

Present: Bello, Brower, Kokubo, Laidlaw, Lane and Spivak – Birmingham  
Borgon, Delaney, Lacroix and Woodard – Beverly Hills  
Ettenson – Bingham Farms

Absent: Applebaum – Birmingham

Also Present: Hagaman - Executive Director  
Currier – Attorney for Cable Board  
Martinico – Director of Technology, Birmingham Schools  
Helwig and Gillis – Bloomfield Community Television representatives  
Pfeifer – Beverly Hills Council liaison  
DiMaria - Comcast representative

Borgon called the meeting to order at 7:46 a.m. in the Rotary Room of the Baldwin Public Library at 300 W. Merrill in Birmingham.

#### **APPROVE MINUTES**

Motion by Kokubo that the minutes of a regular Cable Board meeting held on December 19, 2001 be approved as submitted.

Motion passed unanimously.

#### **RECOGNITION RESOLUTION**

Borgon read a resolution of appreciation honoring Cable Board member David Devereaux in recognition of his distinguished service to the Birmingham Area Cable Board as City of Birmingham representative from 1997 to November, 2001. Devereux will be sorely missed by the Board.

Motion by Laidlaw to adopt the Resolution honoring David Devereaux.

Roll Call Vote:

Motion passed unanimously.

#### **PROGRAMMING COMMITTEE REPORT**

Board member Jim Lane represents the Cable Board on the Bloomfield Community Television (BCTV) Program Development Committee. He reported on a couple of meetings of the Program Development Committee addressing new programming. People submit proposals for new programs, and BCTV determines whether they will go forward.

One of the new shows called Metro Book and Art is produced by MaryAnn Verdi-Hus from Beverly Hills. Another program that has been on the air was produced by a doctor and has to do with health issues. There is a potential program regarding health and fitness topics. Lane stated that BCTV has a full docket. The BCTV program guide indicates who is hosting the show and what it is about.

It was noted that former member Devereaux was appointed to attend BCTV Cable Access Board meetings. Helwig stated that those meetings are held irregularly, with the next one scheduled for sometime in February. Lane volunteered to represent the Board on the Cable Access Board.

### **COMCAST RELATED TOPICS**

#### Comcast Performance/Internet Status

Borgon presented DiMaria with a letter dated January 15, 2002 from the Cable Board addressed to Kate Ebli, Area Vice President of Comcast Cable Communications, Inc. The letter will accompany this month's subscriber complaints and place Comcast on notice of new defaults.

DiMaria explained why Comcast is going through a conversion to its new network at this time. Comcast was informed on December 9, 2001 that RoadRunner, an Internet service provided to Comcast by a third party vendor, would cease operation as a result of the ExciteAtHome bankruptcy proceedings. Comcast has negotiated to extend e-mail activity under RoadRunner until the end of February.

On December 29, Comcast began the conversion of 70,000 RoadRunner customers in the market. Anecdotal information indicated that a large percentage of the conversions went well although quite a few customers had problems. DiMaria understands that the Cable Board has received about 17 complaints regarding high speed Internet service. He remarked that this is not an area regulated by the Cable Board; however, the unique relationship with this board makes Comcast want to resolve any issues that come to the Board. Comcast has been able to resolve most of those complaints.

One of the main issues concerned the speed of the Internet connection. DiMaria related that the service was down on the evening of January 6 between 2:00 am – 7:00 am. Server speeds were adjusted from Comcast's main server in New Jersey. Secondly, there were difficulties getting to two main web posting sites, Digital Domain and Verio. Comcast was able to rectify that on the same day.

DiMaria stated that, about a week into the conversion, Comcast became aware that there were a number of customers in the area using routers. This actually breaks the service agreement with RoadRunner and with Comcast.net. People have used routers to connect a second computer to their high speed Internet service. The use of routers is not supported by Comcast.

DiMaria related that the major problem with the conversion was the volume of calls coming through the call center. There was an average of 14,000 calls a day the first week and 4,000 calls the second week. The call center is down to 2,000 calls a day this week, more of a typical day-to-day operation. There are still individual issues in communities that are being worked on with customers using certain operating systems. The conversion will not be complete until everyone is connected.

Customers that have lost service through this transition can request credit from Comcast. Because a large percentage did not have issues, Comcast is not issuing a mass credit.

DiMaria indicated that telemarketing surveys have been done to determine the percentage of connectivity of subscribers. As of last week, 10% of the customers still had connectivity issues. Currier requested that DiMaria share that survey with the Board.

DiMaria reiterated that Internet connectivity is not a service that the Cable Board regulates. He mentioned that Comcast is dealing with the Attorney General's office regarding Internet and customer protection issues. He will provide the Board with copies of the company's reply to the Attorney General's office.

