

# City of Los Alamitos

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| <b>Agenda Report</b>                         | <b>February 17, 2009</b> |
| <b>Special Orders of the Day Item No: 4A</b> |                          |

**To:** Mayor Dean Grose & Members of the City Council

**From:** Nita McKay, Interim City Manager

**Subject:** Los Alamitos Television (LATV) Discussion

**Summary:** This report provides the City Council with a summary of the history of Los Alamitos Television (LATV), including the non-profit corporation's dissolution in December 2007. Information is also provided regarding future options for the operations and programming of Los Alamitos Television.

**Recommendation:** Direct staff as to which option for Los Alamitos Television the City Council would like to pursue and bring back for City Council consideration at a future Council meeting.

## ***Background and Discussion***

### **History of Los Alamitos Television (LATV)**

The City of Los Alamitos established the Municipal Usage Corporation (later known as Los Alamitos Television Corporation – LATV) in 1982 with the adoption of the cable franchise agreement with Rogers Cablesystems. This “independent corporation” was charged with promoting and developing local usage of the cable system. Though the Los Alamitos Television Corporation was incorporated under the Non-profit Public Benefit Corporation Law of the State of California and was granted tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, the Corporation was reported in the City's financial statements as a discretely presented component unit of the City. Discretely presented component units are those entities which are financially accountable to the primary government (the City) because the City appoints a voting majority of the component unit's board, or because the component unit provides a financial benefit to or imposes a financial burden on the City. The Los Alamitos Television Corporation operated out of its own facility, retained its own station manager, and operated under an adopted budget approved by its Board of Directors each year. During this time, the City's Administrative Services Department performed the necessary accounting functions, i.e. preparation of payroll, warrants, bank reconciliations, and financial statements. The Public, Educational, Government (PEG) access programming was broadcast on Channel 3 and included City Council meetings, School Board meetings, the Rossmoor Community Services District Board meetings, and programs of community interest.

On January 22, 2007, the Los Alamitos Television Corporation (LATV) Board of Directors voted unanimously to voluntarily dissolve the non-profit corporation. On October 17, 2007, the LATV Board of Directors voted 3-1 that all remaining assets from LATV be distributed to the City of Los Alamitos. It is important to note that these assets are subject to the restrictions placed upon the City by the Attorney General of the State of California. Specifically, any such assets must be used for the development and operation of a community access television channel for the educational benefit of the community, and other activities necessary and reasonable to carry out this specific purpose.

After months of working closely with the Attorney General's office, the Los Alamitos Television Corporation was dissolved on December 11, 2007. At the present time, the City of Los Alamitos directly operates the cable television programming, airing primarily Los Alamitos City Council Meetings, LAUSD Board meetings, Rossmoor CSD Board meetings, LAHS football games and a variety of programs aired as public access.

The City Council asked that we provide total costs associated with the dissolution of LATV. Because the City Attorney did not create a sub-matter number for "LATV dissolution", we are only able to provide total legal costs for LATV matters. From January 2006 through December 2008, the City expended \$45,889 on various issues related to LATV. The City expended an additional \$26,380 on litigation related to LATV for the period of time from February 2007 through June 2007.

The City Council has requested an update of the financial status of the Los Alamitos Television Fund, as well as options to consider for the future of the television station. These items are discussed below.

### **Financial Status**

At the time of the dissolution of LATV, a sum of \$133,917 in cash was deposited into a Los Alamitos Television Special Revenue Fund of the City. Additionally, \$233,334 (historical cost) in capital assets was transferred to the City of Los Alamitos. These capital assets include the van utilized to film football games and other events, cameras, video equipment, lighting, monitors, and all equipment needed in filming and broadcasting of the television station programming. During Fiscal Year 2007-08, a total of \$40,398 was recorded in revenues in the Los Alamitos Television Fund. Expenditures totaled \$55,323. For the current fiscal year, the City Council adopted the fund's budget on June 2, 2008. Estimated revenues total \$30,130, of which we had received \$20,198 at December 31, 2008, and appropriations (budgeted expenditures) total \$34,020, of which the City had expended \$28,986 at December 31, 2008. The revenue and expenditure summaries as of December 31, 2008 are attached for review (Attachment 1).

The fund's revenue is derived from three sources. The fund receives access fees from Time Warner and Verizon through franchise agreements. Both access fees are based on number of subscribers and have decreased over the past few years as the number of subscribers has decreased. Additionally, prior to February 2008, the LATV Corporation received a PEG access fee from Time Warner for broadcasting the

Rossmoor Community Services District Board meetings. The agreement was between Time Warner and the County of Orange for the payment to LATV. Upon dissolution of LATV, the agreement was void and the City has received no payments for broadcasting Rossmoor meetings since December 2007. This amounts to \$17,360 for the past fourteen months. At the time of the writing of this report, Time Warner has made an offer to the County of Orange to settle past payments in the amount of \$15,000. Time Warner has assured us that they will begin making payments going forward beginning in March 2009. If payments are received before the end of this fiscal year, it is estimated that the fund balance for Los Alamitos Television at June 30, 2009 will be \$123,450.

