

**AUSTIN TELECOMMUNICATIONS COMMISSION
REGULAR MEETING - DECEMBER 14, 2005
<http://www.ci.austin.tx.us/telcommission/>**

MINUTES

1. Call to order.

Commission Chair Chad Williams called the meeting to order at 7:40 p.m. Commissioners in attendance were Chad Williams, Wendell Ramsey, Chip Rosenthal, Deborah Hill, Jim Howerton, and John Green. Commissioner Stephen Martin has an excused absence.

Staff in attendance was Rondella Hawkins and Jane Reina.

2. Adoption of agenda.

Motion to adopt the agenda was made by Commissioner Hill; seconded by Commissioner Howerton. Vote 6-0. (Commissioner Martin absent)

3. General citizen communications. (3 minutes to speak)

There were no citizens signed up to speak.

4. Approval of minutes from the October 12, 2005 Commission regular meeting and November 9, 2005 Commission Retreat.

Motion to approve the minutes from the October 12, 2005 Commission regular meeting and the November 9, 2005 Commission Retreat was made by Commissioner Ramsey; seconded by Commissioner Rosenthal. Vote 6-0. (Commissioner Martin absent)

5. Telecommunications & Regulatory Affairs Office Report.

Rondella Hawkins, Manager of Telecommunications & Regulatory Affairs (TARA), reported that **ON STATE LEVEL**: A Telecommunications Competitiveness Legislative Oversight Committee was established by statute under Senate Bill 5, calling for a joint study with the Public Utilities Commission regarding telecommunications competitiveness. The Committee is charged with finding alternative sources of compensation for municipalities to replace monies currently collected from providers of data, telecommunications, cable tv, and video services. They will also look at the transition from local franchise authority to state-issued authority and right-of-way access and right-of-way access fees, continuation of PEG channels and build-out requirements.

- The Committee is made up of eight members, four senators chosen by the Lieutenant Governor and four House members chosen by the Speaker of the House of Representatives.
- Earlier this month, House Speaker Craddick announced the appointments of House members to the Legislative Oversight Committee:
 - Rep. Phil King
 - Speaker Pro Tempore Sylvester Turner
 - Rep. Joe Crabb

- Will Hartnett

These Representatives are members of the House Regulated Industries Committee, the committee that crafted telecomm. reform legislation that eventually was passed as SB5.

- The committee shall report its findings to the Lt. Gov. and Speaker of the House no later than Dec. 31, 2006 in preparation for the 80th Legislative Session.
- One area that cities were hoping to address favorably in SB 5 were utility relocation costs but that didn't occur. One of the interim study charges of the Regulated Industries Committee is to study the current repayment mechanism to counties and municipalities for private utility relocations in ROW and report possible alternative systems for funding utility relocations and associated impacts.
- Under SB5, Time Warner's local franchise remains in effect and they are not eligible to apply for a state franchise until their franchise expires in July of 2011.
- Time Warner has applied for state franchise authority for systems where the local franchise is expired, or will soon. These communities include San Antonio, Alamo Heights, Mustang Ridge, Round Rock, Buda, Hays, Liberty Hills, Marble Falls, Burnet, Pflugerville and West University Place (just outside of Houston).
- In addition to the 5% franchise fee provided under SB 5, SB5 provides for an additional 1% franchise fee to replace in-kind services (PEG operating fees, PEG capital funding, INet funding) above and beyond 5% of franchise fees. This was intended to help keep cities whole. This 1% kicks in when the incumbent's franchise expires and all video/cable providers in a community or service area are under a state-issued franchise.
- On December 12, TWC filed federal lawsuit in District Court against West University (Houston), whose franchise expires on January 31, 2006, asserting that the 1% of PEG fee is not lawful. The civil suit argues the state-mandated charge exceeds the federal 5% cap on all fees.

