

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: 19 July 2006

SUBJECT: Television Cablecast Policies (HCTV 11)

ATTACHMENT(S): Draft policies

SUMMARY OF REQUEST:

Attached are proposed new policies for cablecast over HCTV Channel 11. They are essentially in two parts: Articles 2, 3 and 4, dealing with programming that is both audio and video in nature, and Article 5, which deals with "audio-only" programming.

The guidelines for combined audio and video programming are very similar to those currently in effect. Those for audio-only programming are greatly revised, to take into account board and contractual requirements. Please note that, in the case of audio-only programming, failure to abide by these guidelines, *even once*, can result in the dropping of such programming from HCTV 11. (This is not needed for combined audio and video programming, since the County will directly control such cablecasts.)

County staff will present further information on this matter.

PROPOSED BOARD ACTION:

If the Board is so inclined, the following motion is suggested:

I move that the Board adopt the proposed new policies for cablecasting on HCTV Channel 11.

Henderson County

TELEVISION CABLECAST

DRAFT

POLICIES AND PROCEDURES

**TELEVISION CABLECAST
POLICIES and PROCEDURES**

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Henderson County**TELEVISION CABLECAST
POLICIES and PROCEDURES****Article 1 GENERAL**

1.1 NAME AND CHANNEL DESIGNATION: Henderson County's Government Channel, "HCTV" is currently operating on Channel 11 on the Henderson County cable system operated by Mediacom Southeast, LLC ("Mediacom"). This channel designation shall not be changed by Mediacom.

1.2 PURPOSE OF CHANNEL: Henderson County's purpose in offering programming on HCTV is to provide information about county and state government and their services, policies, and programs, in order to enhance public understanding of such government and local issues affecting them. It is not Henderson County's intention to create public forum on HCTV, and no part of these policies and procedures shall be interpreted to create a public forum.

1.3 COMPLIANCE WITH LAWS AND REGULATIONS: HCTV will be operated in a manner to comply with all applicable federal, state and local laws, rules, and regulations.

1.4 DEFINITIONS: The following definitions will apply throughout these policies and may, as appropriate, be deemed to refer collectively or to any part thereof:

1.4.1 "Audio-only programming": Such audio-only content which may be used by Henderson County in conjunction with separate and distinct video programming from a different source. By way of example and not limitation, "audio-only programming" could be the signal from a radio station cablecast simultaneously over HCTV with text characters generated by Henderson County.

1.4.2 "Audio-video programming": Such combined audio and video content, from a single source, which may be cablecast over HCTV.

1.4.3 "Approved Agency"" Those units of local government or specific public-affiliated institutions allowed to sponsor programming on HCTV, including: Blue Ridge Community College; Henderson County Board of Public Education; Henderson County Hospital Corporation, and such other entities approved by County Government.

1.4.4 "County Government": The Henderson County Board of Commissioners, and all Henderson County departments and offices. Also included specifically are the NC Cooperative Extension -Henderson County Center, Soil & Water Conservation District, and Henderson County Travel & Tourism.

1.4.5 "Emergency Programming": Programming submitted only by the Henderson County Emergency Management Office which addresses any actual or threatened enemy attack, sabotage or extraordinary fire, flood, storm, epidemic,

chemical spill or other impending or actual calamity endangering or threatening to endanger health, life or property.

1.4.6 "Governmental Entities": The governing boards of the municipalities within Henderson County, and the Henderson County Board of Public Education.

1.5 The provisions of Articles Two, Three and Four hereof are intended to be guidelines followed by Henderson County in its operation of HCTV. Notwithstanding, Henderson County in its sole discretion may waive any or all of the requirements of Articles Two, Three or Four if it finds that to do so would be in the public interest.

Article 2 ARTICLE TWO — AUDIO-VIDEO PROGRAMMING

2.1 TYPES OF AUDIO-VIDEO PROGRAMMING: Only audio-video programming which is consistent with these policies and which is submitted by County Government, Governmental Entities or Approved Agencies, as those terms are defined herein, will be broadcast on HCTV. Henderson County will not air any program submitted by an individual or agency not considered to be County Government, a Governmental Entity or an Approved Agency, as those terms are defined herein. Henderson County will be determine if programming is consistent with the policies, as they may be amended.

