

CABLECASTING BOARD MEETING MINUTES - APRIL 19, 2000 - PAGE 1

Present: Devereaux, Doctoroff, Hall, Kuhne, Laidlaw - Birmingham
Borgon, Janks and Lowmaster - Beverly Hills
DiSessa - Franklin

Absent: Abbott and Spivak - Birmingham
Leckie - Bingham Farms

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

Chairperson Hall called the meeting to order at 7:54 a.m. in the Rotary Room of the Baldwin Public Library at 300 W. Merrill Street.

APPROVE MINUTES

On page 4, fourth paragraph, line 2, correct "WTBS" to read "WTVS".

MOTION by Borgon, supported by Kuhne, that the minutes of a regular Cablecasting Board meeting held on Wednesday, March 15, 2000 be approved as amended.

Motion passes unanimously.

FRANCHISE RENEWAL

Hall reported that the Birmingham City Commission adopted the amended cable ordinance and franchise renewal agreement at its March 20, 2000 meeting with no dissenting votes. The Village of Bingham Farms Council held a public hearing at its April 17 meeting on the franchise renewal documents. The cable ordinance was approved unanimously, and the franchise renewal agreement was approved with one dissenting vote.

Beverly Hills had a first reading of the cable ordinance on April 17. The second reading and possible adoption is scheduled for the May 1 meeting. The Beverly Hills Council will hold a public hearing and consider adoption of the franchise renewal agreement at its May 15 Council meeting. The renewal documents will be on the agenda for consideration by the Franklin Village Council on May 8.

Gillis stated that he has discussed payment of the \$400,000 PEG support grant with Jon Kreucher from MediaOne. The company is prepared to pay that amount to the Cablecasting Board now to be held in escrow pending the adoption of the franchise agreements by all four member communities. Gillis proposes accepting that check and placing the money in an interest bearing escrow account. He advised the board to direct its chairperson and administrator to open an account so that the check can be deposited pursuant to the agreement with the cable company.

MOTION by Borgon, supported by Devereaux, to authorize the Cablecasting Board to accept the \$400,000 PEG support grant from MediaOne and deposit the money into an interest bearing escrow account pending approval of the franchise documents by all member communities.

There was discussion on the type of account that would be used for the deposit of these funds. The money will be placed in a federally insured bank account to be determined by the board chairperson and the administrator. It was noted that the money will remain in an interest bearing account while the board determines how it will be allocated.

Motion passes unanimously.

PEG ACCESS COMMITTEE REPORT

Janks stated that the PEG access committee has met over the last few months and has come to a decision to recommend that the Cablecasting Board partner with Bloomfield Community TV for the public access and government portion of its PEG operation. It is proposed that the educational portion will be managed by the Birmingham School District.

Janks indicated that the 3% of gross revenues that the Cablecasting Board will receive from the cable company to operate PEG access will be approximately \$150,000 per year. Of that \$150,000, \$90,000 will be paid annually to Bloomfield Community TV to manage public access and government programming. The Cablecasting Board will enter in to a contract with Bloomfield Community TV for its service. Janks stated that \$30,000 of the \$150,000 annual payment will be allocated to the School District, and \$30,000 will be placed in a reserve fund for equipment upgrades or special needs. These figures are not firm and will depend on the revenue received during the year.

Janks explained how the subcommittee came to a decision on a recommendation for PEG operation. The group looked at three options: build or lease our own studio, partner with the Birmingham School District, or partner with Bloomfield Community TV. It was determined that it was not economically feasible for the consortium to build or lease its own studio. The Birmingham School District option was a good fit, and its personnel were very accommodating. Janks thanked Lisa Martinico for her efforts in these deliberations. Unfortunately, the District's renovation of the school studio will not be completed for approximately two years. That left the subcommittee with the Bloomfield TV option, which is a great opportunity. It has a state-of-the-art studio and a staff of knowledgeable professionals.

The PEG Committee has discussed the allocation of the \$400,000 grant from the cable company. The money will be used to wire the Beverly Hills council chamber, re-equip the mobile van, address Franklin's needs for its council chambers, and provide money to the Birmingham Schools to upgrade its equipment.

Lowmaster expressed strong opposition to partnering with Bloomfield Community TV based on her personal experience with the individual who managed that operation. Lowmaster did not think an association with Bloomfield TV would benefit the consortium.

