcast. It must meet certain technical standards, and this is done at no cost to the City. If Council wishes to expand the number of producers, there should be a Council position regarding programming costs to the City. If the City were to be involved in producing public access segments, there could be a financial cost to the City, as reflected in the Fiscal Impact section of this RTC. Another option is to require that producers bear the costs of their productions (as is currently the case).

Option 3

Council has the authority to designate Channel 26 as an educational access channel. Channel 28 is currently used by educational institutions, including Fremont High, to air programming. Since the City does not operate a school district directly, there is little the City could offer in programming an educational access channel. The Communications Office, in at least the past six years, has never received an inquiry from any educational institution regarding the establishment of a new educational access station. If Council were to designate Channel 26 as an educational channel, the best path forward would be to turn control of the station over to a public educational institution or district that wants to run it without any further commitment or involvement of City staff resources.

Option 4

The easiest path for the City to follow is to simply cease operation of Channel 26. While this would eliminate the issue of staff time and expense related to the station, it may have the least-desirable outcome. Cessation of broadcasting on Channel 26 would almost certainly result in Comcast reclaiming the channel's control from the City. It is arguable whether the City would regain use of the station in the future. Abandoning Channel 26 might be viewed as a positive event, given the City's current financial condition, since it would eliminate any and all staff time related to public access operations. This decision, however, could have long-term impacts as it likely would be difficult to negotiate with Comcast to regain an abandoned channel. Channels are a valuable resource to

a cable provider, and in the event a channel is abandoned, the cable provider is usually eager to fill the space with revenue-producing content.

Criteria for Qualifying Program Producers

Regardless of what programming designation Council gives to Channel 26 – public or government – if Council wants to keep the option of public comment on the air, policy needs to be created to allow additional producers on the air. Attachment “A” provides language Council could adopt to define producers. This is based on the original Channel 26 enabling RTC language, updated to address current conditions. Keeping the option of a public component on Channel 26 with updated policies has the benefit of maintaining a platform for public opinion. Expansion of the public programming to the degree expected on a public access station will require additional staff time and possible costs for producing segments.

FISCAL IMPACT

The fiscal impact related to any of the suggested programming changes is relatively small. Adding new producers or adding satellite programming would require no more than a dozen staff hours a month from Communications staff, with a cost of about \$7,500 per year or less. Whether Council selects Alternative 1 or Alternative 2, there is a potential cost if the City in any way gets involved in producing or contracting for production of public opinion statements. This could add up to an additional \$300 per production hour. Based on an arbitrary limit of 15 speakers per month, this could add more than \$25,000 a year to operating expenses. Council can eliminate this potential cost by continuing the current policy that program production costs are borne by the producer and the City does not assist in that production.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

In addition, public hearing notification letters have been sent to the address of record for all Channel 26 producers, past and present, KMVT and the De Anza College Film/Television Department. Letters have also been sent to the superintendents of school districts serving Sunnyvale.

ALTERNATIVES

There are two decisions Council should make: station designation and program focus; and program producer criteria.

Station Designation

1. Council designates Channel 26 as a government access station, with a focus on City, other government agency programming, satellite-fed programming and such other content as may be available and appropriate.
2. Council affirms the existing public access designation for Channel 26, with a focus on programs produced by Sunnyvale residents offering their stories and issues of interest and using the channel as an “electronic soapbox.”
3. Council designates Channel 26 as an educational access station, with the intent to relinquish programming control to a public educational institution or school district, under guidelines to be developed by staff.
4. Council abandons Channel 26 and ceases operation.
5. Other action as determined by Council

Program Producer Qualifications

- A. Council approves producer qualifications as outlined in Attachment “A”.
- B. Council approves Attachment “A” qualifications with modifications.
- C. Other action as determined by Council

RECOMMENDATION

Staff recommends Alternatives 1 and A: Council designates Channel 26 as a government access station with a focus on City, other government agency programming, satellite-fed programming and such other content as may be available and appropriate.

Staff believes this option would offer the City and our residents the widest range of programming options at the lowest cost. The staff costs to the City would be very low, involving only a few hours each month, and all hardware costs would be paid for by dedicated PEG monies that can only be used for PEG equipment purchase or maintenance under the terms of the City’s franchise agreement with Comcast. Satellite reception equipment would be rolled into the KSUN Control Room rebuild planned for later this calendar year.