2.2 AUDIO-VIDEO PROGRAMMING AND TEXT-BASED PROGRAMMING: The County will be airing both text-based ("character-generated") programming as well as audio-video programming. The character-generated programming will be information messages displayed in typewritten form which will run continuously when no other video programming is scheduled. Videotaped programming may include both taped broadcast of meetings and pre-produced video programming. Specifically programming may only include the following:

2.2.1 Meetings of the Henderson County Board of Commissioners: Taped broadcast of the regularly scheduled meetings and, in the discretion of the Board, some special meetings of the Henderson County Board of Commissioners. These meetings may or may not be taped in their entirety and are not the official record of the meeting and will not be retained.

2.2.2 Meetings of Other Governmental Entities: Taped broadcast of official meetings of the governing bodies of the municipalities within Henderson County and the Henderson County Board of Public Education;

2.2.3 County Video Programming: Pre-produced programming submitted by County Government, which illustrates the mandates, programs, and services of County Government. This may also include programs that discuss, outline and/or summarize County governmental functions or techniques. Programming may include participation from outside organizations, agencies, governments or individuals as long

as such participation is central to the program topic, and must be at least 10 minutes in length.

2.2.4 Approved Agency Video Programming: Pre-produced programming submitted by an Approved Agency which is designed to inform the public of the services and facilities that Approved Agencies offer in Henderson County and that is of general interest. Such programming must be sponsored by County Government in order to be eligible for broadcast, and must be at least 10 minutes in length.

2.2.5 County Message Programming: Character-generated information submitted by County Government may include, but is not limited to, information concerning County Government such as job openings, meeting schedules, park activities, library hours, board vacancies and other departmental information.

2.2.6 Approved Agency Message Programming: Character-generated information submitted by an Approved Agency is limited to general and brief information about meetings, facilities, services and programs offered in Henderson County by the submitting Approved Agency.

2.3 GENERAL CATEGORIES OF PROGRAMMING: The programming enumerated and described in Paragraph 5 above must fall within one or more of the following general categories of programming:

2.3.1 Announcements or programs concerning emergencies and other timely issues that affect public safety and health in the community;

2.3.2 Public proceedings and meetings involving the elected and appointed officials within Henderson County;

2.3.3 Programs and meetings that help explain County policies and programs;

2.3.4 Programs and meetings which inform the public of the facilities, services and programs offered to the citizens of Henderson County;

2.3.5 Public meetings or programs of other governments including federal, state, regional and local governments, that affect County Government or the residents of Henderson County if submitted by County Government only;

2.3.6 Programs that highlight the cultural and historic resources of Henderson County;

2.3.7 Public service announcements (one minute or less in length) if submitted by County Government only.

2.4 PROGRAMMING RESTRICTIONS: The following programming restrictions apply to audio-video programming on HCTV:

2.4.1 Except as specifically provided in this subparagraph, the County will not air any audio-video programming on HCTV which has as its purpose or substantial effect the assistance of a campaign for election of any person to any office or the promotion or opposition to any ballot position. From the time of their announced candidacy until after the election, announced candidates to any elected office shall not be permitted to make personal statements on HCTV, except as participants of formal public meetings in the discharge of their regular and routine duties. Factual information concerning information on any ballot issue affecting County Government services may be allowed. Character-generated election results may also be aired.

2.4.2 Programs containing slanderous, lewd, obscene or violent material will not be aired. The County recognizes that programs with artistic or social merit may contain content or language considered objectionable to some viewers. However, community standards of good taste will be adhered to at all times. Henderson County staff shall make the initial determination which is appealable in accordance with these policies.

2.4.3 Programs containing copyrighted materials will not be broadcast without proper copyright authorization. Approved Agencies submitting programming will be responsible for obtaining all necessary copyright clearance and shall indemnify and hold HCTV, Henderson County and its officers, employees and agents harmless in any case of copyright infringement.

