

# channelAustin Fact Sheet

## Current channelAustin Operations Rely on Austin Cable Access Fund

- Annual budget for channelAustin (PACT) ~ \$725,000
- \$617,500 (85%) of channelAustin budget from "Austin Cable Access Fund"
- \$617,500 is fixed amount per year set by City contract from 2005 to 2011
- \$617,500 same for ACAC/ACTV; no increase with 2005 contract; despite higher costs
- Austin Cable Access Fund is a special revenue fund used to support community TV
- Funding is from Time Warner Cable; Subscribers pay 35 cents per month into fund and this is NOT taxpayer dollars
- Funding is a condition of the franchise agreement between Time Warner and City
- Cable Access Fund revenue for 2005-06 was \$762,472; Est. for 2006-07 was \$652,600

## SB 5 (aka Public Utilities Regulatory Act) Eliminates Municipal Franchise Agreements

- SB 5 passed Texas legislature in September 2005
- Legislation pushed by AT&T lobbyists to ease entry into video market (i.e. U-Verse)
- SB 5 eliminated municipal franchise agreements and created statewide franchise system
- Existing cable franchise agreements (Time Warner / City of Austin) were grandfathered – meaning that existing agreements could not be terminated until the end of the contract
- Texas cities have different end dates for grandfathered municipal franchise agreements
- Austin OK until 2011 (maybe); San Antonio hit hard in 2005; Houston expires in 2008
- When municipal franchise ends, cable companies go immediately to statewide franchise
- Existing access channels preserved under SB 5, but not public access operation funds

## Future channelAustin Operations (post 2011 or sooner) has NO Cable Access Fund

- NO PROVISION under statewide franchise for "special revenue fund" for Cable Access
- No guaranteed operation funds when Time Warner franchise agreement expires
- Any future funding dependent on City Council and annual budget cycle demands
- Without City support, channelAustin would need to raise \$60,000 per month to continue operations as it does today
- SB 5 provides for capital equipment funds, but none for operations.

## TCA Lawsuit Threatens To Eliminate Time Warner Franchise Earlier Than 2011

- The Texas Cable Association (TCA) filed suit in federal court against SB 5 in 2005
- TCA argued it is unfair for AT&T to be granted statewide franchises, while cable companies must abide by local franchise agreements until they expire
- If TCA wins, Time Warner gets out of its franchise agreement earlier than 2011
- Federal district court first ruled that TCA had no basis for a lawsuit
- In Feb 2008, 5<sup>th</sup> Circuit Court of Appeals overruled the District Court
- The 5th Circuit Court decision now gives the TCA the ability to proceed with its lawsuit to get out of the grandfathered municipal franchise agreements
- Next step for the Texas cable industry is to seek a summary judgment or go to trial
- Going to trial is most likely; we are now waiting for TCA to make its next move
- Timeframe and outcome difficult to predict; yet if successful then Time Warner no longer obligated to fund channelAustin operations -- sooner than the 2011 franchise expiration
- Likely that any funds remaining -- and still due to public access -- would disappear (\$1.3 million capital equipment money) as it did when Grande went to a state franchise

## City and Community Support Vital For Future Operations

- channelAustin faces no operation funding in the future
- To maintain current level of operations will require more City and community support
- City will continue to receive Time Warner franchise fees; *only cable access fund is cut*
- City Council will need to allocate funds for access television from the general fund
- Future City funding becomes a political decision subject to annual budgetary constraints
- Starting now, City Council members must see that community TV is valuable
- Producers *and* viewers need to demonstrate to City Council why community TV has to be supported and funded
- Community TV must be relevant to a wide audience in order to have broad support

## Beyond Television and The Need For Web-Based Community Media Centers

- Today, more U.S. households have Internet (61%) than cable TV (58%) [*Sources: National Cable and Telecommunications Association & National Telecommunications and Information Administration*]
- Public Access television stations throughout the country are transforming into Community Media Centers where cable TV is one of many media opportunities
- Most Public Access TV / Community Media Centers are embracing the Web as a platform for video distribution and interactive communication
- Austin public access needs to go “beyond television”; to rethink and redefine the purpose of public access and become more relevant to a broader community, with multiple media platforms

