

CABLECASTING BOARD MEETING MINUTES - DECEMBER 15, 1999 - PAGE 1

Present: Abbott, Devereaux, Hall, Kuhne and Spivak - Birmingham
Borgon, Janks and Lowmaster - Beverly Hills
Leckie - Bingham Farms
DiSesssa - Franklin

Absent: Doctoroff and Fleischer - Birmingham

Also present: Hagaman - Cablecasting Board Administrator
Martinico - Director of Technology, Birmingham Schools
Gillis - Attorney for Cablecasting Board
Colgan - Municipal/Library Access Channel
DiMaria and Cannon - MediaOne representatives
Currier - Birmingham City Attorney
Buterbaugh - Beverly Hills Council representative

Chairperson Hall called the meeting to order at 7:55 a.m. in the Rotary Room of the Baldwin Public Library at 300 W. Merrill Street.

APPROVE MINUTES OF REGULAR CABLECASTING BOARD MEETING HELD ON NOVEMBER 17, 1999

MOTION by Borgon, supported by Abbott, that the minutes of the November 17, 1999 meeting be approved as submitted.

Motion passes unanimously.

REQUEST FOR TRANSFER OF FRANCHISE

The governing bodies for all four member communities have approved the transfer of control of the cable franchise from MediaOne to AT&T as recommended by the Cablecasting Board. Hall stated that concern was expressed by three dissenting Birmingham commissioners relative to the potential future transfer of AT&T to Comcast. Some commissioners are concerned with what they perceive to be an inadequate level of quality service provided by Comcast in other communities.

Hall commented that a future transfer of control would be a separate transaction. However, it is understood that the concern with Comcast's service record will have to be addressed if there is a subsequent request for transfer of control from AT&T to Comcast.

FRANCHISE RENEWAL

A final draft of the Franchise Agreement and Cable Ordinance were distributed to board members last week for their examination.

Hall reviewed that the board conducted a thorough review of the draft Cable Ordinance at its May 19 meeting. Minor text changes were suggested at that time. Board members were asked for further questions or comments on the Ordinance.

Gillis remarked that the drafts are final and definitive from the board's point of view. He reminded the board members that, although everything in the Franchise Agreement and Cable Ordinance has been discussed with MediaOne representatives including Jon Kreucher, the final draft documents have not yet received final approval from Kreucher. Copies were sent to him by overnight mail.

Gillis related that Kreucher called him yesterday and indicated that he has some comments on the draft Franchise Agreement. Kreucher is prepared to compromise on some points and thinks that a half hour conversation by phone should clean up the remaining discrepancies. Gillis asked for his comments in writing.

Gillis stated that there may be additional changes to the Franchise Agreement. He received notes from Board members regarding typos which will be incorporated into a revised draft. In addition, there will be language added to Section 16 that copies language from the Transfer documents relating to the reservation of municipalities' rights to demand open access to Internet service providers. Changes in the draft agreement will be discussed at the next board meeting.

Gillis outlined the procedure to be followed. Once the board approves the Ordinance and Franchise Agreement, they should be transferred to the communities and their attorneys with a resolution of the board recommending their adoption. This may take place at the next meeting. Gillis will brief the attorneys on these documents so that they can properly advise their legislative bodies. Ample time will be given each of the communities' legislative bodies and administrative staffs to review the documents.

Buterbaugh referred to Section 30-226 of the Cable Ordinance which deals with the creation and membership of the board. Paragraph (b) states, "Each of the board's member communities is encouraged to appoint an elected or appointed official of that community to act as a liaison to the board, to attend board meetings, and to participate in board discussions. In the event an appointed board member is absent for a meeting, the liaison from the community of the absent board member shall be counted for the purpose of establishing a quorum for such meetings and shall be entitled to vote at such meeting." Buterbaugh stated that allowing a liaison to the board to vote is in conflict with the Village of Beverly Hills Charter. A liaison who is a Council member cannot vote on the Board. Cablecasting Board members agreed to strike the second sentence from paragraph (b).

There were no further comments on the draft Cable Ordinance. Typographical errors will be corrected in the final draft. Gillis will prepare a resolution for the next meeting that will recommend that the communities adopt the Cable Ordinance.

Board members conducted a page by page review of the Franchise Agreement. Comments and questions were addressed by Gillis, Hall, and/or members of the negotiating team. There was lengthy explanation and discussion of issues that were difficult to negotiate.

Regulation of PEG access allocation of money and provisions for facilities was a topic of discussion. The cable company will provide on its lineup a total of three channels for public, education and government use. The cable company will no longer provide public access programming. The cable

company will provide the municipalities with an annual grant in an amount equivalent to 3% of the company's annual gross revenues to be used for PEG access. This is in addition to the 5% of gross revenue that the consortium communities receive from the cable company. The consortium will also receive a one-time amount of \$400,000 for PEG access. A subcommittee of the Cablecasting Board is examining how to proceed with PEG access programming for the consortium with the funds available. Mr. Abbott expressed his concern over the adequacy of PEG funding in the new agreement.

There was discussion on the "level playing field" provisions and their affect on the consortium should a competitive cable company be granted a franchise.

Gillis noted that a 15 year term of contract rather than a 10 year contract is being recommended in consideration of some of the major concessions in the agreement. The company would not agree to granting the consortium 3% of gross revenue support obligation for PEG access with a 10 year contract.

The Board will receive a final draft of the Ordinance and Franchise Agreement for the next meeting. Gillis and Hagaman will prepare an outline of any changes proposed by Jon Kreucher. The Board will consider all proposed changes. Gillis will draft a resolution recommending approval of the Ordinance and Franchise Agreement to be adopted by the Board next month and forwarded to the member communities.

MEDIA ONE RELATED TOPICS

Subscriber Complaints - Spivak commented that all problems brought up last month concerning the Merrillwood Apartments were rectified about two weeks after the last meeting. This will be a topic for the next meeting due to additional problems being experienced. Other customer complaints for this month will be held over to the next meeting.

Monthly Access Report - DiMaria presented a verbal local origination report.

Update on Rebuild - Internet- DiMaria reported on additional nodes launched and available for high speed Internet connections.

MLAC 15 REPORT

Colgan wished the Birmingham Area Cablecasting Board members and their families a happy holiday season from Create Tech and MLAC 15.

DiMaria stated that MediaOne will be a main sponsor of First Night in Birmingham. MediaOne will present a laser light show at 11:30 p.m. A video wall is being built for a sonic broadcast from New York's Times Square.

BOARD COMMENTS

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Hall remarked that he has thoroughly enjoyed the opportunity to work with the people who have been involved in the franchise negotiations. He commended legal counsel Don Gillis for doing an outstanding job.

The meeting was adjourned at 9:54 a.m.