

REGULAR CABLECASTING BOARD MEETING MINUTES - MAY 19, 1999 - PAGE 1

Present: Abbott, Devereaux, Doctoroff, Fleischer, Hall, Kuhne, Spivak - Birmingham
Borgon and Janks - Beverly Hills
Leckie - Bingham Farms

Absent: Saunders - Beverly Hills
DiSessa - Franklin

Also present: Hagaman - Cablecasting Board Administrator
Gillis - Attorney for Cablecasting Board
Martinico - Director of Technology, Birmingham Schools
DiMaria - MediaOne representative
Currier - Birmingham City Attorney
Buterbaugh - Beverly Hills Council representative

Hall called the meeting to order at 7:00 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

APPROVE MEETING MINUTES OF REGULAR CABLECASTING BOARD MEETING OF APRIL 21, 1999

A correction was made on page 5, paragraph 3, to correct "FCC" to read "SEC".

MOTION by Spivak, supported by Fleischer, that the minutes of a regular Cablecasting Board meeting held on April 21, 1999 be approved as amended.

Motion passes unanimously.

FRANCHISE RENEWAL

The major topic of this meeting will be the draft Franchise Agreement and the third draft of the Cable Communications Ordinance.

Kuhne, chair of the franchise renewal negotiating team, thanked the Board on behalf of committee members Doctoroff, Janks and himself for their advice, assistance, and patience throughout the process of overseeing the preparation of the documents being reviewed tonight. He thanked Board chairperson Hall, administrator Hagaman, and legal counsel Gillis for their valuable contributions to this process. Kuhne thanked MediaOne, especially Jon Kreucher for his perseverance and civility throughout the process.

The process of preparing these documents has not been without unexpected developments. The renewal process and development of a controlling franchise agreement and ordinance started with Booth Communications nearly three years ago. The franchise was sold to MediaOne. The committee dealt with a number of unanticipated negotiation points which required it to attempt to reflect the philosophical will of this Board, the councils of the four authorizing municipalities, and the citizens of the four communities. Kuhne summarized the thought process behind the more notable aspects of the package which the Board will be considering tonight.

The current franchise provides for all sorts of in kind contributions by the franchise holder over and above the base 5% franchise fees which go to the municipalities. Whether or not the communities receive the benefit of them over time is open to debate.

The cable industry has evolved in two relevant ways. Cable operators are getting out of the local public access business offering either a regional facility or providing a fee to the franchising body to be spent as they see fit. This consortium believes that going to the regional facility in Southfield for however long it may exist would be unacceptable to its communities. This development is viewed as an opportunity for the Board to address how it views PEG (public, educational and government) access channels. The negotiating committee investigated a number of possible alternatives. How the money will be spent is a matter for future deliberation. Kuhne remarked that the negotiating subcommittee simply tried to get the best deal possible.

Another development has to do with what is referred to as a level playing field with regard to a possible cable franchise competitor. While this consortium has been in negotiations, Ameritech's Americast subsidiary has made inroads into the greater Detroit market. In the markets it chooses to target, its offer has been the standard 5% franchise fee to the municipalities plus 1% for PEG. The negotiation committee is unaware of any variance from that in any franchise.

In many cities where existing franchisees were paying more than 1% for PEG, those PEG services have been cut to match what Ameritech offers in its franchise. In an effort to avoid such a situation, the negotiating committee attempted to craft an alternative. The proposal is for the standard 5% franchise fee, one-time capital contributions, and an ongoing 3% PEG contribution. Should another company seek a franchise, the communities will have a choice: maintain a negotiated above average level of PEG funding or forego a portion of the funding in order have competition such as that word may be defined in the cable industry.

There are many points in this package that Board members could take issue with. Kuhne asked the Board to keep in mind that the vast majority of people in our communities simply want more channels, better pictures, more programming choices and Internet service as quickly as possible and hopefully at a reasonable price. While the federal government controls the price, the rest of those wishes are coming true and should be completed in about six weeks.

Draft of Cable Ordinance

Hall stated that the Cable Ordinance being reviewed this evening is intended to replace the existing ordinance in the four consortium communities. The document before the Board is based on Birmingham's cable ordinance. Ordinances for each of the consortium communities are substantially identical except for the name of the community and section numbers.

The Board proceeded with a page by page review of the draft ordinance. Minor wording changes were made and will be reflected in a revised draft. In some cases, Board members were asked to supply Gillis with suggested language.

Gillis remarked that Jon Kreucher, head negotiator for MediaOne, has completed a review of the proposed ordinance and only has a couple of minor changes. Gillis commented that he appreciates the care with which everyone read this ordinance.

Hall will assume that the Board is comfortable with the ordinance provided that no problems are found in the franchise agreement that would require amendments to the ordinance.