Designating Channel 26 as a government access station does not preclude the broadcasting of additional local programming, including public commentary. The franchising authority (the City) has the authority to determine what is permissible to be broadcast on its PEG channels. The FCC does prohibit commercial and political advertising on PEG channels, but just about everything else is left up to the local franchising authority.

Staff does not believe Alternative 2 provides the maximum flexibility to the City in offering program content to our residents. Furthermore, staff does not

recommend Alternatives 3 or 4, either relinquishing Channel 26 as an educational channel, or abandoning the channel. Staff's belief is that Channel 26 is a valuable communications asset to the City and should be utilized as such. It is staff's opinion that alternatives 3 and 4 do not serve the City well.

Reviewed by:

Robert Walker, Assistant City Manager

Prepared by: John Pilger, Communications Officer

Approved by:

Gary M. Luebbers
City Manager

Attachments

Attachment "A": Programming Content Options and Producer Qualifications

Attachment B: Study Issue Paper OCM-04

Attachment A

Public Access Producer Qualifications

These qualifications are generic and apply to any programming option that includes public access components.

- A. Proposed program content includes, but is not limited to, the following:
 - 1. Programs produced by Sunnyvale residents offering their stories and issues of interest;
 - 2. Programs produced by non-Sunnyvale residents, but sponsored by a Sunnyvale resident, offering their stories and issues of interest directly related to Sunnyvale; and
 - 3. Other programming as directed by the city manager;

Programming must meet the following conditions:

- a. Is non-commercial;
 - b. Is non-political;
 - c. Is not for fund-raising purposes;
 - d. Is of interest or import to the Sunnyvale community; and
 - e. Meets technical and programming standards for broadcast as established by the Communications Officer.

- B. Proposed Producer Qualifications for Public Access Television Programs
 - a. Must be a Sunnyvale resident; or
 - b. If not a resident, must be sponsored by a Sunnyvale resident who accepts responsibility for program content;
 - c. Agrees to provide material in a physical form as directed by the City;
 - d. Agrees to meet technical standards as directed by the City; and
 - e. Agrees to hold the City harmless for any action or inaction related to the broadcast or handling of program materials given to the City.

Attachment B

Proposed 2009 Council Study Issue

OCM-04 Channel 26 Public Access Television: Programming Options

Lead Department	Office of the City Manager			
Element or Sub-element	7.2A.4b			
New or Previous	New			
Status	Pending	History	1 year ago None	2 years ago None

1. What are the key elements of the issue? What precipitated it?

Federal Communications Commission regulations have established that cable television franchise authorities, such as the City of Sunnyvale, may require cable operators in their area to create and carry public access, educational access and government access (PEG) channels within their cable spectrum. This is the authority under which Council first created KSUN, the government access station, channel 18 (since moved to channel 15).

In 2000, Council approved RTC 00-241, creating a public access station, now known as Channel 26. Public access stations are, essentially, electronic soap boxes from which members of the public may broadcast their own non-commercial programs, espousing whatever viewpoint they like. When Council authorized this new channel, it established a one-year pilot program. To participate in this pilot program, a requirement was included that any producer, as program-providers were known, have a signed agreement with the De Anza College TV Center. The impetus for this requirement was to ensure programming was produced on professional-level equipment to ultimately provide a technically high-quality program. The original direction from Council established there would not be a commitment of staff time to the public access channel. The impetus for this requirement was the very small number of producers, and the expectation that as the number of producers grew, there would have to be an accountable level of staff involvement to handle scheduling, interactions with producers and the public and handling/coordinating program content tapes and DVDs.

Initially four producers were identified to participate in the pilot program. Over the years, however, the number of producers has dwindled; currently there are but two. This issue is being brought forward because each year, the Office of the City Manager (OCM) receives a number of exploratory inquiries from the public about putting programs on Channel 26. Staff has routinely denied these requests for several reasons. Current policy forbids the use of staff time in the operation of Channel 26. This means staff cannot review submissions to determine whether they meet broadcast standards or any other policy requirement. Also, the programming policy that currently exists addresses requirements for inclusion in the pilot program specifically, and does not address requirements for ongoing programming for Channel 26. In order to treat requests in a fair and consistent manner, staff will continue to deny requests from producers wishing to add programs to Channel 26 until directed otherwise by Council. This approach also ensures that the fewest program producers are impacted (currently only two) should Council opt to designate Channel 26 as a government or educational channel, as opposed to its current public

access designation.

