

Memorandum

January 4th, 2010

To: Community Affairs/Council Policy Committee

CC: Cable Commission

From: Media Services Director, William H. Brehm

Re: Policy Regarding Appropriate Uses of WSTO Programming

As the question of what constitutes appropriate use of WSTO programming has recently been placed on the agenda for your January 5th meeting, I have prepared this summary of my findings in researching this topic for your review. The sole purpose of this memorandum is to promote discussion of possible changes to existing policy and/or the creation of new policy governing this issue.

The existing WSTO policy handbook, relevant excerpts from Wisconsin open records law, and an example of a possible policy change can be found on the pages following this initial summary.

In evaluating the existing WSTO policy handbook:

- The existing policies focus largely on the issue of what is considered acceptable programming for presentation on WSTO and by what means these programs are to be produced.
- The existing policies stipulate that copyright is retained solely by WSTO with the exception of video produced for outside organizations with the explicit understanding that copyright be retained by that organization or in cases where the purchase of full rights to a specific program are negotiated with the Director of Media Services.

In evaluating whether WSTO coverage of public meetings is subject to public records law:

- Video reproductions of public meetings appear to qualify as "records". The Media Services Department appears to qualify as an "authority" retaining those records.
- The relationship between copyright law and public records law in regards to further distribution, modification, or presentation of video reproductions of public records is unclear to me at this time.

Upon evaluating these key findings I have the following recommendations:

- The Community Affairs and Council Policy Committee direct the Media Services Director to work with the City Cable Commission and other municipalities (through the Wisconsin Association of Public, Educational and Government Access Centers) to develop a more comprehensive draft WSTO policy handbook for review by the Community Affairs and Council Policy Committee.
- The Community Affairs and Council Policy Committee consider seeking legal clarification regarding video recordings as public records and the relationship between copyright law and public records law regarding distribution, modification, or presentation of video recordings by individuals or outside organizations if indeed they qualify as public records.

Excerpts from Wisconsin Public Records Law:

19.32. Definitions. As used in ss. 19.33 to 19.39:

(1) "Authority" means any of the following having custody of a record: a state or local office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a family care district under s. 46.2895; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in s. 59.001 (3), and which provides services related to public health or safety to the county or municipality; a nonprofit corporation operating the Olympic ice training center under s. 42.11 (3); or a formally constituted subunit of any of the foregoing.

(2) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originators personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

19.35. Access to records; fees.

(1) RIGHT TO INSPECTION.

(d) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a video tape recording a copy of the tape recording substantially as good as the original.

(3) FEES.(a) An authority may impose a fee upon the requester of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.

Excerpt from the policies of the Madison City Channel regarding copyright law and meeting coverage:

Copyright Issues

All regular Madison City Channel productions (i.e., meeting coverage and public affairs programs) and all special video works produced by The Madison City Channel will be under the copyright control of the City of Madison unless one or more of the following apply:

1. The work is produced as strictly a "work for hire" for, and funding is provided by, an entity other than the City (such as Dane County or a non-profit organization).
2. Language in a grant, or other funding source which pre-exists the production of the work, establishes a different, related entity as the copyright holder.
3. An agreement is signed, prior to production of the work, granting ownership of copyright to a different, related entity, such as the funding source or the host or moderator of the program.

For productions copyrighted by the City of Madison, the practical exercise of copyright control shall belong to the agency within the City which funded the production of the work.

Nothing in the above paragraph as regards to public meetings is intended to excuse The Madison City Channel from the requirements of the State of Wisconsin's Open Records Act. All requests for video copies of such meetings will be granted, and The Madison City Channel has the right to require compensation for expenses involved in creation of those copies as per The Madison City Channel's rate structure.

**WSTO
MEDIA SERVICES
DEPARTMENT**

**POLICY & PROCEDURE
HANDBOOK**

Council Approved 9/13/2005

Mission / Vision of WSTO – Media Services

WSTO – Media Services of Stoughton, Wisconsin seeks to provide a meaningful service for all residents and members of the Stoughton community utilizing all three aspects of PEG (Public, Education, and Government). The mission of WSTO is to:

1. Provide a television service that reflects the mission of The City of Stoughton.
2. Maintain a laboratory for community members, students and staff in learning how to communicate more effectively through television.
3. Develop informative programming through the production of forums for the discussion of ideas, issues, values, and concerns of members of the Stoughton Community.
4. Develop programming that recognizes individual and group achievement and supports and encourages the development of local talent.
5. Develop programming that enhances the creative, cultural and aesthetic environment for the Stoughton Community.
6. Provide a channel of communication that helps to bridge interests and concerns throughout the community.
7. Write, direct and product special projects for the City, area businesses, and other clients.

