

City of Medford

LAW DEPARTMENT

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Assistant City
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February 10, 2008

TO: Mayor Michael J. McGlynn

FROM: Mark E. Rumley, City Solicitor

RE: Report on present state of Public Access Television in the City of Medford

Dear Mr. Mayor,

During January 2007 you appointed me as the City of Medford's representative to the Board of Directors of Medford Community Cablevision¹ with the request that I compile a report to you as to my findings.

In addition, the City Council² of the City of Medford has made a request that I report back to it as to my findings. Accordingly, I am forwarding a copy of this report to the Council for its information and discernment.

In compiling this report I have been generally guided by two questions:

1. *Does public access television, as provided by Medford Community Cablevision, reflect the diversity of this community and allow for participation in a fully inclusive fashion?*
2. *Has Medford Community Cablevision acted in an accountable and responsible fashion in its use of the funds provided to it by the ratepayers of the City of Medford?*

My assessment of the answers to these two questions is set forth in the conclusion of this report.

¹ Section 10 of the Agreement between the City of Medford and Medford Community Cablevision, Inc. allows the Issuing Authority [City of Medford] to have a representative on the Board of Directors of MCC.

² Council Paper # 07-371 requests that I provide a status of my review of TV3.

Public Access Television

I begin this report with a very brief review of the background of public access television.

In 1972 the Federal Communications Commission (FCC), recognizing that cable television providers used public streets and ways to run their cables, decided that these same providers should be compelled to compensate the public by allowing the public to have access to media-making equipment and airtime. It required that all cable television companies put time aside for educational and public access TV.

Simply put, the role of access television was envisioned to provide an electronic setting where the right of every person to speak and be heard would be preserved. It would be a place where the First Amendment could be lived out.

During May of 1976, the FCC used its rule-making authority to regulate the public's access to cable television "air" time and production facilities. Under these rules cable television systems with 3,500 or more subscribers were required to increase their number of channels by 1986 and to insure that up to four of those channels could be used exclusively for low-cost access by community, educational, local governmental and leased-access users.

In 1979 in the case of FCC v. Midwest Video Corp, 440 U.S. 689 (1979), the Supreme Court held that the FCC had no authority to regulate or mandate public access to cable television.

"Community Access Channels" were first designated under the "Cable Communications Policy Act of 1984" to provide residents with local television programs and information over dedicated public, educational and government (PEG) cable channels.³ PEG channels were created by Congress to ensure that large media companies could not control all the programming seen on cable television and provide an opportunity for the local community to have a voice on the cable system.

TV3 is the Public Access channel in the City of Medford. It is not part of municipal government but is run by an independent non-profit corporation, Medford Community Cablevision, Inc. The programming on TV3 is limited only by the vision and imagination of the members who create it.

The City of Medford should not and does not censor public access programming.

Major funding for TV3 is provided by ratepayers of Comcast through its cable contract with the City of Medford. **[Appendix A]**⁴

³ 47 U.S.C. 611(a) states in part: "A franchising authority may establish requirements in a franchise with respect to the designation or use of channel capacity for public, educational, or governmental use..."

⁴ **All APPENDIX attachments [i.e. A-H] are being provided to the Mayor, Members of the City Council and as part of the copy given to Medford Community Cablevision. The text of my report, pages 1 through 15, is certainly a public record but APPENDIX attachments C, D, E, F, G and H may not be public records and any request for the same should be presented to my office.**

TV3

Corporate Data/Board Members/By Laws/Policies and Procedures

The name of the legal entity that operates “TV3” is “Medford Community Cablevision, Inc.” It was incorporated in the Commonwealth of Massachusetts on October 13, 1984.

According to the most recent Annual Report signed by Frank Pilleri on March 10, 2007 and filed with the Secretary of State’s office on April 17, 2007, the names and addresses of the officers of Medford Community Cablevision’s Board of Directors are:

President, Frank Pilleri, 39 Everett Street, Medford, MA;

Treasurer, Cornelius Murphy, 15 Carolina Street, Medford, MA;

Clerk, Susan Crowley, 22 Englehutt Road, Medford, MA⁵

Director, Carl Galusi, 55 Whitney Road, Medford, MA

Director, Harvey Allberg, 625 High Street, Medford, MA

Director, Paul Gerety, 40 Cedar Road, Medford, MA⁶

Director, Anthony Giglio, 146 Trancroft NW, Medford, MA

Director, Arthur Rogers, Sr., 113A Third Street, Medford, MA

Director, Gary Zappelli, 602 Winthrop Street, Medford, MA

Brian Mahoney, P.O. Box 760, Medford, MA

Ron DeLucia, Medford, MA

Arthur DeLucca, Bell Avenue, Medford, MA

Tim Pilleri, 39 Everett Street, Medford, MA

I am certain that this list was inaccurate on the day it was filed with the Secretary of State’s Office by the President of Medford Community Cablevision. Both Ms. Crowley

⁵ Ms. Crowley informed me that she has not served on the Board since 2001.

