

October 18, 2006

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To: The El Cajon City Council

Re: "Misuse of the Government Access Channel"

Please include this as an agenda item on the October 24, 2006 City Council Meeting.

It has come to our attention that the City of El Cajon is operating in violation of City Council Policy A-25 with regard to the Government Access Channel. Furthermore, the discrepancies appear to be more than exceptions, and instead point to routine disregard of City Council Policy. The showing of blatantly religious and political videos was executed under the radar and on a routine basis.

BACKGROUND

Since December, 2002, the City has had a directive from the City Council, in the form of City Council Policy A-25 to regulate the government access channel, Cox cable channel 24. Cox provides the County of San Diego free airtime in trade for the use of county right-of-ways for Cox to route their cable. The City of El Cajon apparently has a similar arrangement with Cox. (Details have been requested.)

According to Policy A-25, the Government Access Channel time provided to the City is to be used for City Council Meetings, Grossmont Union High School District Meetings, as well as the community bulletin board. A provision was included to allow the airing of educational videos as a last preference. This policy specifically disallows political and religious programming, and explicitly specifies that all programming is to be logged on a daily basis.

Sometime after this policy was passed by the City Council, videos by David Barton, the Vice Chair of the Republican Party of Texas, were broadcast. These videos look back to the formation of the nation, looking at the Declaration of Independence and the Constitution, but making the point that the nation is a Christian nation, that the founders were all orthodox and evangelical Christians, and that the doctrine of the separation of Church and State is only a myth. David Barton has no credentials as a Historian or as an educator, and his videos promote a narrow view of the events of the founding of the United States. The Baptist Joint Council on Religious Liberty provides a scathing review of these videos, equating them with lies and deceptions. One film, "The Role of Pastors and Christians in Civil Government" appears to violate the policy A-25 by

just reading the title. It begs the question as to why Catholics, Jews, and Quakers are left out of this discussion. Certainly, this is not a valid video to be shown on a tax-payer funded channel.

It is interesting to note that no videos from any other source were ever shown during the nearly four year period, that these videos were not logged, and no formal approval of the videos was ever voted on by the City Council. In November of 2003, City Manger Bill Garrett proposed that the City Council "reapprove" funding for the videos, to the tune of \$4,800 per year. No original approval can be found in any City Council minutes. Simply put, they were included stealthily, and the City Council hoped no one would notice.

It seems clear that this activity was known to be in violation of the City Council Policy, of the Constitution, and of general principles of good government. During the approval Policy A-25, a comment was made that the videos might open the city up to lawsuits.

Council Member Bob McClellan has publicly admitted that he is behind the airing of these videos. He provides private showings and lectures to churches and Bible studies on his own time. Mr. McClellan should reimburse the City the \$4,800 per year (nearly \$20,000) that was spent to provide these biased films touting his own religious beliefs.

The Government Access Channel is a wonderful public asset. It should be used wisely, and without bias for a particular political or religious agenda. We applaud the intention of using unused time to educate the public on governmental matters. The City has a wonderful opportunity to provide valuable information, an opportunity that would otherwise cost the City thousands of dollars per day. It is an opportunity that should not be wasted.

The infrastructure to manage the content of these videos is not working. Therefore, the following proposal is suggested as a means to rectify these errors.

PROPOSAL

1. Historical Reconstruction: Since the City Manager's office was not following the City Council Policy A-25 in that none of the videos were being logged, the past history of the use of this channel should be reconstructed using any and all other resources, such as invoices, staff interviews, and other records. This good-faith effort should produce a list of all videos aired, approximately when they started to be aired, and approximately how many hours they were aired.
2. Disclosure. Clearly, the City Manager should follow the policies of the City Council. Not in spirit, but to the letter. Not occasionally, but always. And, there must not be any exception to promote a particular viewpoint, religious position, or political party.
 - 2.1. The City Manager must cause the videos to be logged on a daily basis. The daily logs should be available for inspection on the counter of the City Clerk, without any requirement for legal review of the request.
 - 2.2. The exact schedule of videos should be shown on the City web site so anyone in the public can review this activity, even if they do not subscribe to Cox cable, and even if

they happen to be outside the broadcast area. At present, no schedule is shown on the web site.