In order to meet this mission, WSTO's activities will include the following prioritized programming and services:

1. Local governmental legislative meetings, i.e. City Council
2. Local School Board meetings (2 per month).
3. Predetermined Local governmental boards, committees, commissions. (Planning Commission, Committee of the Whole, Municipal court)
4. Programs on current events or particular community issues, with a cultural or educational element. Including community local access opportunities.
5. Programs regarding local government services
6. Non-cablecast video productions which further the missions of City departments and other organizations
7. Character generated (ON AIR CG) information regarding meeting schedules of local governmental boards, committees, commissions, etc.
8. Character generated (ON AIR CG) information regarding important community events sponsored by governmental or non-profit groups.
9. Character generated information (ON AIR CG) regarding employment opportunities.
10. Reports to the citizens from elected or appointed public officials
11. Productions which feature community services, issues and/or special governmental meetings.
12. Productions with a cultural or educational element
13. State government meetings of special local interest.
14. Programming obtained from outside sources which further WSTO's mission.
15. Providing video production training for other City agencies.
16. Serving as a central information point for the planning, acquisition, and uses of video production and presentation equipment for other local governmental agencies.

WSTO – Media Services Staff Position Summary

Full-time staff

Director of Media Services

The Director of Media Services is responsible for the overall operation of the City of Stoughton Media Services department. This includes planning system objectives, policies, procedures, budgeting and general administration of the cable television system. The Director of Media Services reports to the Mayor.

Media Production Supervisor

The Media Production Supervisor is responsible for supervising, training, and coordinating media production technicians and media operators. He or she is also responsible for enhancing the overall production quality of WSTO programming. This includes working with directors/producers in planning sets, lighting, graphics and other production needs. This position also assists with facility and equipment planning and the formulation of policies and procedures that relate to production. The production supervisor is responsible for program playback, signal and program monitoring, equipment and studio security, and equipment check-out and repair.

Part-time staff / Student staff

Theater Production Supervisor

This individual provides support to Opera House users/productions in the form of lights, sound and special effects for the theater facility as assigned; installs/operates lights, sound and special effects as needed for production; responsible for the set-up and operation of electronic sound equipment and lighting systems for rehearsals and productions; cleans, maintains and repairs sound and lighting equipment and areas; inventories theater lighting and sound equipment and prepares reports as necessary; purchases materials and supplies; train volunteers, students, and stage technicians in the areas of lighting, sound special effects, show load-in, safety and security.

Media Technician(s)

The person(s) in this position is responsible for lending technical assistance on all live/taped/in-studio, and remote productions, production quality, and technical/equipment maintenance and reliability. This person(s) have experiences in programming, production, and technical applications with video cameras, micro computers, recorders, editing-switching networks, audio boards, remote and studio productions and equipment setups and production operations. This person should have a broad knowledge of basic cable networking and the interfacing of both audio and video insertions. This person will be expected to communi-

cate in a knowledgeable and effective manner with Media Operators and other station staff. Media Technicians report to Media Production Supervisor and Manager of Media Services.

Media Operator

The Media Operator is an essential position at WSTO. Media Operators perform routine equipment usage, operation, set-up, and tear down. Media Operators, after training will have experience in programming, production, technical/equipment applications with video cameras, microcomputers, recorders, and studio and remote production equipment set-up and operation. Media Operators assist the Media Production Supervisor and Manager of Media services in all aspects of media production as assigned.

Graphic Artist

The Graphic Artist is directly responsible and in charge of all graphic design elements of WSTO Media Services. The Graphic Artist will create promotional, advertising, and special graphics for print, web, television or other formats. He or she is fluent with all current print media graphic design software as well as media production graphic systems. The Graphic Artist work will vary from print to media to web depending on the project. Ensure the materials consistently convey a sense of quality and professionalism.

Media Production Intern (UNPAID)

The Media Production Intern is an UNPAID individual at WSTO, coordinated through a technical or four-year college system. Media Interns perform routine equipment usage, operation, set-up, and tear down. Media Interns, after training will have experience in programming, production, technical/equipment applications with video cameras, microcomputers, recorders, and studio and remote production equipment set-up and operation. Media Operators assist the Media Production Supervisor and Manager of Media services in all aspects of media production as assigned. Media Production interns will complete a capstone project that highlights overall learning and abilities throughout their internship program at WSTO.