⁶ Paul Gerety informed me that he resigned from the Board of Directors on when the studio opened at 5 High Street.

and Mr. Gerety personally informed me that they had resigned from the Board of Medford Community Cablevision some years ago as I have noted in footnotes 3 and 4.

In addition, I was appointed to be the City's representative to the Board of Directors in January 2007. That was two (2) months before the above list was submitted to the Secretary of State by Mr. Pilleri in March of 2007. During the thirteen months that I have been the City's representative on the Board of Directors I have never seen Mr. Zappelli, Mr. Mahoney or Mr. Tim Pilleri attend a Board meeting. I have been told that Mr. Zappelli has resigned his position and I presume the same is true for Mr. Mahoney and Mr. Tim Pilleri.

According to my notes the Board of Directors of Medford Community Cablevision, Inc. presently consists of the following persons:

Nine (9) Appointed Members: Frank Pilleri; Cornelius Murphy; Harvey Alberg; Ronald DeLucia; Anthony Giglio; John Costas, Robert DiNatale, Vincent Mase⁷, Mark Rumley

Four (4) Elected Members: Arthur DeLuca; Carl Galusi, Lance Reensterma; Steven Marra

Medford Community Cablevision adopted a set of By Laws and a compendium of Policies and Procedures [**Appendix B**]

Location

During September, 2002 Medford Community Cablevision's operation of TV3 at 40 Canal Street came to an end. This began its "homeless period" which came to an end during October, 2004 when it signed a lease with "5 High Street LLC"⁸ to occupy 2,665 square feet of space at 5 High Street, Medford, MA [**Appendix C**]

The Term of this Lease is five (5) years beginning October 1, 2004 and ending September 31, 2009. The annual rent for this period is \$28,000.00. The rent is paid in monthly increments of \$2,333.33. It is also responsible to pay a pro rata share of 10.66% of the Landlord's real estate taxes

Medford Community Cablevision also paid \$10,000.00 to 5 High Street LLC as an inducement for it to enter into the Lease.

Medford Community Cablevision has the option to extend the term of the lease for a five (5) year period from October 1, 2009 through September 31, 2014. The annual rent for the extended period would be \$14,676.00. The rent would be paid in monthly installments of \$1,233.00 per month.

⁷ Vincent Mase was appointed to fill a vacancy left by the resignation of Arthur Rogers Sr.

⁸ "5 High Street LLC" is a Massachusetts Limited Liability Corporation that was organized under the laws of the Commonwealth of Massachusetts on February 6, 2004. The Manager of the "5 High Street LLC", according to the records of the Secretary of State is the "Property Trust Corporation". The "Property Trust Corporation" is a Massachusetts Domestic Profit Corporation that was organized on December 23, 1998. Its President and Treasurer is Steven C. Fustolo of 87 Terrace Hall Avenue, Burlington, MA 01803

During any extended period Medford Community Cablevision would also be responsible to pay Common Area Maintenance Charges [CAM Charges].

The Board of Directors of Medford Community Cablevision

Method of Selection

Nine (9) members of the Board of Directors are appointed by the sitting Board and four (4) are elected

There are 13 members of the Board of Directors of Medford Community Cablevision, Inc. including the one member who is appointed by the Mayor.

On October 18, 2006 there was a change made to the By Laws that resulted in nine (9) members of the Board of Directors being appointed and four (4) being elected from the membership. The sitting Board of Directors would make the decision on who the nine (9) appointed members would be.

In the spring of 2007, as the Mayor's appointee to the Board, I made a motion that the By-Laws be further amended to return to a more democratic fashion of electing the Board. To that end I proposed that the MAJORITY of the Board be elected to insure that the will of the membership, as determined by ballots, would be reflected in the make-up of the majority of the Board of Directors. My motion failed.