There are two issues to be explored.

First, and this is the larger question, how can the City best utilize Channel 26? It is at Council's discretion that Channel 26 is used for public access. It can, by Council action, be re-designated a government access channel (like KSUN) as a second vehicle to carry whatever non-commercial programming the City wishes, such as satellite-fed cultural programming, meetings of other government bodies such as school districts or county agencies, or additional board and commission meetings. Alternatively, it could be turned into another educational channel. Finally, the channel could be abandoned altogether.

Second, this study issue would explore the pros and cons of various programming options for Channel 26, as well as possible criteria for approving program producers, should the City continue its current use of this channel for public access programming.

2. How does this relate to the General Plan or existing City Policy?

RTC 00-241 created Channel 26 but also set limitations on programming that are no longer relevant. As a minimum, the current policy should be updated or replaced.

3. Origin of issue

Council Member(s)
General Plan
City Staff X
Public
Board or Commission none

4. Multiple Year Project? No Planned Completion Year

5. Expected participation involved in the study issue process?

Does Council need to approve a work plan? No

Does this issue require review by a Board/Commission? No

If so, which?

Is a Council Study Session anticipated? No

What is the public participation process?

Public hearing conducted by City Council. The public will be notified through a news release, an announcement on KSUN and Channel 26, and a notice sent to the last known address of all current and past public access producers, KMVT (Mountain View Community Television) and the De Anza College Film and Television Department.

6. Cost of Study

Operating Budget Program covering costs

735170 Provide Information via Cable Television

Project Budget covering costs

Budget modification \$ amount needed for study

none

Explain below what the additional funding will be used for

7. Potential fiscal impact to implement recommendations in the Study approved by Council

Capital expenditure range None

Operating expenditure range None

New revenues/savings range None

Explain impact briefly

8. Staff Recommendation

Staff Recommendation None

If 'For Study' or 'Against Study', explain

9. Estimated consultant hours for completion of the study issue

0

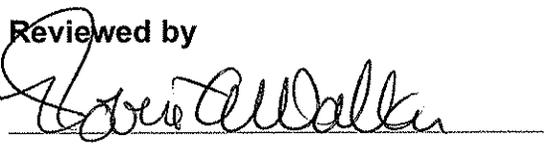
Managers

Role	Manager	Hours
Lead	Pilger, John	
	Mgr CY1:	45
	Mgr CY2:	0
	Staff CY1:	0
	Staff CY2:	0

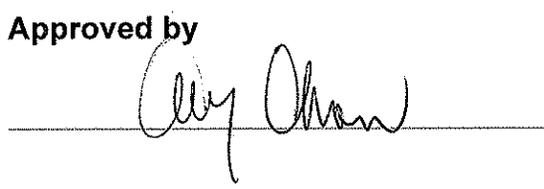
Total Hours CY1: 45

Total Hours CY2: 0

Note: If staff's recommendation is 'For Study' or 'Against Study', the Director should note the relative importance of this Study to other major projects that the Department is currently working on or that are soon to begin, and the impact on existing services/priorities.

Reviewed by

Department Director

10-6-08
Date

Approved by


10/9/08

City Manager

Date

Addendum

A. Board / Commission Recommendation

Issue Created Too Late for B/C Ranking

Board or Commission	Rank	Rank
	Rank 1 year ago	Rank 2 years ago
Arts Commission		
Bicycle and Pedestrian Advisory Committee		
Board of Building Code Appeals		
Board of Library Trustees		
Child Care Advisory Board		
Heritage Preservation Commission		
Housing and Human Services Commission		
Parks and Recreation Commission		
Personnel Board		
Planning Commission		

Board or Commission ranking comments

B. Council

Council Rank (no rank yet)
Work Plan Review Date (blank)
Study Session Date (blank)
RTC Date (blank)
Actual Complete Date (blank)
Staff Contact