

# **REQUEST FOR BOARD ACTION**

## **HENDERSON COUNTY BOARD OF COMMISSIONERS**

**MEETING DATE:** Wednesday, September 21, 2005

**SUBJECT:** HCTV-11 Radio Criteria

**ATTACHMENTS:** Yes

### **SUMMARY OF REQUEST:**

The Board requested that staff develop a set of criteria concerning radio broadcasting on HCTV-11. Attached are our draft criteria including our requirements for allowing a radio signal on the channel and the type of programming that would be prohibited. A copy of the Broadcast Policy is also attached for your information.

### **COUNTY MANAGER'S RECOMMENDATION/BOARD ACTION REQUIRED:**

The Board should consider these criteria and provide direction to the staff on how to proceed with dealing with the local radio stations.

## **HENDERSON COUNTY TELEVISION BROADCAST POLICIES AND PROCEDURES**

1. **NAME AND CHANNEL DESIGNATION** – Henderson County’s Government Channel, “The Government Channel”, is currently operating as HCTV on Mediacom’s Channel 11. The Channel Designation of Channel 11 may, from time-to-time, be changed by Mediacom.
  
2. **PURPOSE OF CHANNEL** – Henderson County would like to become the model for quality government programming by creating interesting, relevant and timely programming on HCTV. The County’s purpose in offering programming on HCTV is to provide information about Henderson County Government and its services, policies, and programs in order to enhance public understanding of County government and local issues affecting County government. The County will strive to provide programming that is fair, accurate, balanced and without regard to partisanship or ideology. It is not the County’s intention to create any sort of public forum on HCTV but merely to provide information concerning County government issues.
  
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, including but not limited to Mediacom’s “Public, Educational and Governmental Access Rules” which limit the type of programming the County can air on its government channel.
  
4. **DEFINITIONS** – The following definitions will apply throughout these policies and may, as appropriate, be deemed to refer collectively or to any part thereof:  
  
    “Approved Agency” – Blue Ridge Community College, Henderson County Board of Public Education, Henderson County Hospital Corporation, and TREND Area Mental Health Authority.  
  
    “County Government” – Henderson County Board of Commissioners and Administration and all County departments and offices. Also included specifically are the NC Cooperative Extension – Henderson County Center, Soil & Water Conservation District, and Henderson County Travel & Tourism Department.  
  
    “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.  
  
    “Governmental Entities” – The governing boards of the municipalities within Henderson County, the Henderson County Board of Public Education.
  
5. **TYPES OF PROGRAMMING** – Only 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.

The Channel Administrator is responsible for determining if programming is consistent with the policies, as they may be amended.

The County will be airing both character-generated programming as well as videotaped 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:

- a. 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;
- b. 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;
- c. County Video Programming – Pre-produced programming submitted by County Government which illustrates the mandates, programs, and services of County Government; 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; must be at least 10 minutes in length
- d. 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; must be at least 10 minutes in length
- e. 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;
- f. 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.

6. **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:
  - a. Announcements or programs concerning emergencies and other timely issues that affect public safety and health in the community;
  - b. Public proceedings and meetings involving the elected and appointed officials within Henderson County;
  - c. Programs and meetings that help explain County policies and programs;
  - d. Programs and meetings which inform the public of the facilities, services and programs offered to the citizens of Henderson County;
  - e. 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;
  - f. Programs that highlight the cultural and historic resources of Henderson County;
  - g. Public service announcements (one minute or less in length) if submitted by County Government only.
  
7. **PROGRAMMING RESTRICTIONS** – In light of the purpose of HCTV, the following programming restrictions apply:
  - a. Except as specifically provided in this subparagraph, the County will not air any programming on HCTV which has as its purpose 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.
  - b. 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. The Channel Administrator shall make the initial determination, which is appealable in accordance with Section 20 herein.

- c. 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.
  - d. 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.
  - e. Programs pertaining, directly or indirectly, to lotteries or any other device, scheme, plan, promotion, contest, or other program involving prize or chance will not be aired.
  - f. Programs which solicit donations of any kind will not be broadcast.
  - g. 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.
  - h. 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 with equal time provided to all.
  - i. Programs which do not meet acceptable broadcast standards for video and audio quality will not be aired. The Channel Administrator shall determine which programs meet acceptable broadcast standards.
8. **SPONSORSHIP OF 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. Such 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.”

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.

9. **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 in Section 5 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 Sections 6 and Section 7 and the purpose of the channel as expressed in Section 2.
10. **TECHNICAL STANDARDS** – A copy of all programming must be submitted to the Channel Administrator in VHS 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 the Channel Administrator. Contact the Channel Administrator for specific technical requirements.
11. **TECHNICAL DIFFICULTIES** – The Channel Administrator shall use best efforts to keep any videotapes that are delivered to him or her in the same condition as they were in when delivered; however, Henderson County shall not be responsible for inadvertent erasure or damage to such tapes. The submitter should keep an archive copy of the videotape so that a duplicate tape can be made and broadcast in the event that the original tape 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.
12. **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 the Channel Administrator in writing on a designated form provided by the Channel Administrator. The Channel Administrator 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:
  - Emergency Programming – as soon as possible

- Meetings – 2 weeks in advance (other arrangements may be made for regularly scheduled and broadcast meetings)
- Message Programming – 2 weeks in advance
- Video Programming – 4 weeks in advance

The programming must be in conformity with these policies and approved by the Channel Administrator prior to scheduling and broadcast. Any programming that does not meet the policies as submitted may be subject to editing as discussed in Section 13 below in order to receive approval for broadcast.