2.4.4 Programs which promote, endorse, or advertise any nonprofit agency, private business, commercial service or product, profit-making activity, political candidate or partisan cause will not be aired.

2.4.5 Programs pertaining, directly or indirectly, to illegal lotteries or any other illegal device, scheme, plan, promotion, contest, or other program involving prize or chance will not be aired.

2.4.6 Programs which contain outdated or misleading information will not be broadcast. Most programs will be considered up-to-date for six (6) months from video production.

2.4.7 Requests for access to HCTV for the purpose of advocating a personal viewpoint shall generally be denied, unless part of a County Government programming strategy to solicit personal viewpoints on topics of public interest. Equal time will be provided to all, but limited to that topic.

2.4.8 Programs which do not meet acceptable broadcast standards for video and audio quality will not be aired. Henderson County shall determine which programs meet acceptable broadcast standards.

Article 3 **SPONSORSHIP OF AUDIO-VIDEO PROGRAMMING:** All video programming, except taped broadcast of official meetings of the Henderson County Board of Commissioners or other Governmental Entities, must be sponsored by a particular department or office of County Government.

3.1 INDICATION OF SPONSORSHIP: Sponsorship must be indicated, either verbally or in writing, at the beginning and at the end of each video program by providing a statement substantially similar to the following:

"The following program is sponsored by Henderson County ____ Department.

[VIDEO PROGRAM]

The preceding program was sponsored by Henderson County ____ Department."

3.2 RESPONSIBILITY OF SPONSOR. It shall be the sponsor's responsibility for reviewing the program to ensure that it is appropriate for broadcast on HCTV and in conformity with these policies. Only the head of the particular department or office of County Government is authorized to sponsor programming or sign any document indicating such sponsorship.

Article 4 **MISCELLANY**

4.1 DISCRETION TO ALLOW OR DISALLOW PROGRAMMING:
Notwithstanding anything in these policies to the contrary, Henderson County, acting by and through the County Manager, reserves the absolute right to prohibit the broadcast of any particular video program or message on HCTV, whether submitted by County Government, any other Governmental Entity, an Approved Agency, or anyone else. Henderson County will not air any program submitted by an individual or agency not considered to be County Government, a Governmental Entity or an Approved Agency, as those terms are defined herein. Furthermore, Henderson County, acting by and through the County Manager, also reserves the right to authorize and approve programming that is not in strict compliance with the types of programming listed herein as long as such programming is of significant interest to the citizens of Henderson County and is consistent with the guidelines and restrictions shown in these policies.

4.2 TECHNICAL STANDARDS: A copy of all programming must be submitted to Henderson County in an appropriate format for a full review for conformity with these policies. The broadcast copy of approved programming must be submitted in a format consistent with the current technical requirements. Video and audio quality of all programs must meet acceptable broadcast standards as determined by Henderson County.

4.3 TECHNICAL DIFFICULTIES: Henderson County shall attempt to keep any audio-video programs that are delivered to it in the same condition as they were in when delivered; however, Henderson County shall not be responsible for inadvertent erasure or damage to such. The submitter should keep an archive copy of the media so

that a duplicate can be made and broadcast in the event that the original is unable to be aired due to technical difficulties related to the tape. The programming on HCTV is originating from Mediacom and its cable head end located in Hendersonville, NC. Questions concerning technical difficulties should be first directed to Mediacom.

4.4 REQUESTS FOR PROGRAMMING: County Government, other Governmental Entities, and Approved Agencies, by and through their respective heads, may submit a formal request for programming when they feel it appropriate for broadcast on the County Government Channel. Requests should be made to Henderson County in writing. Henderson County may waive such requirement for Emergency Programming submitted by the Henderson County Emergency Management Office. In order to allow for proper program scheduling and publicity, requests must be submitted prior to the requested broadcast date in accordance with the following deadlines:

4.4.1 Emergency Programming - as soon as possible.

4.4.2 Meetings - 2 weeks in advance (other arrangements may be made for regularly scheduled and broadcast meetings).

4.4.3 Message Programming - 2 weeks in advance

4.4.4 Video Programming -4 weeks in advance

4.5 CONFORMITY WITH POLICIES: The programming must be in conformity with these policies and approved by Henderson County prior to scheduling and broadcast. Any programming that does not meet the policies as submitted may be subject to editing as discussed herein in order to receive approval for broadcast.