The failure of the Board of Directors to allow for a more democratic method in its choice of Board members runs counter to the corporation's stated purpose, as set forth in Section 2 of its By-Laws, wherein it declares that the corporation was established "*to own and manage facilities...which will be used for community television programming...*"

Quorum

Until May 30, 2007, the By-Laws of TV3 allowed for three (3) members of the thirteen (13) member Board of Directors to constitute a "quorum"

Even though the number of Board members has been thirteen (13) for some years, according to Section 7 of the By-Laws the number of members necessary for a quorum was simply three (3). The three (3) could be appointed members only. This section stated:

"Quorum: Three (3) members of the Appointed Board of Directors shall constitute a quorum for the conducting of business."

On May 30, 2007 Matt Haberstroh successfully made a motion that this section of the By-Laws be changed to read:

"Quorum: A majority of the voting Directors currently in office shall constitute a quorum for the transaction of business."

Until the Haberstroh Motion it was a regular practice for the Board of Directors to meet with very few of its members in attendance. Evidencing this are the following attendance notes taken by Mr. Haberstroh for meetings that he attended as an “advisor” during 2006:

<u>Date</u>	<u>Type of Meeting</u>	<u>Number of Board Members in Attendance</u>
4/26/06	Full Board Meeting	Three (3)
5/3/06	Special Meeting	Three (3)
5/10/06	Special Meeting	Three (3)
5/17/06	Special Meeting	Four (4)
5/24/06	Special Meeting	Three (3)
5/31/06	Full Board Meeting	Three (3)
6/7/06	Special Meeting	Six (6)
6/14/06	Special Meeting	Four (4)
6/26/06	Special Meeting	Six (6)
7/12/06	Full Board Meeting	Three (3)
7/17/06	Special Meeting	Five (5)

Similar to the undemocratic nature of a Board which is more appointed than elected, the past use of a minimal quorum which would allow binding action to be taken by a small number of non-elected board members is restrictive to the input of the public in general and is the converse of community participation.

Reflecting the Diversity of the Community

Community Diversity is not presently nor has it historically been reflected in the make up of the Board of Directors of TV3.

Perhaps the lack of a democratically elected Board of Directors at TV3 is part of the reason that, with the exception of a brief stint on the Board of Directors by Allison Goldsbury in late 2006⁹, the Board of Directors is presently and has in the past generally been made up almost entirely of white males. In fact, the Annual Reports of Medford Community Cablevision filed at the Secretary of State’s Office indicate that the Board of Directors has been all male since 2002 and most likely earlier.

⁹ Allison Goldsbury served as an appointed Board Member for three months; October, November and December of 2006.

It clearly is not arguable that a Board of Directors consisting of all white males is reflective of the diversity of the City of Medford.

It seems to me that in a Board in which nine (9) of thirteen (13) members are “appointed” it would be an easy matter to change the make-up of the Board to reflect diversity and inclusiveness. I have not observed any efforts by the existing Board to address this deficiency.

Freedom of Speech/Restraint on Speech

The 2007 Medford Candidates Forum was “pulled” from its program slot by Arthur DeLuca, a member of the Board of Directors of Medford Community Cablevision.

Late in 2007 there was a short period of time during which it was anticipated that there would be an open democratic election of the Board of Directors. This was a result of a visit by State Representative Paul Donato to a Board of Directors meeting on November 12, 2007.

Representative Donato asked to address the Board regarding concerns that he had about TV3.

At that meeting Representative Donato told the Board that he had given a DVD of a City of Medford Candidates Forum to a Board member of TV3 with the request that it be aired. Representative Donato was told by this person the dates and times when the Forum would be played on TV3. On one occasion when the DVD was to be aired, Representative Donato turned on TV3 only to find an announcement that the “Candidates Forum” was being pulled and would not be aired because it contained “objectionable material”.

When Rep. Donato contacted the member and asked why the Candidates Forum was taken off the air, the member responded that during the Candidates Forum Dr. William Wood had asked a question of City Councillor Stephanie Burke regarding TV3 and that the member found the question objectionable. The member who decided to pull the Candidates Forum from airing was Arthur DeLuca- a member of TV3’s Board of Directors.

Method of Selection -“Revisited”

After Rep. Donato left the meeting the Board of Directors engaged in a discussion regarding the community’s perception of TV3. It was the general consensus that substantive change was necessary. A motion was made that a special election be held on January 19, 2008 in which the entire Board of Directors would be elected by the general membership. It was intended that the special election be held at City Hall and that it be preceded by a general information session. The motion passed.

