

Colorado Channel Authority Board  
December 7, 2009: Meeting Minutes

10:00-12:00 HCR 0354

**Board Members:**

*Present:* Representative Benefield, Mr. John Montgomery, Ms. Laura Hoepfner, Ms. Carol Haller, Senator Cadman, Senator Steadman & Mr. Ken Fellman.

*Absent:* Ms. Luisa Collins & Representative Nikkel

*Quorum present?* Yes

*Others Present:* Scott Nachtrieb (Legislative Council), Suzanne Keim (Legislative Council), Tony Shawcross (Open Media Foundation), Deb Lastowka (Open Media Foundation), Laura Graves (Open Media Foundation), Karen Goldman (Senate Secretary), Marilyn Eddins (House Chief Clerk), Ed Krisor (private lawyer), Bart Miller (Legislative Legal Services), Don Knox (Law Week Colorado editor)

**Proceedings:**

· *Meeting called to order at 10:04 a.m. by Representative Benefield*

(Previous meeting minutes approved later in the meeting, out of order)

*Budget Adoption:*

The Board members agreed that there was no need to read the budget line by line. The public hearing was opened. There was no one present to comment so, the public comment period closed. Senator Steadman moved to adopt the budget which was seconded by Cadman. The budget was adopted without comment.

*Bylaw Adoption:*

Mr. Krisor read through most of the articles, stating that what is included are mostly dictated by statute, with some slight changes. Mr. Krisor touched on insurance costs under the "indemnify" section 6. He also noted the minimum meeting times and requirements - 1 meeting a year, posting of notices, staff, where minutes are to be filed (Control Room), and the signing of checks.

It was noted on page 2 that there were several typos and that item labeled "v." should read President of the Senate (take out "of the House"). Mr. Krisor will make the changes. Senator Cadman asked if having the budget filed somewhere was a requirement? Mr. Krisor answered that it does need to be filed, and he will take care of that. He also noted the authority is required to have an audit conducted in 2010 through state auditor's office. However the Board can ask for an exemption to save the expense of an audit since it is such a simple budget. The Board can also amend the budget, but must post notice of the changes. Ms. Hoepfner moved to approve the bylaws. The motion which was seconded by Senator Steadman and the bylaws were unanimously adopted.

*Minutes Adoption:*

Senator Steadman moved to approve the minutes from the December 4<sup>th</sup> meeting. The motion was seconded by Ms. Hoepfner and approved without dissent.

*Contract Approval:*

The Board reviewed the contract with Denver Open Media Foundation. There were several typographical corrections noted. Tony Shawcross of Open Media Foundation was asked to join table regarding the contract. Mr. Krisor began by explaining the current contract was similar to the previous agreement between Open Media Foundation and Channel 8 (City & County of Denver), with additions and modifications. He also verified with Scott Nachtrieb that the payments listed in the contract match what the Senate & House have in their Fiscal Year 2009-10 budgets (pg. 1 & 2).

*Additions to the contract:*

At Mr. Shawcross's suggestion the board discussed the intellectual property rights provision. He noted that by default a copyright is automatically issued when a video is created. However, the Creative Commons License proposed in the contract would allow the video to be used at no charge to any non-commercial use. Any entity wanting to use a video for commercial purposes would be required to contact the CCAB for permission. Mr. Shawcross continued and noted that if the goal of the channel is to make the video

content transparent, then having this license provision in place would allow for more freedom than what the default license would allow. He clarified that commercial uses would need permission and possibly pay for any use, but non-commercial use or news media outlets would have access to the video without limits.

Senator Cadman stated he would rather see all content open to everyone and questioned why licensing it for some and not others made sense. Representative Benefield commented that during campaigns, the footage of your statements could be used, for or against you. Senator Cadman reminded everyone that the audio records are accessible under current law so it didn't make sense to restrict the video content of the same hearing. Mr. Shawcross supported the more unrestricted "public domain" which Senator Cadman was referring and reminded the Board members that it is easier to restrict access rights in the beginning and grant access usage rights than to begin with no or very lax restrictions and then attempt to reduce access and assert a copyright.

Ms. Hoepfner asked if any of the current licensing has a requirement for attribution to the source. Mr. Shawcross answered that the current language in the contract does, but if they changed to a Public Domain license, it would not have the attribution requirement. Mr. Shawcross gave some more history and background of a Creative Commons license. He explained that there is another license option that only requires attribution.