Volunteer / Community Service (UNPAID)

Volunteers and Community Service individuals will work directly with the Manager and Media Production supervisor on a variety of tasks and projects. This is an unpaid position that requires no prior training, or expertise. Individuals in this role will answer telephones, assist with office tasks, routine cleaning projects, and various one-time only projects that require the assistance of untrained individuals. Overall goals of this position are for the individual to develop a basic understand and appreciation for the department as well as basic video production techniques and ideas. In some instances, sports broadcasters, show producers, and other talent would be classified as a volunteer as they are unpaid and offer a short term of service to the organization.

Talent Releases

A talent release is required for anyone who appears on a WSTO program. The release confirms that WSTO has the right to use that person's performance. Releases are not required in all cases. For example, if you tape a lecture, it is not necessary to get a release from audience members. You would definitely need a release from the performer/presenter/lecturer.

In certain cases, extra care should be taken to make sure that releases are completed. Professional performers are more often concerned about legal issues involving videotaping. Secondly, extra care should be taken when any children appear in a program. Legally, parents must sign the release form. Parents are often sensitive to issues regarding the videotaping of their children.

Without talent release forms you will run the risk of not being able to use the video you have shot. From time to time, producers have been forced to cancel an entire show because the talent had not signed a release and then refused to allow the videotape to be used. There is very little you can do after the fact if you do not have a release.

Don't forget to secure a release from the host(s) of your show and anyone doing voice-overs.

Producer's Legal rights and Responsibilities

1. Producers are responsible for securing proper written clearances for use of copyrighted material.
2. WSTO owns any completed program produced on WSTO facilities or with WSTO equipment. Individuals who wish to buy the full rights for the program material should discuss the costs with Manager of Media Services.
3. Any user of WSTO equipment or facility shall assume full financial responsibility for the proper use and return of any and all WSTO equipment and production resources.
4. No personal use of WSTO equipment, facilities, or services is allowed.

Cablecasting of Controversial Issues

WSTO – Media Services, as part of the City of Stoughton, is dedicated to making available a variety of information representing different viewpoints regarding controversial issues. It is not the function of WSTO to limit the expression of opinions of controversy within the context of any individual program. Rather the service seeks to engage the City of Stoughton and surrounding communities in meaningful dialogue on issues of concern.

While WSTO may directly influence some program content in its development stage, other programs will be presented without editorial control. Programs such as City Council Meetings, or the Meetings of the Board of Education would be examples.

Obscenity, Indecency, and Programming of Material with Sexual Content

WSTO standards for governing the programming of sexual program content will be consistent with the Wisconsin State Statute on Obscenity. No material deemed obscene or pornographic under these standards will be shown on WSTO.

Generally Offensive Programming

These guidelines are not intended to discourage free expressions but rather to achieve a balance between the First Amendment right to free speech and the cable subscriber's right to be protected from unwanted viewing of offensive material. WSTO policy is not to cable-cast programs which are obscene under federal or Wisconsin law. WSTO will refrain from cablecasting programs that are identified as "generally offensive" under the following guidelines.

Guidelines for determining "Generally Offensive" content:

A program, which contains any of the following will be considered to be "Generally offensive" to some audiences

1. Language
2. Violence
3. Graphic Images

Political Candidates

Political candidates can utilize the channel as any other user, provided they abide by the WSTO Policies and Procedures. In addition, the WSTO Cable Commission feels it is important all candidates are aware of the options for using this channel. It is essential that WSTO provide equal time access to all political parties. Therefore, the Commission has provided the following information for all candidates running for office:

1. Political candidates can appear on WSTO programming by:
 - a. Appearing as a guest on a program
 - b. Participating in a televised candidate forum
 - c. Producing or appearing on their own program

Access Policy

WSTO, in order to promote the expression of a diversity of points of view and to honor its commitments as part of the City of Stoughton Franchise Agreement, is establishing an access policy. This access policy provides the opportunity for cablecasting of noncommercial programming produced or offered by community institutions or by individuals over the WSTO cable channel.

WSTO will provide open – access, depending on current program schedule, opportunities for local access insertion. Requests will be honored on a first come-first serve basis. Special priority will be given to those groups or individuals who have not sought prior access or who have had limited access to the system.

Individuals seeking access should submit their program at least one week before the week they wish the program to be shown. This will allow for both program review and scheduling. If possible, the cable service will try to show the program on the weekday requested by the program's sponsor.