Fleischer questioned why certain issues were not addressed in the cable ordinance. Hall replied that items were included in the Cable Ordinance that the community believes are important for any franchisee. Franchise agreements are specific to the franchisees. The franchise document being reviewed this evening is a specific document between the four communities and MediaOne. If another cable company came into the community, there would be a different franchise agreement document for this board to review and approve, but the ordinance would remain the same.

Draft of Franchise Agreement

Board members received a copy of the draft franchise agreement and Gillis' transmittal letter of May 10 to the Administrator. Gillis commented that there was an expectation that Jon Kreucher would be in town to meet with him and resolve the remaining issues. This did not happen but a date will be set for that meeting.

Gillis commented on another factor that pervades this entire situation to some degree. A deal was struck between AT&T and Comcast whereby, in exchange for not getting into a bidding war for the acquisition of MediaOne, AT&T and Comcast agreed that Comcast will bow out in exchange for obtaining between 750,000 and one million subscribers that would otherwise remain with AT&T.

Gillis has been advised that the 750,000 subscribers will include all of TCI subscribers and MediaOne subscribers in the metropolitan Detroit area. That would encompass the Birmingham consortium. The decision to include all the metropolitan Detroit TCI and MediaOne systems has not been conclusively determined by Comcast and they have until June 1 to make up their mind. This means that the consortium that started with Booth and wound up with MediaOne may eventually be a Comcast system.

Gillis stated that the Board has had difficulties completing a franchise agreement with MediaOne, not because of vast disagreements and difficult negotiations, but primarily because Jon Kreucher has been tied up with a massive amount of other matters that came along. A deal with AT&T or Comcast will not be finalized for anywhere from eight months to a year or longer. Until hearing otherwise, Gillis will assume that this consortium is dealing with present personnel including Jon Kreucher. Right now the Board should continue to pursue the course it is on and conclude the franchise renewal rapidly now that there are documents to review.

The Board went through the Franchise Agreement page by page. A detailed review resulted in clarifications and discussions. Language changes and corrections were made.

Issues related to the Institutional Network are not settled. Hagaman stated that the Board's technical consultant, Dennis Fasset, has met with the City of Birmingham regarding its I-Net

requirements and has discussed that information with MediaOne. MediaOne is expected to draft a proposal by June 1 which will be reviewed by Fasset and presented to the Board. It is hoped that this issue will be resolved before the document is ready to be forwarded to the communities.

Martinico addressed several items in the area of educational service and outlined what the Birmingham School District expects in this franchise agreement. There was discussion and clarification on provisions regarding free cable service and modems to every building in the district including auxiliary buildings where educational functions are performed, level of service, band width, timetable, larger size pipe for Internet service and connections to school buildings in the Birmingham District but outside of MediaOne's jurisdiction. Gillis asked Martinico and Janks to draft language indicating what the School District is requesting.

Gillis mentioned that there are special provisions in the Social Contract between MediaOne and the FCC which includes special services and equipment to schools and libraries. It indicated to him that the company is going to consider the members of this consortium as being entitled to the benefits in the Social Contract. He remarked that the company may be willing to go beyond what is called for in the social contract. A copy of the applicable portion of the Social Contract will be distributed to Martinico, Janks, and DiMaria for review.

Board members would like to see the proposed language encompassing these issues before the next meeting.

Gillis stated that there are still important matters being negotiated and unresolved issues in Section 14. These include level playing field provisions. Hall asked that Board members read this section in terms of understanding the issues without focusing on the numbers.

The broadcasters liability insurance provision was a concern to Martinico. She has not had an opportunity to determine what the cost would be to the Birmingham School District. Gillis suggested that she advise the school board attorney of this provision. Tim Currier will look at this provision. DiMaria will verify this requirement.

Wording changes suggested during the discussion this evening will be incorporated into the franchise agreement. The negotiating team has work to do on the open items. Gillis commented that he appreciates the Board members' careful consideration and constructive comments.

Hall and Hagaman will begin work on a transmittal letter to the four communities recommending adoption of the Ordinance and the Franchise Agreement.

PEG ACCESS

Brian Janks who chairs the PEG access committee has asked Devereaux, Leckie, Fleischer, and Martinico to assist on that committee. They will be meeting soon to begin the process.

MEDIA ONE RELATED TOPICS

Update on the Rebuild

DiMaria referred to a map which designates the nodes that will be activated from now until June 3. The entire Village of Franklin has been switched over to the new channel lineup. Bingham Farms will be completed in June. Beverly Hills will be about 80% done by June 3. The first nodes in Birmingham will be turned over on May 24.

DiMaria explained that the difficulty customers have been having with reaching the call center has to do with the aggressiveness of the field work taking place in order to finish the rebuild on time. MediaOne is turning over about 16 nodes a week which is much more than it normally does.