The third source of revenue in this fund is the reimbursement from Los Alamitos High School and the Boosters Club for filming the football and basketball games. The reimbursement payments completely offset the costs to the City for the people filming the games plus incidental expenses incurred.

### **Options for the Future**

City staff has performed some preliminary research on options that would be available for the future of Los Alamitos Television. These options include such items as continuing to operate the television station as the City currently does, creating (or assisting with the creation of) a new non-profit corporation, contracting with another City for the filming of the City Council meetings, and contracting with a joint powers authority serving several other local cities. The options are discussed briefly below.

#### **Option 1 – City continuing to operate the television station**

The City of Los Alamitos directly provides cable services. The daily operations are managed by the City Manager's office and include a contract with Skillmaster, which provides a part-time employee. This part-time employee films the City Council meetings and manages the scheduling of programs shown on the City's cable Channel 3. The City also contracts for filming of the LAHS football games and certain community events. As discussed above, filming costs associated with the LAHS football games have been completely offset this past season through a contract with LAUSD and the LAHS Boosters.

An alternative to the current operations would be that the City hires a part-time employee directly to handle all City cable filming and programming, including City Council meetings, football games and community events. The part-time employee could coordinate all filming and production of City events and work out arrangements with the high school and the Boosters Club for filming of the related games. If hired directly by the City rather than a contract with Skillmaster, the City would save because of the additional overhead rate charged by Skillmaster.

The question has been brought up in discussions, whether members of the community could contribute to the Los Alamitos Television Fund in the same manner they would make a contribution to a 501(c)(3). Any member of the public can make a contribution to the City of Los Alamitos and designate it for a specific purpose. Because LATV's

assets are held by the City in a separate special revenue fund, those donations would be held separately for that purpose and not comingled with the General Fund of the City. It has been stated that these donations to the City would be tax exempt to the donating party. Of course, it is always advisable for individuals to consult with a tax professional.

#### Option 2 – Creating (or assisting in the creation of) a 501(c)(3) Non-profit Corporation

The City Attorney's office has provided a brief summary of the steps necessary in forming a California non-profit public benefit corporation. This summary is attached for City Council review (Attachment 2). The City can consider forming a new non-profit corporation or assisting the community with the formation of a non-profit corporation. It should be noted that if the City intends to remain completely separate from the television non-profit corporation, the City Council should not appoint the new Board of Directors. If the City Council appoints the Board of Directors then the non-profit corporation would again be considered a component unit of the City.

The other question that has arisen concerns the ability of the City to transfer the Los Alamitos Television Fund assets to the new corporation. The City Attorney's office has stated preliminarily that this would be possible as long as the same Attorney General restriction is placed on the television assets. This restriction is that the assets be used for the development and operation of a community access television channel for the educational benefit of the community, and other activities necessary and reasonable to carry out this specific purpose. The City Attorney's office could investigate the requirements further if this is the desire of the City Council.

For further discussion on this item, there is the possibility of a lease option that the Mayor is investigating at the Joint Forces Training Base. Additional information will be available for discussion during the workshop on Tuesday evening.

#### Option 3 – Contracting with another city

The City could consider the option of contracting with another city. Some of the neighboring cities, such as Garden Grove and Cypress film their own City Council meetings with internal staff. City staff could further research the logistics and cost of contracting with another City if the Council so desires.

The City currently contracts with other cities for certain City services, such as information technology support (Brea), recycling services (Cypress), and animal control and sheltering (Long Beach).

#### Option 4 – Contracting with Public Cable Television Authority (PCTA)

The cities of Huntington Beach, Fountain Valley, Westminster and Stanton belong to a joint powers authority for the filming of their City Council meetings. A representative from the PCTA has visited the City to view the recording equipment, mobile cable van, and the City's scheduling requirements. We have not investigated any arrangements or

cost estimates of the City joining the PCTA, but staff could do so if the City Council directs.

The Los Alamitos Television Corporation agenda report from November 20, 2006 is attached (Attachment 3) to provide further detail on the options that were examined at that time for LATV.

***Fiscal Impact***

The fiscal impact is dependent upon direction given to staff by the City Council. When staff brings to the City Council the final recommendation for approval, all costs to the City will be included in the staff report.