Each program submitted for access over WSTO will be reviewed for technical quality. Serious technical problems will require that the program be returned to its sponsor.

WSTO has the capability of programming S-VHS, VHS, and DVD format media.

Program content of access programming will be reviewed. It is expected that productions will meet minimal professional standards; these standards reflect knowledge of how to utilize television production equipment and how to construct television programs.

Access programming should also be consistent with production guidelines that are discussed in this manual. These guidelines articulate cable policy related to obscenity, political communication, program releases, editorials, and other programming criteria.

Finally it is expected that access programming should meet contemporary community ethical/moral standards. While these standards will not be fully defined within the context of this policy, individuals seeking access are asked to remember the unique nature of television as compared to other modes of expression. This medium enters the privacy of the home and is easily accessible to a broad range of children and adolescents. Programs, for instance, that attack racial or ethnic minorities, malign religious groups, or use excessive offensive language would be examples of program content that would not meet WSTO's view of contemporary community access standards.

Programs not meeting any of these access guidelines will be returned to the program sponsor with an explanation of the reasons for not scheduling the production. The Manager of Media Services is responsible for all final decisions regarding community access to the cable system.

General Facility Use

1. WSTO equipment, facilities and supplies are for use on WSTO projects only.
2. All use of equipment and facilities must relate to a program or project which has been approved by the Manager or Supervisor of Media Production.
3. Certain equipment owned by WSTO will be reserved for in-studio, full-time staff use and will not be available for check-out or outside usage.
4. Certain equipment will be limited use in specific configurations and/or locations.
5. Configuration and wiring of all stationary equipment within WSTO facilities will not be changed without approval of full-time staff.
6. Configuration and wiring of equipment in mobile boxes will not be changed without management approval.
7. Changes or adjustments to system timing or other internal equipment controls will be made only by full-time staff.
8. Management reserves the right to waive restrictions for special projects.
9. Smoking is not permitted any city building. No smoking, drinking or eating is allowed in the studio, control room, and editing rooms. Drinking is allowed in the playback room. Eating is allowed only in the break room.
10. Management reserves the right to limit or deny access to facilities or equipment to any producer who does not adhere to these policies.

Equipment Guidelines

1. No equipment will be checked out without proper paperwork and management approval.
2. When equipment is checked out, equipment numbers will be recorded on the equipment check-out form. When the equipment is checked in, corresponding numbers will be checked off on the sheet. Any missing or extra equipment will be accounted for.
3. If any equipment fails to function properly or is damaged in your possession, full-time staff should be notified immediately.
4. No equipment can be checked out overnight without management approval.
5. No equipment will be checked out for productions outside of Stoughton without prior management approval. A full-time staff member or designated individual must be present for all out of town productions.

WSTO Telephone Policy

1. Limit your telephone use to WSTO related business. DO NOT USE TELEPHONE FOR SOCIALIZING!
2. No one may make long distance calls unless authorized.
3. Keep conversations short.

Editing Policies for Programs and Information Messages

Public Meetings: Designated public meetings will be covered gavel-to-gavel. No editing of any sort shall be performed, save: 1) addition of title and credit pages for cable casting of taped replays; and 2) coverage lost due to technical considerations.

Special Programs: Any programming prepared by or provided by a government department may be modified or edited as appropriate to the policies governing channel use, or as dictated by scheduling and personnel resource requirements.

Community Bulletin Board: Informational messages for use on the character generator bulletin board (Community Bulletin Board) shall be edited for clarity and to maximize the capacity of the system.

Underwriting Policies

Any WSTO program which includes underwriting reflects back on the image of the station. It is important for you to be thorough and businesslike with clients. How clients feel will affect their future participation.

General Principals:

1. Program funders may not exercise editorial control over program content.
2. There should be no public perception of questions of station independence with respect to editorial restraints or controls relating to program underwriters
3. There must be a perception of general independence of the WSTO system.
4. The cable service will not directly promote the consumption of alcohol by its views through underwriting.

Program Duplications

1. WSTO Management will set fee rates for copies (dubs) of WSTO programming. Such rates will be based upon charges incurred for media and dubbing costs.
2. Local resident producers are allowed to make one free dub of each program on a media they provide. If multiple dubs are required they will be subject to normal dubbing costs.
3. WSTO reserves the right to make copies of any programs submitted for cablecast on WSTO Channel 12, except in situations in which a local resident producer has provided WSTO staff with a written notice of copyright on his/her program. WSTO has no obligation to notify producers that a copy of their program was made.