13. **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 videotape at the Channel Administrator'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 tape its meetings in whole or in part and to air any portion or portions of such meetings as it deems advisable and the Channel Administrator has no authority to edit such meeting tapes. Character-generated information may be edited to provide for clarity and maximum utilization of pages available. The Channel Administrator has the operational responsibility for the message editing. Such message editing duties may be delegated in the Channel Administrator's discretion.
  
14. **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 the Channel Administrator. 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, tapes 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 the Channel Administrator, 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 the Channel Administrator, Mediacom or Henderson County, may prohibit the airing of programs as scheduled. The County shall not be responsible or liable for such failures.
  
15. **VIDEOTAPE 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.

16. **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 videotapes left in the Channel Administrator’s possession within 15 days of the end of the broadcast, after which time the Channel Administrator is authorized to destroy or erase the tape(s) without notice to the submitter or sponsor. Notwithstanding the foregoing, it is recognized that certain videotapes may be kept on file by the Channel Administrator and reused in future broadcasts if proper permission is secured.
17. **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 the Channel Administrator 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 the Channel Administrator must contact the submitter of the program. That contact information can be obtained through the Channel Administrator. 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.
18. **CHANNEL ADMINISTRATOR AND ASSIGNED STAFF** – The Channel Administrator shall be designated by and shall report to the County Manager. The Channel Administrator has the responsibility of the general management of HCTV and shall perform all duties so assigned. The Channel Administrator shall perform his or her duties in a fair and impartial manner and 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; however, all persons working on HCTV must possess an appropriate background in video and broadcasting for the duties assigned.
19. **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 the Channel Administrator. 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 taping of official meetings of the Henderson County Board of Commissioners and other Governmental Entities, and such other uses deemed appropriate by the County Manager.



20. **COMPLAINT PROCEDURE AND APPEAL** – Complaints regarding HCTV programming decisions shall be submitted in writing to the Channel Administrator on a timely basis not to exceed 30 days from the incident complained of and shall be acted upon in writing by the Channel Administrator in a timely fashion not to exceed 30 days. If any person disagrees with the Channel Administrator’s decision regarding a complaint, he or she may appeal in writing to the County Manager within 30 days of the Channel Administrator’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

21. **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.
22. **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:
- a. accuracy/inaccuracy of any information broadcast over HCTV that was submitted by outside sources;
  - b. broadcast of incorrect information or programming over HCTV;
  - c. failure to broadcast programming as scheduled;
  - d. inadvertent erasures or damage to videotapes;
  - e. destruction of videotapes not timely retrieved;
  - f. failure to obtain proper copyright authorization.

**APPROVED** this the 2nd day of January, 2001 by the **HENDERSON COUNTY BOARD OF COMMISSIONERS.**

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**William L. Moyer, Chairman**

## ***Radio Station requirements 9-13-05***

### **Permitted** by Broadcast Policy and not prohibited in the Mediacom Access User Guide/Contract

The following types of programs are permitted when submitted by a department of County Government, governmental entities, BRCC, Board of Public Education, or Henderson County Hospital Corporation.

- \* Emergency programming affecting public safety and health in the community
- \* Public meetings involving the elected and appointed officials within Henderson County;
- \* Programs and meetings which explain county policies and programs, county facilities, and services;
- \* Public meetings or programs of other governments that affect County Government or the residents of Henderson County
- \* Programs that highlight the cultural and historic resources of Henderson County;
- \* Public service announcements
- \* Factual information concerning information on any ballot issue affecting County Government services may be allowed. (Character-generated) election results may also be aired.

### **Not Permitted** by Broadcast Policy and Mediacom Access User Guide/Contract

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.

- \* Programs containing slanderous, lewd, obscene or violent material
- \* Programs containing copyrighted materials will without proper copyright authorization.
- \* Programs which promote, endorse, or advertise any nonprofit agency, private business, commercial service or product, profit-making activity, political candidate or partisan cause
- \* Programs pertaining, directly or indirectly, to lotteries or other programs involving prize or chance  
(Note – does not apply to a State lottery under the authority of State law.)
- \* Programs which solicit donations of any kind
- \* Programs advocating a personal viewpoint

### **Items to be considered for inclusion in radio requirements**

- \* Contact person on call at night to break into network programming for emergencies
- \* Cut-ins for local emergency news
- \* Station would provide all necessary equipment required to broadcast radio signal on HCTV-11, and upon relocation of cable head-end, station would provide additional equipment as needed, based on the county's equipment standards
- \* Station would supply engineering support for troubleshooting problems, and repair or replace station equipment in a timely manner
- \* Hourly local news briefs at predetermined time
- \* Daily community calendar listing of county meetings and events at predetermined time
- \* Promotion of county's government channel including programming schedule
- \* Twenty 30-second ads per month to be used at county's discretion
- \* Free county use of other station advertising outlets – message boards, websites, publications
- \* Unlimited public service announcements for county events or programs with no paid sponsorship
- \* Some amount paid to county for use of the channel to be set aside for capital expense of video equipment.