ON THE FEDERAL LEVEL:

- There are efforts underway in Congress to update the telecommunications laws and the introduction of Internet Protocol and Broadband Services.
- House Commerce Committee Draft Legislation.
- In November, the House Committee conducted a public hearing on draft legislation to create statutory framework for Internet Protocol and Broadband Services, otherwise known as Broadband Internet Transmission Services or "BITS" I.
- While the House staff draft known as BITS I was not something that local governments would have put forward, we recognized that there was a significant effort to address issues of importance to cities and counties. Unfortunately the revised draft, BITS 2, severely tested local governments' optimism because it pulled back from significant progress on local issues. The draft does not protect local governments' core police powers.
- Other concerns are but not limited to:
 - BITS II gives telcos a fast track video franchising process, allowing them to avoid social obligations such as support PEG channels;
 - Public safety needs and responsibilities are disregarded;
 - Like services are not treated alike
 - ROW fees are limited to the recovery of management costs, providing "free" rent to the telecomm occupants of the property
 - Video franchise fees will be significantly reduced based on definitions in the new draft;

- Cherry picking is allowed, leaving consumers without the competitive offerings they were promised in BITS I
- Allowance of competitive buyouts leaves consumers unprotected from monopoly pricing and providers
- The City was expecting a marked up version this week (BITS 3 or Son of BITS) which did not occur. It appears that House action likely will wait until early next year as a bipartisan group of lawmakers work on a deal on a variety of complex issues from regulating online video services to setting rules to ensure consumers have unfettered access to the web. Of course, that timeline could change.
- Ms. Hawkins distributed copies of a recent letter from Mayor Wynn to the City's Congressional delegation and to members of the House Energy and Commerce Committee regarding the City's issues of primary concerns in telecomm reform. She distributed copies from the City's sister national associations (NATOA, NaCO, USCM, GFOA, and NLC) to House Energy & Commerce Committee members outlining overall concerns of the latest House staff draft – BITS 2.
- The Senate Commerce, Science and Transportation Committee also plans to take up Chairman Ted Stevens (Alaska) has scheduled a series of hearings on telecommunications issues after the holiday recess. The first hearing scheduled for January focuses on franchising.

FCC

The FCC recently adopted a Notice of Proposed Rulemaking that seeks public comments on issues relating to what can be done to ensure that local franchising authorities, such as Austin, do not unreasonably refuse to award cable franchises to competitive entrants. Although Texas cities no longer have the authority to grant cable franchises, Texas cities including Austin will submit comments. Austin can easily demonstrate that we are not barriers to entry. In fact, the City of Austin simultaneously negotiated cable franchises with three (3) overbuilders, WIN, WOW and Grande back in 2000. Ms. Hawkins stated that it didn't take the City an extensive period of time from the date we received a completed franchise application until Council adopted on 3 readings. Our City Charter requires 3 separate readings and an effective date the 61st day from 3rd reading date.

GTOPs update

The Grant for Technology Opportunities Program 2005-06 applications are available now on-line at www.ctiaustin.org/gtops/application or in person at the TARA offices in the municipal building at 124 West 8th street, suite 210. The deadline to apply is January 20, 2006. An information session on the grant will be held this Friday, December 16th at 4:30 PM at One Texas Center, Room 500, located at 505 Barton Springs Road. No registration is required to attend. For more information call Sheena Harden at 974.3510.

The Grant program also needs reviewers! Review board applications are also available on-line at www.ctiaustin.org/gtops/application. The deadline to apply for the review board is December 30, 2005.