It was noted that there has been a change in the management at Bloomfield Community TV. Kuhne stated that Lowmaster's concerns are valid but believes that they no longer exist.

Laidlaw asked if there is a written report from the PEG access committee on its recommendation. Hall responded that Bloomfield TV agreed to this approach only last week, and there was not time to prepare a written report for this meeting.

Borgon agrees that the board should see a report in writing with details of the proposal to partner with Bloomfield TV.

Devereaux expressed his support for the proposal. Bloomfield Community TV has an excellent studio, and it is a well run facility. Residents who want to do public access programming will find that it is an excellent facility.

In response to inquiries, Janks stated that there will be sign-up charts for people requesting studio time to produce programs. There may be qualifications such as knowing how to operate the equipment. Issues that arise relative to what is going to be aired will be handled by the subcommittee. Gillis added that this consortium can seek the protections it needs in the contract and agreement with Bloomfield TV.

Janks noted that the consortium will be purchasing playback equipment to run Birmingham area specific programs such as commission and council meetings. The funds to purchase this equipment will come from the \$400,000 grant. The consortium will technically own that playback equipment, but it will be housed and operated by Bloomfield TV.

Hall related that one of the board's concerns with partnering with Bloomfield TV a few years ago was the management of that facility along with the issue of whether the Township Supervisor supported the endeavor. That has changed. There is new management at the facility and there is a new Township Supervisor who is supportive of this partnership between Bloomfield and Birmingham area communities. Both Bloomfield and Birmingham subscribers will be able to view broadcasts that were not shared in the past.

Hall mentioned that concern was expressed at the Birmingham commission meeting by a member of the public about the availability and quality of an access studio for use by people in the community who want to produce programming. Hall stated that this proposal provides that opportunity.

In response to a question, Janks stated that the mobile van will be updated with a portion of the \$400,000 grant. The cost has not been determined. The Birmingham Area Cablecasting Board will hold title to the van. A location where the van can be stored has yet to be determined.

Gillis stated that MediaOne is prepared to turn over the title to the mobile van. It may be cost effective to have the title in the name of one of the member municipalities and have the van insured through the liability policy of that municipality. This will be investigated by the administrator.

Gillis mentioned that Exhibit G of the franchise agreement calls for the payment of \$36,000 to Birmingham in connection with the Birmingham I-NET. Since the Birmingham Commission has approved the franchise agreement, the I-NET check should be made payable to the City of Birmingham. Cannon made note of this.

MOTION by Doctoroff, supported by Devereaux, that the Cablecasting Board accept the proposal to partner with Bloomfield Community TV for operation of public and governmental access programming subject to board approval of a contract between the Cablecasting Board and Bloomfield Community TV.

Laidlaw made a motion to postpone consideration of a contract with Bloomfield TV until the next meeting for the purpose of receiving a written report. The motion failed for lack of support.

Laidlaw expressed the view that the Cablecasting Board should have bylaws or rules of procedure. He added that the Birmingham ordinance states that the board shall have bylaws.

Gillis stated that he has discussed this matter with Mr. Currier and has recommended that this board adopt a set of bylaws. He also discussed with Currier the issue of an amended Interlocal Agreement with the member communities on the basis that the existing agreement is sparse and needs revision. He suggests that bylaws be presented to the board in connection with a revised Interlocal Agreement.

Laidlaw thinks that this proposal is a strong possibility but could not support the motion without a written report so he can weigh the pros and cons. He questioned whether the PEG subcommittee contacted the Alliance for Community Media.

Janks responded that the subcommittee looked at what it felt were the best alternatives and made a decision.

Kuhne clarified that the motion authorizes the board to enter into negotiations for a contract with Bloomfield Community TV. The contract will be subject to board approval.

Gillis suggested that the committee present a report stating why it considers Bloomfield TV the best alternative at the same time a proposed contract is presented for board consideration. He proposes moving ahead with contract negotiations.

Lowmaster asked why public and governmental access cannot be combined on Channel 15. She expressed concern about who will have control of the public access studio. Hall responded that this option has been discussed, and it was determined that the consortium cannot afford its own access studio.

Vote on motion:

Ayes - Borgon, Devereaux, DiSessa, Doctoroff, Hall, Janks, Kuhne

Nays - Laidlaw and Lowmaster

Motion passes (7 - 2).