DiMaria emphasized that Comcast had two options – shut service off or transition to its new system. The original plan was for a June migration to Comcast's system. Considering the company's Internet service was going to be shut off December 31, Comcast had to move more aggressively through the process.

The Internet group is separate from the Cable group. However, call center figures show that there was some overflow to the cable side for a few days during the transition. DiMaria indicated that the numbers still leave the company in compliance for the month of December and January.

DiMaria gave numbers for reaching a technical support person at the Plymouth call center. The number to use for Internet connectivity issues is 888/339-1688. The phone number for the cable television call center is 248/855-6971.

DiMaria explained that there have been changes in management with a new call center director starting last week. Comcast has hired 34 additional employees for the Plymouth call center. Training courses have started that will last four to five weeks.

The ExciteAtHome conversion is coming at the end of the month. DiMaria informed the Board that calls regarding that transition will not go to the Plymouth call center. This consortium will not have adverse issues with that conversion.

DiMaria stated that some things that Internet customers will see shortly are six additional e-mail addresses. They will have additional web space for downloaded files and web mail access for e-mail. Comcast.net will soon offer a business product separate from the residential product.

DiMaria stated that the problems experienced due to the transition were inconvenient. He has been in contact with Hagaman on a daily basis to inform her of what Comcast is doing internally. He reiterated that the major issues in the first week were speed and navigating to certain web mail sites. Those issues were resolved on the weekend of January 6.

In answer to an inquiry, DiMaria stated that anyone with an Internet speed issue should call Comcast.

Board members asked about Comcast's issues with the Attorney General's office. DiMaria indicated that the AG office received complaints in regard to the speed of the service, the cost, and having to transition the service. Comcast has been centralizing those complaints and will

provide a response to the Attorney General's office. The Cable Board will be provided with a copy of that letter.

Currier asked DiMaria to provide the BACB with information as to who at the Attorney General's office is handling the Comcast complaints.

Spivak referred to a recent Metro Times article about poor Comcast service and to an unfavorable article in New York magazine about Comcast management. He remarked that the articles should make Comcast and those who regulate cable service ashamed. Spivak is concerned that the citizens are not receiving satisfactory service from Comcast, and he is troubled by the fact that Comcast has a monopoly. It is about to dominate the whole cable industry in the U.S. Spivak cares about what happens going forward with respect to providing service to customers.

DiMaria emphasized that Comcast had to initiate the Internet transition following a billing conversion. He will continue to work with the Cable Board locally to do everything that can be done to improve service. Comcast management has been doing things internally to take proactive steps to make sure that the business is run well. There are procedures, policies and people in place to reach that end. That has been Comcast's focus for the last six to eight weeks.

Spivak asked DiMaria to estimate when service will be satisfactory. DiMaria anticipates that things will settle down significantly in February after the conversion. Comcast will have its new representatives available on the phone. There is a new call center director who is working with the supervisory team on new procedures. There are new routing procedures on the phone system to make it more accessible.

Lacroix asked for a clarification of the duties and responsibilities of a cable board with respect to Internet issues.

Currier stated that Comcast like many other cable providers provides three distinct services through its cable lines - cable television, telephone service in some areas, and Internet service. Each service falls under different statutes and regulatory authority.

Cable television is regulated by the federal government, which gives regulatory authority to the local franchising authority represented by these local boards. This board has the authority to regulate cable television activities within the purview of the statutes. Telephone service falls to the state statute. The state has declared that each municipality has some authority in determining how its rights-of-way are used but not to the extent the local authorities have with cable television regulation.

The Internet does not fall under federal statute at the present time nor does it fall under the state telecommunications statute. Cable companies are willing to pay franchise fees on Internet use to the local franchising authorities. They have presented the case in Washington that, because they are paying these franchise fees to local franchising authorities, it is not necessary for them to be regulated by the federal government. At the state level, cable companies are saying that they are paying franchise fees to the local franchising authority, therefore, it is not necessary for them to

have any further state regulation. The fact of the matter is that nobody has any effective regulation of Internet service.

The Internet crisis caused by ExciteAtHome going bankrupt has attracted the attention of the federal government, which is looking at that issue again. Currier stated that this Board is interested in what the Attorney General's office is doing with respect to the Internet service complaints it is receiving.

The citizens in this consortium are asking where to call to obtain relief because they are not getting what they want. Phone calls come to the Board's Executive Director. City clerks and administrators have been receiving complaints as well as State representatives. They are asking where to go to get the problem fixed.