6. Discussion and possible action on:
 - a. Resolution regarding federal Telecommunications Reform.

Motion to approve the resolution regarding federal Telecommunications reform to read as follows:

**RESOLUTION
A RESOLUTION URGING THE UNITED STATES CONGRESS
TO CONSIDER CERTAIN PRINCIPLES FOR FEDERAL
TELECOMMUNICATIONS REFORM.**

WHEREAS, since the passage of the 1996 federal Telecommunications Act, there have been significant changes and advances in communications technology and the marketplace; and

WHEREAS, the United States Congress has begun the process of considering changes to the Telecommunications Act of 1996; and

WHEREAS, reform to federal telecommunications law is likely to have a profound impact on the manner in which local governments regulate the industry in their communities; and

WHEREAS, the City of Austin is committed to promoting a competitive and technologically advanced telecommunications environment for its residents, businesses, and visitors; and

WHEREAS, it is the goal of the City of Austin to encourage cable and broadband service to offer universal service so that all its residents can benefit from available technology;

NOW, THEREFORE, BE IT RESOLVED, the City of Austin urges the United States Congress to consider the following principles as vital to the successful reform of the 1996 Telecommunications Act:

_ ***Local Authority***: Local governments are in the best position to determine how to best protect their citizens with regard to the maintenance of infrastructure, public safety, promoting competition, consumer protections, universal service, and management of rights-of-way.

_ ***Rights of Way and Zoning***: Maintaining local authority over rights-of-way and zoning is essential to local governments, who are charged with the protection of taxpayer investment in the community's infrastructure, its most valuable asset.

_ ***Competition***: It is in the best interest of local governments to encourage high levels of competition and innovation from the telecommunications industry – it makes their communities more attractive to prospective business and residents. True competition provides greater choice, better quality and competitive pricing for communications products and services, and access to new technologies affords greater communications options for a community.

_ ***Local Franchises***: Local franchise agreements are essential to ensuring universal service that public and educational needs are met, and that local rights-of-way are managed properly and fairly.

– Municipal Authority to Provide Broadband Services: Local governments should be able to provide their local communities broadband capability and services for the purpose of economic development and to provide all citizens access to broadband technologies. Municipalities may be the only potential service provider in some communities and often are the only source of competition that results in better services and/or lower prices for consumers. The full promise of broadband communications can be realized only when citizens and businesses have open access to all content providers. Communication providers should not discriminate between content providers or applications.

– Public Safety: New voice technologies such as Voice over Internet Protocol (VoIP) should not be exempt from paying for E-911 services.

– Public, Educational and Governmental Programming: Local franchises are also important tools to ensure for the provision of public access, government channels, and educational technology.

– Fees and Revenues: All local governments rely on revenue from reasonable business taxes in order to provide services to those businesses and residents. Telecommunications should not be exempt from the same local taxation to which other businesses are subject. The result would simply shift the burden of raising revenues to residents and other businesses.

PASSED AND APPROVED BY THE CITY OF AUSTIN TELECOMMUNICATIONS COMMISSION.

was made by Commissioner Green; seconded by Commissioner Ramsey. Vote 6-0. (Commissioner Martin absent)

This resolution will be forwarded to the Council Committee for Emerging Technology and Telecommunications at their next meeting for approval to forward to the full City Council.

- b. FY 2004-2005 Austin Telecommunications Commission (ATC) Workplan accomplishments.

Motion to adopt the FY 2004-2005 Austin Telecommunications Commission (ATC) Workplan accomplishments to read as follows:

- Continued participation and attendance at South by Southwest (SXSW) Interactive
- Continued to receive annual update and report from Skill Point Alliance
- Received city-initiative broadband, public accessible wireless hot spots, and IT Incident Preparedness presentation from Pete Collins, CIO, City of Austin
- Telecomm Commissioners assisted in helping Hurricane Katrina evacuees with IT services at Austin Convention Center
- Continued close working relationship with Ana Sisnett and Austin Free-Net
- Continued live coverage of Austin Telecommunication Commission's regular and special called meetings on Channel 6