Mr. Fellman advised not to leave "the door open too wide" and would rather use the current language in the contract. The Board can revisit the issue if someone wants to use the video for commercial use and can't find the money. Senator Steadman asked Mr. Shawcross if he has seen anyone require entities to pay for commercial use. Mr. Shawcross stated he is not aware of any money ever being required, he only knew of instances where permission to use footage was required.

Senator Cadman asked who or why would people want to get copies. Scott Nachtrieb noted that the footage is archived online but the public cannot download or edit this footage. Marilyn Eddins reminded the Board that House Memorials are copied for the families present in the chamber. Mr. Shawcross suggested the Board adopt the contract as is, then have a separate motion that would make the House/Senate chamber coverage be less restrictive.

Representative Benefield asked the Board for a decision. Senator Steadman, Mr. Montgomery, Mr. Fellman, Ms. Haller agreed that they were comfortable with the language in contract. Senator Cadman said he would like to see a provision that excludes the proceedings from other restrictions, and would only require attribution. Mr. Fellman agreed that the Board can amend the process moving forward, but can't go back and make the rights more restrictive once the less restrictive rights have been used. Mr. Fellman proposed the Board accept/approve the language as presented, with instruction to staff to allow unfettered access for all floor proceedings with only attribution rights required. The motion was adopted without objection.

#### Checking Account/Tax ID & Government Letter info:

Mr. Krisor reported the Colorado Business Bank offers a simple money market account with a \$1,000 minimum deposit. This account will allow 6 checks to be written a month, which allows the Board to function. The account doesn't have other charges and would bear a very minimal interest, so there should never be a negative impact on the account. Mr. Krisor will apply for protection of this account through the Division of Banking.

Mr. Krisor indicated he has received a tax exempt federal identification number, and has also received a "Government Affirmation Letter." This letter is proof of the Board's tax status, and is to be provided to anyone making a donation so they may request a tax deduction for a contribution. He will get a copy to the Control Room for them to hand out to members of the public who request it.

#### Programming Policy:

Scott Nachtrieb was invited to the table to present his memorandum regarding the broadcast/

programming policy issue. During his research into six other NAPAN groups that broadcast state government, he found that the policy for programming between the two chambers was that the chamber that gavelled to order first, was broadcast live first. Other states also have a provision for the determination important bills, which is usually left up to control room operators. Other options were outlined in the memorandum provided.

Senator Steadman thanked Mr. Nachtrieb for his memo preparation. Senator Steadman didn't like the gavel first option, he indicated it would create a race-like feeling between the two chambers. The Senator liked the prioritizing of certain bills, such as the Long Bill. However he noted that the Long Bill week is usually spent in caucus, which is not covered on TV or held on the chamber floor. He would prefer alternating broadcasting live, while also prioritizing a handful of bills each year that would trump a usual alternating schedule. He stated the Board could indicate the bills, or a bi-partisan approach could be developed through each chamber's leadership.

Ms. Hoepfner asked if the control room operators were going to switch from one chamber to another when a chamber recessed or adjourned and the other chamber continued in session.

Mr. Nachtrieb told the Board that the operators would switch to chambers after one recessed for a long period or adjourned. Ms. Hoepfner also questioned if the Board was putting too much emphasis on this decision?

Rep. Benefield noted that majority leaders in both chambers believe that because the calendar is set and posted in advance, and leadership knows what the controversial issues are, leadership would be the best choice for deciding the bills to replace the regular programming schedule. Mr. Montgomery suggested that primetime broadcasting may be more important to view instead of live broadcast, as most people who really want to watch live broadcasts will most likely watch via the website.

Mr. Fellmann suggested that the TV "flippers" also will not care who is live, as they will watch whatever they catch while flipping through the channels. He said leadership has enough to do and making this decision may be time consuming and too much work. Mr. Fellmann suggested the Channel broadcast chambers on alternating weeks, with the leadership choosing issues/bills they feel need to replace scheduled live broadcasting. In case no decision was reached, who ever didn't go first the previous day should go first or revert to regular scheduling. Senator Steadman said he would prefer the important, regular bills covered each year that would preempt regular programming be decided in advance. Mr. Montgomery suggested that the Board should determine a method for deciding which chamber is broadcast live first then consider high interest bills.