## Critical Building Infrastructure Needs To Be Addressed

- Before moving forward, critical building infrastructure needs to be addressed
- The roof of the facility leaks and rainfall has caused extensive damage
- The air conditioning system is oversized resulting in high humidity problems
- High humidity levels account for damp curtains in the Main Studio, mold, the inability to replace sound panels in both studios
- The building is not energy efficient; this is not environmentally sound and results in higher energy costs that must be paid for from public access operating funds

## Technology Upgrade Plan Needs to be Implemented

- The City called for the development a “multi-year technology upgrade plan aimed at addressing the convergence of television, computer, and telecommunications technologies.” To implement this plan, the scope of work stated that an “estimated \$1 million” in equipment funds would be available.
- The “purpose of Capital Equipment Funding is to maintain and repair equipment, and to upgrade the technology at its facilities, including the acquisition of new production equipment, systems technologies, and upgrades.”
- The PACT-City contract also requires the City to “request each year from its cable franchisee(s) additional funding in order to upgrade the technology in accordance with an upgrade plan mutually agreed by City and Contractor.”

## Remainder of \$1.8 Million in Capital Equipment Money Needs To Be Drawn Down

- In calendar year 2006, close to \$200,000 was spent on equipment. Sixty percent (60%) of that sum was for new equipment purchases and forty percent (40%) was for repairs.
- In March 2006, Time Warner Cable offered to partially contribute to the cost of the automatic playback system for public access in order to be released from its franchise obligation to provide playback services. This contribution would have gone toward the \$320,000 cost. This offer was not pursued by City staff.
- It was reported that in August 2006, the City put in a request to Time Warner Cable to draw down the remainder of capital equipment funds available under the franchise – at that time more than \$1.8 million.
- In the fall of 2006, the Austin Community Technology and Telecommunications Commission developed a resolution with recommendations on the use of the \$1.8 million for public access only. In April 2007, the resolution was modified to recognize all Public, Education, and Government access channels in Austin as potential recipients of some portion of the \$1.8 million, specifically Channel 6.
- The first public reference to what the City's Channel 6 might want to use some of the capital equipment funds for was made at the April 2007 Telecommunications Commission meeting. The minutes of that meeting state that: "Channel 6 has relied upon equipment funds from Time Warner for 5 to 6 years for a variety of equipment needs which include funding for the equipment at the New City Hall. Currently Channel 6 has a list of equipment needs which includes equipment for plaza productions."
- In August 2007, City staff reported that Time Warner had paid the City "for the public access playback equipment which was about \$320,000 which makes the balance \$1.5 million dollars. City Staff wanted to come up with a comprehensive list of needs from Channel 6 and PACT before they came up with a spending plan to submit to TWC." Commissioners again asked when such a comprehensive list would be prepared.
- The City's use of Capital Equipment funds to pay for the playback system is a concern. The franchise agreement clearly states that Time Warner Cable, "shall continue to provide playback services for Access Channels." If the City had forced Time Warner Cable to comply with the franchise agreement when Grande Communications relinquished its playback obligation in 2005, and had demanded that Time Warner "continue to provide playback" for the access channels, Time Warner would have had to do so from its facility without the use of capital equipment funds. (We were lead to believe that capital equipment funds would never be used for the playback system.)
- City staff announced at the August 2007 Telecommunications Commissions meeting that it would pursue \$200,000 of that total for new equipment purchases at PACT. An equipment purchase list has been submitted and we are waiting for complete delivery.
- The subtraction of this \$200,000 from the balance of \$1.5 million as stated in August leaves the balance at \$1.3 million.

## Time Warner Franchise Compliance

- The City is not requiring Time Warner to fully comply with its franchise agreement