Dorothy Conrad, Birmingham resident, commented that she is interested in public access programming. In response to inquiries, it was stated that the \$400,000 amount discussed earlier is a one-time grant from the cable company for cable access operation. It is anticipated that there will be a \$90,000 annual payment to Bloomfield Community TV for the operation of public and government access programming. The contract with Bloomfield TV will probably be renewable every three years.

Hall explained that, in addition to paying the member communities 5% of gross revenues, the cable company has agreed to pay an additional 3% of its gross revenue for support of PEG. It is estimated that this will be about \$150,000 a year.

MEDIA ONE RELATED TOPICS

Subscriber Complaints

Hagaman referred to a chart distributed by MediaOne updating the board on the status of several complaints that were held over from last month.

A problem with the audio on the WTVS signal reported by Doug Heath of Beverly Hills has been resolved.

Greg Ervin from Birmingham complained that he is not yet being offered high speed Internet access service. Hagaman stated that subscribers who contact the call center are being given no information as to when they will have this service. She asked Cannon for an update.

Cannon responded that a substantial effort is being made to certify all of the remaining nodes. The situation has the focus of top management since MediaOne would also like to offer telephone service in the area. Those nodes have to be certified in order for that to take place.

Hagaman commented that Mr. Ervin submitted a subsequent complaint this month indicating that he was given inaccurate information when he called MediaOne about cable Internet service. Cannon will look into this and make sure the customer service representatives are giving the correct response.

Hagaman stated that a complaint from Bob Sax, recreation advisor for Birmingham, remains open because she is not satisfied with the response. Mr. Sax questioned why certain programs are not being aired on the local programming channel. There were several concerts sponsored by Birmingham that the recreation department would like aired on Local Origination programming. Sax was told that MediaOne does not control local programming and was given another number to call.

Hagaman maintains that there should be some internal communication within MediaOne on this matter. Cannon will make sure everybody understands the company's commitment with respect to this programming and what the appropriate response should be.

A complaint was received this month from Frank Worrell of Beverly Hills relative to cable installation at his home. Cannon did not have an update but will make sure the subscriber receives appropriate credit for no-shows.

Hagaman received a complaint yesterday from a subscriber who stated that an adult channel was not being scrambled effectively to eliminate audio and video. On the old system, a subscriber could request an audio and video block on a channel.

Cannon stated that certain channels are supposed to be scrambled. There are things the company can do to make sure absolutely nothing comes through. He will check on the procedure and report back to the board.

Laidlaw suggested that a television with cable and a tape recorder be available at Cablecasting Board meetings so that the board can check on problems reported.

Hall introduced new Council liaison to the board from Beverly Hills, Dorothy Pfeifer. He mentioned that this is Stuart Laidlaw's first meeting as a Cablecasting Board member representing Birmingham.

Monthly Subscriber Statistics

There were no comments on the system statistics for this month.

Monthly Access Report

The local origination report for March, 2000 was distributed by Cannon before the meeting.

Laidlaw asked if there was also a public access report. Hall suggested Mike DiMaria is the person to ask about this.

Laidlaw mentioned that the public access coordinator for the consortium is Shawn Hervey. Laidlaw suggested that he attend board meetings and be available to answer questions.

Laidlaw questioned the timing for Bloomfield Community TV to take over public access programming after a contract is agreed upon.

Janks responded that this will be negotiated in the contract. Hall hopes that a contract could be drafted before next month's meeting. He does not know if that will happen.

Hall stated that, under the new franchise agreement, MediaOne has agreed that it will provide public access service for up to six months after the renewal agreement is approved in order to allow the consortium time to make other arrangements.

ADMINISTRATOR'S REPORT

Hagaman understands that MediaOne has approached the communities seeking a permit to provide telephone service in the four consortium area. She does not know the status of the approval process.

DiSessa stated that the Village of Franklin may require a second meeting before adopting the franchise renewal documents, extending the approval process into June.

MLAC-15 REPORT

Colgan presented highlights of the April production report. He stated that CreateTech was in the process of developing an MLAC-15 web site that would carry the monthly cable guide. This will be discontinued considering the PEG committee recommendation to contract with Bloomfield Community TV for governmental programming.

Questions from Laidlaw regarding the airing of Birmingham Parks and Recreation Department meetings on MLAC-15 were answered by Colgan.

Hall stated that MediaOne delivered its 1999 annual report this morning. This will be an agenda item for next month's meeting.

NEW BUSINESS

Gillis stated that he plans to attend the Beverly Hills Council meeting of May 15, at which time the franchise agreement will be considered for approval. He does not plan on being present at the Franklin Council meetings because Mr. Currier will handle that meeting.