- 2.3. The slides of the bulletin board should be shown as well on the web site. This has the added benefit of further promoting City activities. At present, the content of the bulletin board slides is not shown.
3. Commitment to the Constitution. The recent activities in violation of City Council Policy A-25 brings into question whether the City Council fully supports the City Charter and the United States Constitution. The City Council should reaffirm their commitment to defend and uphold our Constitution, and in particular, the First Amendment.
4. Public Retraction: Since the David Barton films have aired for perhaps 2,500 hours, it is only appropriate for the City to post an opposing view to this material on their web site. The critical review by the Baptist Joint Committee for Religious Liberty, as well as their paper, "Answers to the 10 Most Common Lies about the Church and State" are appropriate for this purpose.
5. A video taking a very balanced view of Religious Liberty should be shown on the channel for at least six months, two time per week. For example, the video "Religious Freedom" from the ACLU Freedom Files is a 28 minute film that examines this question, including cases where a student was defended when she attempted to insert a Biblical verse in the high school annual, a family's house who was firebombed because of their Baptist beliefs, and many others. This video can be previewed on the internet at <http://www.aclu.tv>. (Click "On the Web" and select "Religious Freedom")
6. Future Approvals: To avoid the secret airing of videos of questionable or even obscene nature, it is hereby proposed that the City Council explicitly approve any videos to be aired, and that these approvals appear in the official minutes of the City Council, including the title, producer, and other pertinent identifying information. These videos should be available for review upon reasonable request.
7. Advisory Committee: Since there are many videos to choose from, it is further proposed that a bipartisan advisory committee of at least five members be constituted that will make recommendations to the City Council. The members of this body should have a background as educators from local public institutions, such as history professors from the Grossmont Community College District, teachers from local schools, and retired public educators. Not all members need be educators, but they must not be direct appointees of the Mayor or any other elected officials. It is also suggested that at least one member be a student from local public schools, perhaps selected by lot. The Committee should review and make recommendations at least annually for the following year.

The videos should be of strictly educational and historical value, as clearly provided by policy A-25. For example, to teach material about the Constitution, a topic extensively discussed in the David Barton films, a resource such as "A DVD History of the Constitution" by Ambrose Video is suggested. This series includes eight 28 minute segments, including "The Seeds of the Constitution," "Founding the Constitution,"

“Writing the Constitution and the Bill of Rights,” “Testing the Constitution,” “The Constitution Survives,” “The Constitution is Expanded,” “The Constitution in a Changing World,” and finally “Constitutional Reform and Controversy.”

This firm also can provide other series, such as “A History of Black Achievement in America,” “A History of Hispanic Achievement in America,” “A History of Women's Achievement in America” as well as 18th, 19th, and 20th “... Century Turning Points in U.S. History.” Their entire catalog includes not only American History, but Shakespeare plays, Black History, Literature, and many other categories. Their recordings are attractively priced, and include public performance rights. For example, the Constitution series (4 DVD's) is only \$129.00. That's only \$16 per 28 minute program.

The function of the Advisory Committee will be to review the videos and provide a list of videos that are appropriate for the Government Access Channel. Final approval will be by the City Council, but they may not override the advisory committee to include videos that have not already been recommended. The David Barton films must be specifically banned from consideration.

In addition, that committee will accept recommendations from the community, and will accept contributions for the purchase of the videos, and other costs.

There is a concern that the City Council will again misuse its oversight and approval power to include videos like those of David Barton, that are revisionist in nature and may support a political or religious position of one City Council member. However, the exposure of this activity to the light of day, the inclusion of the schedule on the City web site, the diligent logging of programming, the use of an advisory committee, and the explicit approval of all videos by the City Council, will allow for public comment, review and dissension, and should avoid the abhorrent history of this station.

Prompt and diligent action to implement the proposal above should allow the City to avoid costly lawsuits. This situation has already cost the taxpayer enough.

CONCLUSION

In conclusion, this unethical behavior of El Cajon City must stop. City Council Policy must be implemented as written, and extended to further reduce the likelihood of misuse. Explicit support of the provisions of our Constitution must be reaffirmed, and a course set to utilize the wealth of the government access channel established with the needs of the public space respected.

Respectfully submitted,

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