DiMaria remarked that there have probably been only four Internet complaints in the last two years because the system was running. The consortium did not have to deal with Internet issues until this transition became necessary. He stated that Comcast will have direct tech support in Michigan, which ExciteAtHome did not have.

Currier stated that there are four categories of issues on the table at one time: Internet service, billing changeover and change in the cable line up, quality of transmission at the same time the bill was increased, and the merger of AT&T and Comcast. He questioned the effect on customers of AT&T's merge with Comcast.

Commissioner Taub, chairperson of the subcommittee of Public Services of the Oakland County Board of Commissioners, stated that this issue has been brought to the Board's attention, and there will be a resolution introduced by her and others within the community. Problems with Comcast service are a County-wide issue. Her subcommittee will be looking into what is going on and what can be done.

Lane stated that the cable company is not in compliance with the franchise agreement. There are many subscribers who cannot get through to Comcast. He questioned what constitutes a breach of agreement and how many times the company can commit the same breach.

Currier responded that a default is described in the Franchise Agreement and in the Consumer Protection Ordinance as a breach of agreement based on the standards of performance. A default is declared when a breach occurs and this Board has been documenting these defaults in writing to Comcast.

When the Board declares a monetary default, the company has 15 days to cure it. If it is a service default, they have 30 days to cure the issue. What was negotiated with MediaOne, which is standard in the industry, is that the cable company is allowed two events of default of the same kind in a twelve month period. All future defaults of the same kind are uncured on day one.

The Franchise Agreement also states that three defaults of any kind in a twelve month period represent an uncured event of default for that year. Currier stated that this Board and the citizens have been patient. The Board has begun taking steps to move forward to economically penalize

Comcast. This Board has officially declared the defaults, and they are now in an uncured state because there are multiple faults. The Board is in a position to assess an economic penalty in terms of liquidated damages. Currier suggests that this be considered by the Board in February. Comcast will have the right to appeal the complaints to each individual community. A number of communities in Oakland County are going to be doing this about the same time.

Ettenson questioned the effect that the proposed merger with AT&T will have on service.

DiMaria does not expect the transaction to fundamentally change the operations locally in this territory. Although it is premature to speculate on what the merger will do, DiMaria commented that all indications are that it should not affect the metropolitan Detroit area.

Bello referred to the number of phone calls received by the call center during the first few weeks of the Internet transition. In the Internet industry where major network transitions occur on a frequent basis, it is astounding that every Comcast customer called to complain at least once and a significant portion of subscribers called twice in a two-week period. His point is that this transition was not handled well by any reasonable industry standard.

It was stated earlier that Comcast performed a survey that shows that a majority of customers were satisfied. Bello suggests that DiMaria share any statistically valid survey with this Board. It would show that this transition was not handled poorly and that Comcast should not issue a mass credit.

Delaney is concerned that customers who receive a unified bill may not understand this Board's regulation of cable and its inability to regulate Internet service. The lack of authority to regulate Internet service concerns him. He suggests a Board resolution be adopted in an attempt to have this Internet regulation issue addressed.

At the Board's direction, Currier will draft a resolution for consideration at its next meeting to be sent to our elected officials at the state and federal level asking that local franchising authorities be given the authority to regulate Internet service and that guidelines and regulations be established to that end. It was clarified that the Internet issue refers to the cable company as a provider because there are other Internet issues with the phone companies.

Currier has been asked by the Board to contact the Attorney General's office and ask for information on what action they are taking with regard to Internet service complaints.

#### Birmingham Link

DiMaria reported that a coaxial link has been established to assure that there is a clear picture for Birmingham Commission meetings until the fiber link is up and running. The completion date for the fiber link is dependent upon approval of construction plans by the city engineer.

#### Subscriber Complaints

Hagaman reviewed complaints received within the last month and noted any resolution provided by Comcast. Most of the Internet related complaints were not addressed.

Complaint #01-54: Beth Ganezer of Franklin experienced problems with cable service and had trouble getting through to the call center. She found the Comcast staff unknowledgeable. This customer has been issued a credit. Hagaman stated that this has been a consistent problem that has been exacerbated by Internet issues. She is concerned that Comcast is not getting at the root of the problem.

Complaint #01-55: Steve Cates from Bingham Farms complained that Channels 101-110 are no longer available with the new channel lineup. This customer is saying that subscribers are paying more and receiving less. He had difficulty getting through to Comcast.

DiMaria stated that the channel change was explained to this person, and he was given two credits, a one month credit and a credit for his inconvenience in trying to get through to the call center.

Complaint #01-56: Kenneth Bergsman of Birmingham had difficulty getting through to Comcast. A customer service representative took care of this subscriber after Hagaman contacted Comcast.