Mr. Shawcross suggested the idea of offering some air time on the Public Access channel 219, that Open Media Foundation currently programs. This way both chambers could be shown during primetime on Comcast channels. He would need to look into the logistics of this, as well as how much time and what time blocks would be available.

In response to a question from Ms. Hoepfner, Mr. Nachtrieb stated that Comcast's channel guide is designed for regular scheduled programs and not suited for programming that changes each day. It was noted that a slide is provided on the channel directing visitors to the website to learn of that day's programming schedule. Karen Goldman reported that this year both the House and Senate will do most of their floor work on Mondays and Fridays. As the floor work increases both chambers move floor work to other days.

Mr. Fellman suggested following the Long Bill option, it is introduced in a different chamber each year. Senator Cadman reminded the Board that the opening day ceremonies at the beginning of a session are important in each chamber, especially after an election year. However, he noted that it would not be fair to have one chamber always be broadcast live after an election year. Mr. Fellmann suggested a two year cycle, starting in 2011.

Mr. Montgomery suggested that since this is the first year for Senate broadcasting, the Senate be broadcast live in 2010 and alternate days thereafter with House broadcasting opening day next year then alternating every two years. He also suggested switching it weekly and, let legislative members of the Board determine important bills for preempting regular scheduling.

Laura Graves responded to a question and indicated that the operators can accommodate last minute

decisions and switch chambers quickly. Mr. Montgomery suggested showing a full page slide about where to get the rest of the feed if we change in the middle of a live broadcast. Senator Cadman suggested that the Senate be broadcast live opening day in 2010 and again in 2011. The House would be broadcast live the second day and each chamber would be broadcast live on alternating days thereafter. The House would be broadcast live opening day in 2012 and 2013. This method would allow each chamber to be broadcast live opening day after an election year and a non-election year.

Ms. Lastowka asked what the best method was to communicate this schedule to the public. Mr. Montgomery suggested putting a calendar online with the "Senate Live" wording on the correct days. Ms. Hoepfner moved Senator Cadman's proposal of broadcasting the Senate on opening day in 2010 and 2011 and alternating with the House on a two year cyclical basis thereafter with alternating live broadcasts on a daily basis after opening day. Senator Steadman seconded the motion which was adopted unanimously.

It was requested that the control room operators use this agreed upon policy for the first few weeks of session, and report to the Board regarding how the scheduling, posting of schedules, and ease of broadcast switching goes. The control room operators are also to monitor who normally gets to broadcast during primetime to determine if there is a pattern.

Senator Cadman requested that a sub-committee be created to determine how high interest legislation is determined considering leadership's workload and the decision should be nonpartisan. He preferred the decision stay within the CCA. Rep. Benefield proposed a sub-committee to deal with this issue and appointed Mr. Montgomery, Ms. Lastowka, and all legislative members of the Board. The sub-committee meeting was set for Monday January 11th at 10am in a House committee room to be determined. This time was changed to 11am because of a mock Senate Session scheduled for 10am that same day.

#### Guidelines:

Scott Nachtrieb reviewed the changes to the guidelines with the Board noting the new suggested changes were in green, the changes in red the board have already reviewed, and the new Programming policy would be added.

The Board approved the red changes without comment. Representative Benefield will present the changes to the Executive Committee at its meeting on Dec. 18th. The Guidelines will be appended after the Jan. 11th Programming sub-committee meeting. Any changes or additions will be communicated to the Executive Committee.

#### Fundraising:

Rep. Benefield would like to move forward on a fundraising event soon. Her first priority is to see about getting the JBC wired for broadcast. She suggested a fundraising dinner. She asked if anyone else was interested or supported the idea and when the best time would be to hold an event? Rep. Benefield indicated legislative staff had initially indicated an event like this would be allowed under Amendment 41. Senator Cadman agreed it was a good idea and indicated an event during session might be a good idea. This issue will be put on the agenda for the next meeting.

#### Next meeting date:

Sub-committee: Jan. 11th, 11:00 am

Regular meeting: Friday, February 5th at 7:30am

The meeting was adjourned at 12:05pm.

Minutes submitted by Secretary, Laura Graves