At the very next meeting of the Board of Directors, Frank Pilleri moved to reconsider the November vote that called for an open election. His motion passed. He then made a motion to cancel the election that was scheduled for January 19, 2007. This motion passed by a vote of 5 to 3.

The Board members who voted to cancel the election were Frank Pilleri, Ron DeLuca, Harvey Alberg, Cornelius Murphy and Steven Marra.

Voting against canceling the election were Board members John Costas, Carl Galusi and me. Board member Anthony Giglio, who appeared late to the meeting, asked that his vote be recorded as being against canceling the election.

With that vote the possibility that an open election for the Board of Directors would be held was ended.

Membership/Community Outreach

Efforts to expand the membership base of TV3 have been primarily focused on film projects originated and produced by the Station Manager. These films involve members of the board of directors, general members, new members and others under the direction of the Station Manager. Ordinarily the films, once finished, are entered into film competitions. As I state later in this report, the Station Manager informed me that there have been nineteen (19) films produced under her direction since she began her tenure in July, 2006.

Outside of the projects which are produced by the Station Manager efforts at community outreach seem sparse.

There is a distinct divergence of viewpoint among persons involved in public access television as to whether these types of projects are a proper use of a station manager's time and the physical resources of the access corporation. Some members of the Board of Directors of Medford Community Cablevision have supported the production/direction of films by the station manager. Others take the view that the manager's position is meant to facilitate the production of the membership through training, certification, scheduling and assistance with resources. I am of that view.

It is difficult to quantify whether membership efforts are successful. Obviously, some people, after becoming dues paying members, are more active than others. This is always a matter of personal choice.

It is quite clear to me that TV3 could not operate on the basis of dollars generated by membership dues. For example, the tax returns for the corporations, which are included in the Appendix of this report, indicate the following figures for money received by way of public [i.e. essentially ratepayer] support and money received for membership dues:

<u>Tax Year</u>	<u>Tax Form</u>	<u>Stated Source of Funds</u>	<u>Amount</u>
2003	990	Direct Public Support	\$108,000
2003	990	Membership Dues	\$ 2,217
2004	990	Direct Public Support	\$102,000
2004	990	Membership Dues	\$ 1,504
2005	990	Direct Public Support	\$309,581
2005	990	Membership Dues	\$ 1,150

The tax year 2005 is the last year for which I have been provided a copy of the tax return.

Further, I have been told that, over the years, the Board of Directors have voted to give certain persons “lifetime memberships”. I do not know who they are but if “lifetime memberships” have been given there may be more members than dues paying members.

Demonstrating the minimal impact that outreach efforts have had in generating membership are certain figures from the year 2005. In that year the amount of dollars received in membership dues [\$1,150] was much less than the amount of money [\$4,700.00] which was paid out to members of the Board of Directors. For 2005 this included:

<u>Board Member</u>	<u>Date of Payment</u>	<u>Amount</u>	<u>Reason</u>
Arthur DeLuca	4/28/05	\$1,000.00	Temp Wages
Arthur DeLuca	7/8/05	\$1,000.00	Temp Wages
Arthur DeLuca	8/19/05	\$1,000.00	Temp Wages
Steven Marra	9/12/05	\$ 700.00	Temp Wages
Gary Zappelli	6/10/05	\$ 300.00	Website
Gary Zappelli	8/8/05	\$ 150.00	Website
Gary Zappelli	11/1/05	\$ 150.00	Website
Gary Zappelli	12/18/05	\$ 400.00	Website
		\$4,700.00	

It should be noted that during the spring of 2007 then Board Member Matt Haberstroth motioned that the By Laws be amended to prohibit any Board member from receiving compensation from the corporation. This motion passed.

Ratepayer Funding of Medford Community Cablevision Inc.