- Conducted review and evaluation of the Grant for Technology Opportunities Program (GTOPs) application, scoring and grant process (for third consecutive year)
- Reviewed GTOPs awardee recommendations from GTOPs Review Board
- Requested increased funding for GTOPs to \$100,000
- Held press conference for GTOPs awards
- Worked with TARA staff to maintain current and compelling technological issues and articles on River City Tech News Web site (www.ctiaustin.org)
- Posted local technology initiatives on River City Tech News Web site (TARA)
- Focused and synchronized posting of Telecommunication Commission's meeting agenda (TARA)
- Received presentation and updates on Governor's Emerging Technology Fund
- Took tour of IBM's Advanced Technology Lab
- Received a presentation from Sue Soy and Tim Hamblin on the archival process at Austin History Center
- Created resolution of archival process (that it needed to be addressed and that funding would be needed)
- Five budgetary resolutions
- Discussed with Jim Butler the continuation of wireless access points at public locations
- Reviewed state legislation impacts on community networks
- Received legislative reports and briefings from John Hrcir, Sonny Hood, and Rondella Hawkins, Telecommunications & Regulator Affairs (TARA)
- Reviewed state legislation impact on Public, Educational & Governmental (PEG) channel status
- Active in Request for Proposal (RFP) process for Public Access TV management Services with TARA office, reviewed city models of public access television
- Published public hearing on notices on the RFP for Public Access TV management Services on Channel 6, 2 public access channels, Austin American Statesman, Austin Chronicle and Nokoa news publication
- Recommended that City enter in to new public access television contract with Public Access Community Television (PACT); sponsored public hearing on recommendation (special called meeting)
- Made suggestions to TARA on language of City of Austin /PACT contract
- Received Texas Association of Telecommunications Officers and Advisors (TATO) and the National Associations of Telecommunications Officers and Advisors (NATO) monthly reports from Rondella Hawkins

was made by Commissioner Ramsey; seconded by Commissioner Green. Vote 6-0. (Commissioner Martin absent)

c. FY 2005-2006 Austin Telecommunications Commission Workplan.

Motion to adopt the FY 2005-2006 Austin Telecommunications Commission Workplan to read as follows:

1. Continue to support the City of Austin opportunities, initiatives and budgeted plans for expanding public access to telecommunications and information services for all of Austin. Continue to review and recommend emerging technology offerings including

broadband, Wi-Fi, Wi-Max, broadband-over-power lines (BPL), open spectrum wireless technologies, VoIP, streaming media, open source software, and adaptive Web services; as well as opportunities created by technology convergence.

- Investigate and support opportunities for expanded public wireless access in city facilities and venues.
 - Identify new emerging technologies that merit further review, such as adaptive Web services.
2. Continue to support and assess the Grant for Technology Opportunities (GTOPs) program and review ways to sustain and improve the program.
 - Primary goal is to increase GTOPs annual budgeted amount from \$90,000 back to the historical amount of \$100,000.
 - Provide reports to the Council Committee for Emerging Technology and Telecommunications, and to the City Council, on the accomplishments and successes of GTOPs and its awardees.
 - Continue to assess the GTOPs program and review ways to sustain and improve the program.
 - Encourage promotional efforts and build community awareness of GTOPs.
 3. Continue to promote the use of public access television and advise the Council Committee for Emerging Technology and Telecommunications and the City Council on:
 - Discover new sources of funding for access television projects.
 - Assist the City in the performance evaluation of PACT (Public Access Community Television).
 - Work with PACT to solicit public access television to increase public awareness and viewership.
 - Evaluate emerging technologies and changing regulatory environments to make recommendations to assure robust community media services.
 4. Identify workforce and education partnerships that expand economic development resources. Support partnership building efforts between the public and private sectors in the industry areas of technology, entertainment, broadband, and digital entertainment.
 - a. Continue to work with programs and events that assist local interactive, music, film, digital entertainment companies, community media and community technology groups by increasing their visibility at major events.
 - b. Continue to work with programs and events that build new private and public sector partners that will enhance the local economic and local technological impact on Austin.
 - c. Continue to work with community groups and city staff to spotlight access to and availability of emerging technology (technology centers, wireless access,...)

opportunities. Continue to enhance community networks and community technology centers.