Submitted and Approved By:

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Nita McKay  
Interim City Manager

*Attachments: 1) Revenues and expenditures as of December 31, 2008 for Los Alamitos Television Fund  
2) California Nonprofit Public Benefit Corporation Formation and Tax Exemption  
Application Checklist  
3) Los Alamitos Television Corporation Agenda Report for November 20, 2006*

|                        | PROPOSED BDGT | REVISED BUDGET | ANNUAL ACT MTD POSTED ACT YTD POSTED | REMAINING BALANCE | PCT |
|------------------------|---------------|----------------|--------------------------------------|-------------------|-----|
|                        |               |                | ACT YTD POSTED AND IN PROCESS        |                   |     |
| 28                     |               |                |                                      |                   |     |
| 3019                   | 2,130.00      | 2,130.00       | 0.00                                 | 2,130.00          | 0   |
| 3020                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3021                   | 26,000.00     | 26,000.00      | 0.00                                 | 19,791.00         | 23  |
| 3022                   | 2,000.00      | 2,000.00       | 0.00                                 | 2,000.00          | 0   |
| 3023                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3025                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3026                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3028                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3201                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3203                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3820                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3891                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 3899                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 4110                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| 4210                   | 0.00          | 0.00           | 0.00                                 | 0.00              | 0   |
| TOTAL: LOS ALAMITOS TV | 30,130.00     | 30,130.00      | 20,197.74                            | 9,932.26          | 67  |

| 28   | LOS ALAMITOS TV                | REVISD BUDGET | ANNUAL BUDGET | ENCUMBERED | ACT MTD POSTED AND IN PROCESS | ACT YTD POSTED AND IN PROCESS | REMAINING BALANCE | PCT  |
|------|--------------------------------|---------------|---------------|------------|-------------------------------|-------------------------------|-------------------|------|
| 512  | ADMINISTRATIVE SERVICES        | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2300 | CONTRACTUAL SERVICES           | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
|      | TOTAL: ADMINISTRATIVE SERVICES |               |               |            |                               |                               |                   |      |
| 514  | INSURANCE                      | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2852 | LIABILITY INSURANCE            | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
|      | TOTAL: INSURANCE               |               |               |            |                               |                               |                   |      |
| 518  | L.A.T.V. ADMINISTRATIVE        | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1001 | SALARIES, FULLTIME             | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1002 | SALARIES, ELECTED              | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1003 | HOURLY                         | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1050 | OVERTIME                       | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1070 | HOLIDAY PAY                    | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1500 | RETIREMENT                     | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1501 | P/T RETIREMENT                 | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1510 | MEDICAL INSURANCE              | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1513 | MEDICARE                       | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1551 | CAR ALLOWANCE                  | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 1552 | SPECIAL SKILL PAY              | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2001 | SUPPLIES/DIVISION EXPENSE      | 2,400.00      | 2,400.00      | 0.00       | 0.00                          | 731.79                        | 1,668.21          | 30   |
| 2005 | INTERNET EXPENSE               | 800.00        | 800.00        | 0.00       | 0.00                          | 0.00                          | 800.00            | 0    |
| 2100 | DIVISION EXPENSE               | 1,000.00      | 1,000.00      | 0.00       | 0.00                          | 10.00                         | 990.00            | 1    |
| 2160 | SPECIAL EVENTS                 | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2260 | TELEPHONE                      | 2,900.00      | 2,900.00      | 0.00       | 180.04                        | 1,012.89                      | 1,887.11          | 34   |
| 2262 | GASOLINE                       | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2300 | CONTRACTUAL SERVICES           | 19,000.00     | 19,000.00     | 0.00       | 2,301.87                      | 19,542.34                     | 542.34            | 102  |
| 2317 | ACCOUNTING SERVICES            | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2400 | MAIN - OFFICE EQUIPMENT        | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2420 | MAIN - COMPUTERS               | 1,000.00      | 1,000.00      | 0.00       | 0.00                          | 0.00                          | 1,000.00          | 0    |
| 2422 | NETWORK SUPPORT                | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2433 | OUTSIDE SVCS.-OTHER VEHICLES   | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2490 | EQUIPMENT CHARGES              | 6,820.00      | 6,820.00      | 0.00       | 302.30                        | 3,410.00                      | 3,410.00          | 50   |
| 2500 | TRAVEL & MEETINGS              | 0.00          | 0.00          | 0.00       | 0.00                          | 20.79                         | 20.79             | 9999 |
| 2570 | MILEAGE REIMBURSEMENT          | 100.00        | 100.00        | 0.00       | 0.00                          | 0.00                          | 100.00            | 0    |
| 2600 | DUES & SUBSCRIPTIONS           | 0.00          | 0.00          | 0.00       | 0.00                          | 69.99                         | 69.99             | 9999 |
| 2650 | NON-CAPITAL FURNITUR & EQUIP   | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2890 | WORKERS COMPENSATION INS       | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2891 | GENERAL LIABILITY INS.         | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 2900 | CONTINGENCY                    | 0.00          | 0.00          | 0.00       | 0.00                          | 0.00                          | 0.00              | 0    |
| 3153 | NON CAPITAL EQUIPMENT          | 0.00          | 0.00          | 0.00       | 1,402.70                      | 4,188.69                      | 4,188.69          | 9999 |
|      | TOTAL: L.A.T.V. ADMINISTRATIVE | 34,020.00     | 34,020.00     | 0.00       | 4,186.91                      | 28,986.49                     | 5,033.51          | 85   |
|      | TOTAL: LOS ALAMITOS TV         | 34,020.00     | 34,020.00     | 0.00       | 4,186.91                      | 28,986.49                     | 5,033.51          | 85   |

**CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION  
FORMATION AND TAX EXEMPTION APPLICATION CHECKLIST**

To expedite and finalize the incorporation of a California nonprofit public benefit organization and submit the federal and state tax exemption applications in a timely manner, the following steps must be taken and/or information provided:

1. Choose, clear, and reserve the name of the Corporation with the State. In addition to the preferred name, please provide us with two additional names in the event that the first choice is unavailable.
2. Draft the Articles of Incorporation and file them with the State. For this purpose, we minimally require the following information:
  - Whether this is the incorporation of an existing association
  - The purposes to be served and the activities that will be conducted in furtherance of those purposes by the Corporation. Please be detailed.
  - The number and name of statutory members (i.e., with right to vote regarding matters of the Corporation) of the Corporation, if any. The majority of nonprofits do not have members.
  - Whether the Corporation will own any real estate.
3. Upon receipt of the Articles stamped by the State, obtain the tax identification number for the Corporation. We will need a social security number and a signature of an officer to obtain the tax identification number.
4. Draft the Bylaws governing the Corporation. For this purpose, we minimally require the following information:
  - The address of the principal office location of the Corporation.
  - Whether Corporation will have a statutory member and, if so, any specific reserved powers.
  - The number and name of directors to serve on the Board of Directors.
    - Whether there will be ex-officio directors
  - The manner in which the Directors shall be nominated to the Board.
  - The term to be served by the Directors.
  - The date of the annual meeting to be held by the Board
  - The names of corporate officers, i.e., president, vice president, secretary, and treasurer.
  - Whether the Corporation will have any standing committees.
  - The month the Corporation's annual accounting period ends.
  - Whether the Corporation will be controlled by another entity
5. Order minute book, seal and membership certificates, if desired. This is not required. Please indicate your preference.
6. Ascertain whether issuance of membership interests, if any, is exempt under state and federal securities laws.
7. Draft the appointment of initial Directors, if Directors are not named in the Articles (however, we advise against naming Directors in the Articles) (Organizational Certificate).

8. Draft appropriate documents for organizational meeting (e.g., waiver of notice, minutes, agenda, action by unanimous written consent (but not entity subject to Brown Act)).
9. Apply for the federal and state tax exemptions. For these purposes, we minimally require the following information:
  - Activities that will be performed by Corporation in furtherance of tax-exempt purposes.
  - The Corporation's sources of financial support.
  - The Corporation's fundraising program, both actual and planned.
  - Whether any Directors or officers are appointed or elected by reason of being public officials.
  - Whether the Corporation will either directly or indirectly engage in any of the following transactions with any political organization or other exempt organization: (i) grants; (ii) purchases or sales of assets; (iii) rental of facilities or equipment; (iv) loans or loan guarantees; (v) reimbursement arrangements; (vi) performance of services, membership or fundraising solicitations; or (vii) sharing of facilities, equipment, mailing lists or other assets, or paid employees.
  - Whether the Corporation is financially accountable to any other organization.
  - Whether there will be any assets used by the Corporation in the performance of its tax-exempt function.
  - Whether the Corporation's facilities or operations will be managed by another organization under a contractual agreement.
  - If there are statutory members, then whether there will be any fees or dues, and what benefits will be received by the members in exchange for the payment of such fees and dues.
  - If the Corporation provides benefits, services, or products: (i) whether the recipient will be required to pay for them; (ii) whether the Corporation will limit the benefits, services or products to specific individuals or classes of individuals; and (iii) whether the benefits, services or products will be provided on a sliding scale.
  - Whether the Corporation will attempt to influence legislation.
  - Whether the Corporation will intervene in any way in political campaigns.
  - A three (3) year financial budget plan for the Corporation.
10. File a Statement of Domestic Nonprofit Corporation with the State.
11. Determine whether the Corporation should register with the State's Political Reform Division.
12. Register with the Attorney General's Registry of Charitable Trusts.
13. Register as a charity in any states where the Corporation will solicit charitable contributions.
14. Obtain nonprofit mailing permit, if desired.
15. Obtain licenses and permits, if necessary, from state and local authorities.
16. Will the Corporation have an affiliation with a public entity? If so, we'll need to determine whether the Corporation will be subject to the requirements of the Brown Act.