4.6 PROGRAM EDITING: With the exception of taped meetings of the Board of Commissioners and other Governmental Entities, all programming is subject to editing. Such editing is not intended to alter the factual content or overall intent of the material being broadcast. It shall be the general policy that Henderson County will not edit any programming that is copyrighted to someone other than Henderson County. In that instance the submitter will be given an opportunity to secure copyright approval to edit and edit the video at Henderson County's direction but at the submitter's expense, and resubmit the edited tape for review and possible broadcast. Each Governmental Entity, including the Henderson County Board of Commissioners, has the right to record its meetings in whole or in part and to air any portion or portions of such meetings as it deems advisable. Character-generated information may be edited to provide for clarity and maximum utilization of pages available. Henderson County has the operational responsibility for the message editing.

4.7 PROGRAM SCHEDULING: Henderson County will endeavor to provide some form of programming broadcast 24 hours a day. When video programming is not broadcast, the message programming will run. Schedules of programs to be aired on HCTV will be developed and kept by Henderson County. Every effort will be made to schedule video programming in an equitable and non-discriminatory manner; allowing,

when appropriate, the County to broadcast a single program for multiple airings at various times. When possible, videos of regularly scheduled meetings will be scheduled as promptly as possible in order to ensure timely airing of the meetings. Scheduling, however, will be in the discretion of Henderson County, taking into consideration any limitations imposed by Mediacom. Such schedule does not guarantee the actual airing of such programs since emergency programming, technical difficulties, acts of God or other events beyond the control of Mediacom or Henderson County, may prohibit the airing of programs as scheduled. The County shall not be responsible or liable for such failures.

4.8 VIDEO OWNERSHIP AND COPYRIGHT: All programming produced by County Government shall be considered the property of Henderson County and shall be copyrighted as such. Henderson County makes no representation as to the ownership or copyright of any other programming broadcast on HCTV. It is the responsibility of the submitter to ensure that the proper copyright authorization is obtained to allow the broadcast as requested and Henderson County and HCTV shall be held harmless for any failure to obtain such authorizations.

4.9 RETENTION OF VIDEO PROGRAMMING: Except to the extent required by law, it shall not be the responsibility of Henderson County to retain any video programming that is broadcast, or submitted for broadcast, on HCTV. The submitter and/or sponsor are responsible for retaining a copy of the video programming and for complying with applicable laws regarding records retention. The submitter and/or sponsor are also responsible for retrieving any video left in Henderson County's possession within 15 days of the end of the broadcast, after which time Henderson County is authorized to destroy or erase the video(s) without notice to the submitter or sponsor. Notwithstanding the foregoing, it is recognized that certain videos may be kept on file by Henderson County and reused in future broadcasts if proper permission is secured.

4.10 DUPLICATION OF VIDEO PROGRAMMING: Videotape duplication services are not offered by the County; however, the County will endeavor to locate a vendor for that service. Citizens wishing to obtain a copy of any video programming should contact Henderson County for information concerning the vendor and the duplication services available, if any. A duplication charge may be required to be paid in advance to the vendor performing the duplication service. Citizens wishing to obtain a copy of any video programming not kept by Henderson County must contact the submitter of the program. That contact information can be obtained through Henderson County. It shall be the responsibility of the submitter to determine if duplication of a videotape will result in copyright infringement. The County shall not be responsible for ensuring that such duplication is not a violation of copyright laws.

4.11 ASSIGNED STAFF: All staff assigned to work with HCTV shall be designated by and shall report to the County Manager. Henderson County has the responsibility of the general management of HCTV and shall perform all duties so assigned. Henderson County shall endeavor to ensure that the approved programming is in conformity with these policies as they may from time to time be amended.

Additional County staff may be assigned duties related to the operations of HCTV or the County may contract for such services.