Since May 5, 2005 the amounts received by Medford Community Cablevision from the ratepayers of the City of Medford are as follows:

11/29/2007	\$38,277.19		
8/28/2007	\$38,254.28		
5/10/2007	\$36,772.97		
3/22/2007	\$36,353.28		
1/24/2007	\$36,078.52		
9/19/2006	\$36,264.16		
6/13/2006	\$33,983.55		
3/2/2006	\$66,898.87		
9/6/2005	\$27,048.83	9/7/2005	\$425,000.00 equipment
5/5/2005	\$42,752.00		
	\$392,683.65		\$425,000.00

Total Received: \$817,683.65

Financial Data

When I first came on to the Board of Directors as the Mayor's appointee in January 2007 I asked for the following documents:

1. Copies of the check registers going back to the time that TV3 had left its Canal Street Studio;
2. Copies of all documents indicating the equipment inventory of TV3 at the end of its time at Canal Street;
3. Copies of all Annual Financial Reports;
4. Copies of all documents indicating all equipment purchased for 5 High Street.¹⁰

¹⁰ On February 8, 2008 I received copies of various invoices from the station manager which purport to be for the equipment purchased for use at 5 High Street. These documents have not, as of this writing, been reviewed.

I received an email shortly after I made this request from Steven Marra that included a list of equipment that was in the possession of TV3 at the end of its stay at Canal Street **[Appendix D]**.

I then received a list from the Station Manager, Dawn Natalia, of check registers and ATM records that pertain to her time as manager [i.e. from July 31, 2006 through January 31, 2007]. **[Appendix E]**

On October 23, 2007, I received copies of the corporation's tax returns for the years 2003, 2004 and 2005 from its accountant Robert Foley **[Appendix F]**

Concurrent with my receiving these three (3) responses, a member of the Board of Directors, Robert DiNatale, began to urge that the Board begin the work of putting together a proper budget for the operation of TV3. Part of his urging was based on the sparse handwritten "Treasurer's Reports" that are submitted to the Board of Directors at each Board meeting. By way of example, I am attaching copies of the Treasurer's Reports for January, February and April of 2007 **[Appendix G]**.

While Bob DiNatale himself attempted for some time to convert the financial matters of TV3 to bookkeeping software, he later contacted a bookkeeper, Patricia Cappucci, to assist him and the finance committee.

In my estimation this was sorely needed and easily the most prudent and productive decision that was made during the past year.

In one of Ms. Cappucci's early emails to Bob DiNatale she stated her concerns regarding a lack of organization and process at TV3. Her email¹¹ is set forth as follows:

----- Original Message -----

From: [Patricia Cappucci](#)

To: [Bob DiNatale](#)

Sent: Monday, October 22, 2007 8:57 PM

Subject: SUGGESTIONS

Hi Bob

Following up the Monday night meeting, I am forwarding the requested suggestions I had mentioned.

1. *Because the office operation is so unorganized, I think it would be best if the incoming mail was collected into an in-box and I could pick it up and prepare a monthly cash requirements for the upcoming month. (frequency on pickup based on your decision)*

2. The A/P checks that are prepared should be signed by one of the Directors. The person processing the checks should not have the authority to also sign them. This is a huge internal controls issue.

¹¹ I have added italics and underlined certain portions of the text in the emails contained in this report for emphasis.

3. Steve ¹², our account representative at [bank]¹³, should not be making internal transfers without written authorization. We should have on-line banking. An authorized person should make transfers to cover the monthly budgeted requests. These transfers must be documented with the appropriate paper trail and a file maintained. I can generate any needed forms.

4. I had mentioned eliminating two bank accounts, and that has already been done. Change the Capital Account to a Money Market account for some interest gain. We should continue to invest with a CD.

5. We should have backup detail for the payout of the \$100K CD maturity. I am surprised that the decision was made to put \$91K into the Capital Account and \$10K into the Operating Account, using our banker to do this activity. This is a lack of internal controls.

6. ATM card - Personally, I think this card should be cancelled. A check request can be made for upcoming projects or a reimbursement can be made with an Expense report with supporting documentation.

7. P/R - There are no P/R files. These files need to be set up and should include all the usual hire information with the backup salary and deduction forms. It should include any agreements/contracts for travel allowance and these document should be signed by the hiring Director.

8. Sean is clearly a W-2 employee. I suggest his salary be grossed-up to cover any P/R taxes to avoid any decrease in his weekly income. If an IRS or State audit is performed, this could be a big expense to the "company".

9. Finish this year with ADP processing the P/R. I will start processing on January 1.

10. We need to upgrade to an accounting program. Quicken is more for personal banking. Quickbooks is about \$200.

Bob, I think we made a big dent on Monday. I do think the Directors want to get the financial position of the "company" under control and I certainly think we are underway. There obviously is some further work to be done to clean up the existing data.

Give me your thoughts.