It was mentioned that there have been complaints from residents about people working for MediaOne in the neighborhoods without identification. Cards are not being left on the doors after the work is completed. People are confused about channels.

DiMaria will talk to the staff at the activation department on a daily basis and make sure they are providing the correct follow up. They are supposed to leave behind an information piece with a channel line up. There has been a direct mailing sent to every subscriber. A press release is planned for next week.

Hall stated that an item for next month's agenda will be the matter of contractor identification on the streets which is a requirement of the current ordinance.

Subscriber Correspondence

A complaint was received from Robert Capelli of Birmingham regarding difficulty in receiving a credit for a late fee that was added to his bill in error. The credit has been applied to the customer's account. Hagaman commented that this type of complaint should not have to reach her or DiMaria. There is a problem with the customer service representatives.

DiMaria stated that he brings these complaints to the call center manager and to the director of field services who handles the CSRs. He has had discussions with the customer service representatives on how to handle complaints. He agrees these things should not happen and will continue to work on this problem.

Subscriber John Sims is having problems with his cable line and with the attitude of the customer service person. He is unhappy with the service of MediaOne. Sims called Hagaman back to indicate that his problems have been corrected.

DiMaria stated that there are ten representatives dedicated to this particular area and MediaOne is trying to determine who is having trouble addressing complaints. There is a problem with one or two individuals.

Jim Isham of Birmingham had a fuzzy picture and trouble getting a MediaOne technician to come out and fix the problem. DiMaria stated that outside work has been done at this home and the problem has been isolated to Channel 20. A technician was to be dispatched this afternoon to correct the problem.

Barbara Devine of Beverly Hills complained about MediaOne's service and the attitude of the customer service representatives. DiMaria stated that this customer's service has been restored and credits were issued to her account. He will follow up on this complaint.

John Barry of Birmingham called with intermittent cable problems and service problems. Hagaman suggested that the phone representatives should be advised if MediaOne is working on the system in a particular area so they can relay this to people who call. DiMaria stated that the dispatch crew puts the information up on a computer system if there is work being done in an area.

There are subscriber complaints that require follow up from last month's meeting from John McCormick, Beth Calder and Robert Ketchum. DiMaria stated that there has been resolution of all three problems.

Monthly Subscriber Statistics

The system statistics for April 1999 were distributed this evening. DiMaria stated that the rebuilt number will increase and the regular numbers will go down. Fleischer asked DiMaria to include a column indicating the number of Internet connections.

Monthly Access Report

The Local Origination report for May 1999 was distributed this evening.

Board members have been mailed a copy of the MediaOne Annual Report. Hall asked Board members to review the report and bring it to next month's meeting for discussion as an agenda item.

MEDIAONE UPDATE TOPICS

Education Link - Americast/MediaOne

Hall recalled from last month's meeting that Michael Grover, Legal Affairs Director for MediaOne, had plans to meet with City of Troy representatives and cable groups to work on the problem. Ameritech subscribers who live in Troy cannot receive the Birmingham School channel.

Martinico reported that Americast has been installing equipment in Troy's Pembroke School. She believes that this situation is close to being resolved. Martinico reviewed that MediaOne has the Birmingham Public Schools channel which Americast needs. Americast was told that they could pick up the signal at Pembroke School in Troy which is served by both TCI and MediaOne. They decided to do that with MediaOne's help. Troy residents are expecting to receive the Birmingham School Channel this week.

Direct Debit

Janks has requested this service and will inform the Board when it is operational.

Y2K Readiness

A Year 2000 Readiness Disclosure was received by Board members. It represents MediaOne's filing with the SEC and will be an agenda item for discussion at next month's meeting.

ADMINISTRATOR'S REPORT

The items in Hagaman's monthly report were addressed during the meeting.

MLAC 9 REPORT

Colgan presented highlights of the May production report. He added that CreateTech has agreed to cover the "In the Park" concerts in Birmingham's Shain Park. A taped copy of the concerts will be provided to Bloomfield Cable Television. A memo on this will be distributed to the Board next month.

Buterbaugh mentioned that Beverly Hills has a Sunday summer concert series in Beverly Park. Colgan should contact Stan Pasieka at the Village office if there is interest in cablecasting the concerts.

BOARD COMMENTS

Board members received copies of an article, "DirecTV Takes Local Stand" regarding the fact that DirecTV will soon be offering local television stations. Legislation is being fast tracked in Washington to make this happen.

Kuhne mentioned that former Board member now producer Ron Zate brings one of his off-Broadway shows, "Get to the Part About Me", to Meadowbrook Theater June 17-20.

Hall stated that the next Cablecasting Board meeting will be the regular meeting date in June. Hopefully, the negotiating team and MediaOne will be able to get together on the Franchise Agreement before then and generate a revised document to distribute for Board review. Board members will be contacted if there is a need for a special meeting.

The meeting was adjourned at 10:34 p.m.