- d. Monitor technology-based economic development initiatives: request periodic updates from City staff and make recommendations to Council.
5. Program and funding recommendations for FY 2005-06
 - GTOPs
 - Community outreach and education forums – townhall meeting
 - Continue work with task force and City on video archival needs
 - Work with Music and Library commissions through Archive Task Force to identify the video archive equipment needs of the Austin History Center.
 - Continue expanded usage of the City's Public Information Office to inform about all boards & commission meetings (to local media, including print); http://www.ci.austin.tx.us/agenda/boards_comms.htm
 6. Develop and maintain networking relationships with other boards/commissions and groups, city-wide and statewide.
 - Continue receiving presentations on development of the City of Austin's IT Preparedness Group.

was made by Commissioner Ramsey; seconded by Commissioner Howerton. Vote 6-0. (Commissioner Martin absent)

- d. Resolution to modify the ordinance language for the Austin Telecommunications Commission's (ATC) scope of work.

The discussion on this item was table.

Motion to create a task force to discuss the modification of the scope of work and possible name change for the Austin Telecommunications Commission with Commissioners Rosenthal, Green, and Hill as members was made by Commissioner Rosenthal; seconded by Commissioner Hill. Vote 6-0. (Commissioner Martin absent)

- e. Name change of the ATC.

Austin Technology and Communications Commission is a suggested name.

This item was tabled.

- f. Task Force for Video Archiving update. (Hill) (wp5)

Tim Hamblin with the Austin History Center/ City of Austin Library reported that the Task Force for Video Archiving met in the later part of November. The task

force is comprised of members from the Telecom, Music and Library Commissions and a representative from Public Access Community Television (PACT)

One of the objectives discussed at the November meeting was to raise the awareness about the content and value of the City of Austin's audio/video collections. The library archivists are currently identifying the collection at the library currently, the different formats and what possibilities there are for digitations. This is a major issue. They are also looking at the process for prioritizing and preservation (ie present condition, age, content, potential for reuse, value to the community, historic value).

Equipment is a major factor. With the help from the Office of Telecommunications & Regulatory Affairs the library is getting equipment set up which will give the library the capability to play beta cam, 3/4 inch VHS, High 8 and be able to transfer the videos to a digital format.

They are also looking into how other places are dealing with archiving so that we can get a benchmark.

The next meeting of the Archiving Task Forces will be held at the Austin History Center, Wednesday, January 25, 2006 at 7:00 p.m.

Ms. Hawkins stated that PACT is interested in doing their own play back for Channels 10, 11 and 16 which will allow them to do digitalization, video streaming, web streaming and also the archiving aspect. The TARA Office is working on getting funds to purchase the equipment for PACT to be able to do play back.

With new equipment Channel 6, AISD and ACC will eventually do their own play back and currently Travis County does their own.

7. Update reports on networking relationships with other boards/commissions and groups, citywide and ATC information items.

Commissioner Williams stated that this Commission is currently doing ongoing work with the Archiving Task Force with the Music and Library Commissions.

8. Council Committee for Emerging Technology and Telecommunications report. (Williams)

Commissioner Williams reported to the Emerging Technology and Telecommunications that the ATC's will be finalizing their annual report at their December meeting.

He also stated that at the Council Committee meeting there were reports given to from IC2 regarding how the rules of economic engagement have changed and are changing rapidly. If the City leaders don't change the way they approach trying to attract new technological business to relocate to Austin or to keep the existing ones they are going to get out hustled by other communities.

Commissioner Howerton encouraged the Commission to watch the replay of that Council Committee meeting. The rebroadcast schedule for the December 14th meeting can be located at www.ci.austin.tx.us/channel6 .

9. Future agenda items for the Austin Telecommunications Commission next scheduled meeting for January 11, 2006.

- GTOPs 2006 Review Committee selection
- PACT update
- Resolution to modify the ordinance language for the Austin Telecommunications Commission's (ATC) scope of work.
- Name change of the ATC.
- Task Force for Video Archiving update.

Speakers/Topics.

10. Adjournment

The meeting was adjourned at 9:15 P.M.