Pat

Over a four (4) month period Ms. Cappucci, using the entries from the check register at TV3, was able to compile Profit and Loss Statements and Monthly check registers going back to January 2005. [APPENDIX H]

As Pat completed her work she sent the following email to Bob DiNatale and I on January 22, 2008 responding to our request that she indicate what the problem areas.

¹² Last name of bank officer deleted for privacy purposes.

¹³ Name of bank deleted for confidentiality purposes.

Hi Mark & Bob

Per your request, below are some of the problem areas with the operations at TV3 -

Payroll - No employee files

No W-4 or I-9 forms, required by IRS & State

No verification of citizenship

No employment contracts

No contract for auto allowance

Check registers and Quarterly returns scattered in various locations.

A/P - No vendor files

Invoices not approved before payment

Buildout expenses should have a permanent file. These bids should have Board approval and paid invoices attached.

Buildout bids/approvals/invoices no where to be found.

Checks written and signed by office manager - no approval or second signature

A/R - Checks received by office manager and then deposited by office manager

Comcast check sometimes deposited into different accounts.

Banking - Office Manager transfer funds

Bank Account Manager given permission to transfer funds between accounts as he thinks necessary to cover overdrafts

Overall problems -

No central filing location for any vendor or employee files. My assignment to collect the information to produce financial statements was quite a chore. The data that I was able to find, was scattered in many places. Most of the records are missing.

The office manager is completely unorganized. She lacks all responsibility for the proper business procedures.

Invoices to be paid, should be signed off by one of the Board members and when the checks are prepared, there should be two signatures. These invoices should then be filed in a secure location.

The savings bank account is set up a regular checking account. This should be changed to a money market account. Even though the interest rate is low, we could be getting a little extra on a monthly balance of over \$100K.

Transfers between accounts should not be made by the Bank Account Manager or the office manager. These transfers should be made by a Board member.

There are no checks and balances.

This is a start. If you want more, let me know

Regards

Pat

Her work in putting together the financial records had many challenges. Among them was a directive from the President not to speak to anyone on the Board of Directors except a Finance Committee member. There was a specific directive not to speak to me or anyone at City Hall, including any City Councillors.

Here is one such email.

From: Frank Pilleri
To: patriciacappucci@xxxx¹⁴
Sent: Wednesday, January 09, 2008 8:52 PM
Subject: TV3

Pat,

Effective immediately, I will be your primary contact from the Finance Committee. It is NOT your responsibility to email anyone else from the Finance Committee and anyone from the whole Board, in particular our City Hall representative, Mark Rumley. This is NOT why you were hired. I am disappointed in myself and others that you weren't given your boundaries and our goals for you and who you report to. Let me provide additional information here.

Your function is to two fold.

1. Prepare our financials and get us organized as you can, in preparation for an audit. This is consistent with what occurred after the first studio was build and has been part of our overall plan for the station - to have an audit in 2008. Just so happens that the City has agreed to pay for this audit, otherwise TV3 would pay for and may actually pay for an audit if the City takes too long to begin an audit.
2. Handle our payroll with withholding and etc. beginning with the new year.

Please do this ASAP –
NOTE¹⁵

I am extremely disappointed in the communications over the past month or so. As a result of this lack of communication, ALL communications will go through me from this point on. I will then forward information to the Finance Committee and to the whole Board if need be.

We are an autonomous Massachusetts corporation running the Public Access Station and have a contract with the City of Medford, to operate the station. We are NOT A CITY run organization, and NEVER HAVE BEEN, thereby your responsibility is to TV3 as City Hall does NOT govern what TV3 does. We are run by a Board of Directors via our By-laws and Policy and Procedures. WE ARE TOTALLY INDEPENDENT from the City. Please keep this in mind if you communicate with anyone from the City or City Hall. Our finances are private and between our Bookeeper and the Finance Committee which answers to the full Board. Mark, unfortunately has a personal agenda and in some Board members opinion, has overblown his authority, therefore this TV3 Board will not entertain his attempt at bullying tactics.

If anyone from City Hall, Mark, any of the *City Councilors* or other Board members NOT part of the Finance Committee contacts you, please refer them to me as I am the contact and will share any information. This should free you up to concentrate of what we need to get done.

Please provide me with an update on where we are in preparation for an audit since we got our funds from City Hall in August 2005.

¹⁴ Email address deleted for privacy reasons.