4.12 **USE OF COUNTY-OWNED EQUIPMENT:** County-owned equipment shall be restricted to authorized activities and its use shall be restricted to authorized staff of the County or trained personnel under the direction of Henderson County. The loaning or use of the equipment for personal or outside use shall not be permitted. Authorized activities are limited to the production of County Government video programming, the recording of official meetings of the Henderson County Board of Commissioners and other Governmental Entities, and such other uses deemed appropriate by the County Manager.

4.13 **COMPLAINT PROCEDURE AND APPEAL:** Complaints regarding HCTV programming decisions shall be submitted in writing to Henderson County on a timely basis not to exceed 30 days from the incident complained of. If any person disagrees with Henderson County's decision regarding a complaint, he or she may appeal in writing to the County Manager within 30 days of Henderson County's decision for a final determination. The County Manager has sole discretion in making such final determinations. The following addresses must be used in following the complaint and appeal procedure set out above:

Henderson County Manager
100 North King Street
Hendersonville, NC 28792

HCTV Channel Administrator
100 North King Street
Hendersonville, NC 28792

4.14 **FUNDING:** It is acknowledged that establishing a reliable funding mechanism will enable HCTV to become the model for quality government programming by creating interesting, relevant and timely programming. The budget for HCTV shall be submitted on an annual basis by the County Manager and shall be subject to the normal County budget review process. Funding is in the discretion of the Henderson County Board of Commissioners.

4.15 **INDEMNIFICATION:** Henderson County, its officers, employees and agents, are not responsible for any loss, injury, damage, penalty, claims, costs (including attorneys' fees and expenses), actions, suits or proceedings of any kind, related to the operation of HCTV and shall specifically (but not by way of limitation) be indemnified and held harmless from any negligent or intentional act or omission of Mediacom, its officers, employees or agents, the Approved Agencies, their officers, employees and agents, or any other third party, arising out of the operation of HCTV, including but not limited to the following: accuracy/inaccuracy of any information broadcast over HCTV; broadcast of incorrect information or programming over HCTV; failure to broadcast programming as scheduled; inadvertent erasures or damage to recordings; destruction of video recordings not timely retrieved; and, failure to obtain proper copyright authorization.

5.1 **CONTRACT REQUIRED:** Audio-only programming produced or provided by any entity outside of County Government will be broadcast only up execution of a contract with Henderson County. Such contract shall include, among other things, a guarantee of indemnification of Henderson County by the provider of the audio-only programming.

5.2 **NO ASSURANCE OF BROADCAST:** Whether Henderson County will cablecast any particular audio-only programming is in the sole discretion of Henderson County, and no assurance is either expressed or implied of such broadcast as a result of these policies.

5.3 **DISCLAIMER REQUIRED:** Immediately prior to and following any uninterrupted block of religious or political programming contained in the audio-only programming, the third party providing the audio-only programming to HCTV shall insure that a disclaimer, notifying all listeners that (1) the content of such programming does not necessarily contain the opinion of and is not either endorsed or disapproved by Henderson County government, its elected officials or employees, and (2) that the provider of the audio-only programming, and not the County, has control over what programming is broadcast by the audio-only programmer.

5.4 **CONTENT RESTRICTIONS:** Paid political programs (as defined in this paragraph) broadcast by the provider of the audio-only programming shall not be broadcast over HCTV. The provider of the audio-only programming shall take whatever steps are necessary to insure that its feed to Henderson County does not include any paid political programs. As used in this paragraph, "paid political programs" means program or other broadcasts containing political content for which compensation is paid, directly or indirectly, to the provider of the audio-only programming, or any owner, agent or employee thereof, including, but not limited to, commercials and long-form programs. Such term shall also include programming which is endorsed by the provider of the audio-only programming.

5.5 **VIOLATION:** Violations of the terms and provisions of Article 5 hereof by the provider of the audio-only programming shall result in the discontinuance of usage of all audio-only programming supplied by the provider.

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APPROVED this the ____ of _____, 2006, by the HENDERSON COUNTY
BOARD OF COMMISSIONERS.

William L. Moyer, Chairman