Gillis read a letter that he wrote to the Cablecasting Board announcing that he is stepping down as the board's attorney to be replaced by his colleague Tim Currier with the firm of Beier Howlett. Currier was previously approved by the board as Gillis' successor. This letter confirms the fact that today is the last meeting of the board in which he will be in attendance as the board's attorney. Gillis is now associated with Mr. Currier as special counsel to his firm on cable television and communication matters.

Gillis indicated that it has been a pleasure serving as the board's legal counsel. He is grateful to each board member and their predecessors in making that so. He is especially grateful to his colleagues on the franchise renewal negotiating committee - chairman Lex Kuhne, Judge Martin Doctoroff, and Brian Janks - for their constructive support in helping to achieve a successful renewal of the cable franchise. Gillis expressed gratitude to Steve Hall for his extraordinary performance both as chairman of the board and ex-officio member of the negotiating committee in its efforts to consummate a franchise renewal agreement with the incumbent operator. Gillis mentioned the number of constructive hours that Hall put into his job as board chairman and into his crucial role in franchise renewal negotiations.

Gillis stated that the achievement of franchise renewal does not mean that the board's work is done. From a legal standpoint, there are a number of both old and new matters to be pursued. He has discussed these with Mr. Currier. Gillis does not have the slightest doubt that Mr. Currier will justify completely the board's designation of him as his successor.

BOARD COMMENTS

Judge Doctoroff read a letter of resignation from the Birmingham Area Cablecasting Board effective immediately. When his term expired last year, he agreed to accept a new appointment to be terminated when the cable franchise agreement was concluded and signed. He served as a member of the negotiation team and his job is done. Doctoroff stated that he has enjoyed working with the board.

Laidlaw pointed out the fact that the notice of Cablecasting Board meetings are not properly posted in the city of Birmingham. Hagaman stated that the board meeting notice was delayed this month due to an oversight on her part. These meetings are, however, noted on the Birmingham calendar.

Hall read his letter of resignation from the Cablecasting Board addressed to the Birmingham mayor and Birmingham commissioners. This will be his last meeting. Hall stated that several years ago he agreed to continue service on the board as its chairperson until a new agreement was reached with the current cable television supplier. After years of effort, we completed an amended city enabling ordinance and a franchise renewal agreement with MediaOne, which Birmingham approved on March 20, 2000. After 20 years of service to his community on this board, Hall believes it is time to move on. With the new agreement, the board and city will have many challenges ahead as the board assumes oversight and budget responsibilities for both governmental access and public access in addition to its other duties.

Hall thanked everyone for all their support particularly Don Gillis and the negotiating team along with Lisa Martinico. He commended Kathy Hagaman for her work as board administrator. Hall thanked his former vice-chairperson Bill Saunders, who is in the audience, for his support over the years.

Bill Saunders, who served on the Cablecasting Board for almost 20 years, thanked Steve Hall for his outstanding contributions to the Cablecasting Board for the past years. He shared some background on Hall's service from the time that the first cable franchise was awarded to Booth. Saunders talked about how Hall guided the board during its initial review of franchises and subsequent transfers. Hall has seen the cable provider go from Booth to Continental to U.S. West to MediaOne and now AT&T. He congratulated Hall on an outstanding job. The communities he has served are better for his hard working service.

Hall stated that there is no procedure in the ordinance for selection of a chairperson of the Cablecasting Board. The board has selected its own chair in the past. Hall strongly supports Lex Kuhne as a candidate for this position. In the interest of moving forward, Hall appointed Kuhne as the interim chair to take over for the next meeting until the board appoints a permanent chair.

Board members thanked Hall, Doctoroff and Gillis for all their hard work and dedication to the Cablecasting Board and as members of the negotiating team.

Cannon expressed the thanks of the cable operator to these individuals. They have represented the four communities and this board in a highly professional and competent fashion.

Pfeifer expressed her disappointment that the board is losing such valuable members.

PUBLIC COMMENTS

Mrs. Conrad thanked all of the members of the board who are leaving for their service. She had a question regarding an organization called "Liber Link Incorporated" that currently has people stringing lines on the east end of Birmingham.

Currier stated that Birmingham has a contract with McCloud. They may have subcontracted with this company to string wire. He will look into this.

The meeting was adjourned at 9:15 a.m.