¹⁵ Paragraph deleted due to reference to employees health insurance

Thank You. If you have any questions or comments, please let me know.
Frank
617-xxx-xxxx¹⁶

In my opinion this type of directive from the President of a corporation that has received over \$800,000.00 of ratepayers funding in less than three (3) years by way of a contract in which the City is a signatory is, at very least, indicative of a desire to be circumspect with the City and more certainly a lamentable demonstration of administrative uncertainty.

Station Manager Compensation

Ordinarily the amount compensation paid to the manager of a public access facility is not a matter of great concern. Indeed, it is not my intention here to question the amount of salary paid to the station manager.

My view of the proper role of a station manager of a public access channel is, primarily, to assist members by providing the training and resources they require to produce whatever it is they choose to produce. Not everyone agrees with me and I readily admit that many of these alternative views are not unreasonable.

However, during the fall of 2007 I questioned the amount of time that the station manager was putting into the production of movies. I had been told that these movies were being done to raise the level of public outreach and for fundraising. Both are admirable goals. Yet it seemed to me that the time being devoted by the station manager to produce these films was inordinately more than to her other tasks.

I was also concerned about the use and wear and tear to the resources of TV3 [i.e. cameras, lighting etc.] caused by their use in movie production and the fact that, while these resources were being used for movies they would not be accessible to the rest of the membership.

When I asked the station manager how many films she had made, she answered "19". She quickly added that these films had garnered \$15,950.00 in prizes or awards and that roughly \$12,000.00 had already been collected.

However, I also learned that on October 22, 2007 the station manager had been paid \$10,000.00 by Medford Community Cablevision for "overtime".

Given the fact that the Station Manager does not have a contract¹⁷ and is paid a salary, I do not know how this \$10,000.00 payment for overtime is justified. I raise this as a question and not a conclusion.

¹⁶ telephone number deleted for privacy reasons.

¹⁷ The Station Manager stated to me that she never signed a contract and the President of TV3 said that he recalls her signing one. However, no one has ever produced a contract- either in draft or signed form- and I can only conclude that there has never been a contract with the Station Manager.

In any event, the overtime payment would seem to dissipate any positive impact made by the fundraising aspect of movie production.

Conclusion

I return now to answer the two (2) questions that I raised at the start of this report. They are:

1. *Does public access television, as provided by Medford Community Cablevision, reflect the diversity of this community and allow for participation in an fully inclusive fashion?*

It is my opinion that public access television, as provided by Medford Community Cablevision does not reflect the diversity of this community nor does it allow for participation in a fully inclusive fashion.

My reasons are:

- a. Lack of a Board of Directors who are elected by the membership;
- b. No diversity among the present members of the Board;
- c. Insensitivity of certain Board members to importance of free speech and due process¹⁸;
- d. Actions which indicate a desire to restrict dialogue and the free flow of information both among Board members and with the municipality.

2. *Has Medford Community Cablevision acted in an accountable and responsible fashion in its use of the funds provided to it by the ratepayers of the City of Medford?*

While there have been great advances made in the organization of financial data by Patricia Cappucci, only a full audit can yield an answer to this question. Ms. Cappucci informed me that she took the information that she used in her reports directly from the check register but that she did not have the benefit of reviewing much back-up documentation. That is the job of an auditor not a bookkeeper.

Recommendations

I do not view my role as judge and jury but simply as reporter. I make the following recommendations based upon the ascertainable and demonstrable facts that I have reported herein.

It is my position it would be beneficial and prudent to conduct a professional audit and also to receive the input of TV3 members and citizenry regarding their experiences, thoughts and suggestions about public access in general and TV3 specifically.

¹⁸ There was a matter of the suspension of two members last fall that I have not referred to in this reports because of confidentiality. However, I was personally aware that these two members did not receive any notice of their suspension and, in fact, their suspensions were later reversed.

Accordingly, I recommend as follows:

1. That a full Audit be conducted of the finances and expenditures of Medford Community Cablevision, Inc. going back at least four years with particular emphasis on the expenditures made to construct, equip and make improvements at the 5 High Street location. In addition, this Audit should include administrative and management recommendations. This Audit should be conducted by an Auditor chosen by the Mayor and paid for by the City.
2. That an Evaluation Hearing be conducted before an impartial evaluator or panel of evaluators, as chosen by the Mayor, to receive the input of the membership of Medford Community Cablevision and the citizens of Medford regarding public access television in Medford.

Respectfully Submitted,

Mark E. Rumley

Enc

Cc: President Stephanie Muccini Burke and the Members of the Medford City Council

President Medford Community Cablevision

MER/mr