Complaint #01-57: Alfred Bosley of Birmingham complained that Comcast is not offering a Newsgroup service with its new Internet system. Hagaman remarked that this is not the only complaint on this subject.

DiMaria responded that Comcast does not support a Newsgroup as part of its Internet service. He will provide Hagaman with a list of recommended free Newsgroup sites that are available.

Complaint #01-58: John VanTilburg in Birmingham wrote a note stating that he finds Comcast service sorely wanting and that it should be replaced. DiMaria remarked that there is not a specific complaint from this individual that can be addressed.

#01-59: Pat Timlin of Beverly Hills submitted a letter outlining Comcast's error in handling her payment and the unfortunate involvement of a collection agency. Hagaman stated that this complaint has been resolved with a credit. However, she questions whether the issue with the collection agency is being addressed.

DiMaria stated that the collection agency used by Comcast, Synergy, did not follow a policy in place during the conversion process. They were told not to collect on past due accounts during that time because of the issues that occurred during the conversion. After this complaint was received, Comcast reiterated its policy with the Synergy management team and the Comcast internal dispatch team. Going forward, Synergy will continue the process of collecting door to door. This particular case was not handled properly or according to procedure.

Hagaman questioned whether it is an accurate statement that Synergy field personnel do not get paid unless they receive a payment from the subscriber. DiMaria was asked to check on this.

Delaney commented on this complaint. He was informed at the last meeting that there are other measures used to contact a subscriber before Comcast sends out a collection agency.

DiMaria responded that there should be other contacts made first, and that is why Comcast cancelled the collection agency process during the billing conversion. The customer should receive written notice and a phone call before receiving a visit from the collection agency.

Delaney questioned how the information regarding non-payment of a bill, which was in error, got to the collection group. He asked if Synergy is connected into Comcast's billing system.

DiMaria stated that Synergy has a direct connection to Comcast's billing system. He will provide information on how the collection agency operates next month.

Currier asked how a Synergy employee is authorized to go to someone's house and whether they receive anything in writing from Comcast. There are ordinances and statutes that come into play if they are not authorized to knock on the door.

#02-02: Sherry VandenBerg of Birmingham complained about difficulty getting through to Comcast. She talked to five different people and received five different answers to her problem. Hagaman questioned the qualifications of the people answering the phones.

#02-04: Francis Olson of Birmingham questioned the orange flags in front of her house. DiMaria informed her that the flags were placed by Miss Dig to indicate the location of the utilities in the right-of-way.

#02-05: A complaint from Alice DiGregorio of Beverly Hills goes back to December and involves Comcast's inability to repair a problem and restore cable service. The complaint also had to do with the all day appointment window. Internet problems were part of this complaint. DiMaria stated that this person is back up and running.

#02-09: Roni Nicholoff of Birmingham complained that he could not get through to Comcast regarding a cable service problem and an Internet problem. DiMaria asked that this complaint be held over until next month because he did not receive a response from the Comcast advocate on the disposition of this issue.

#02-16: Carol Goodell of Bingham Farms had a complaint about digital service. DiMaria reported that the problem has been corrected and a credit was issued to this subscriber.

#2-17: Courtney King of Birmingham complained that both her Internet and cable service are not working. DiMaria asked that this complaint be held over. The customer was called but has not returned the call to the Comcast advocate. Comcast will continue to follow up.

#02-18: Ty Hicks of Birmingham complained about an unreasonably high bill. This is being followed up by the advocate.

#02-19 and #02-20: A Comcast customer advocate is working on these complaints.

The following complaints were related to Internet changeover: 01-60, 02-02, 02-03, 02-06, 02-07, 02-08, 02-10, 02-11, 02-12, 02-13, 02-14, 02-15,

Borgon commented that the Board, as a courtesy to the subscriber, has reacted to all Internet complaints, and they were addressed by Comcast.

Motion by Delaney, seconded by Spivak, that it be resolved to authorize the chairperson of the Birmingham Area Cable Board to issue a letter that will accompany subscriber complaints received this month to place Comcast on notice of new defaults.

Roll Call Vote:

Resolution passed unanimously.

#### Monthly Subscriber Statistics

DiMaria stated that the January system statistics will be provided to the Board in the correct format next month along with the February report. He will be able to e-mail system statistics to Hagaman in advance of the meeting so that the report can be included in the Board's packet.

#### **EXECUTIVE DIRECTOR'S REPORT**

The domain name for the Board's web site is [www.birminghamareacableboard.org](http://www.birminghamareacableboard.org). The hosting fee will be \$20 per month. Hagaman is in the process of tweaking the web page created by Gorilla Interactive. There were a few suggestions from Board members.

Construction on the mobile van is proceeding. The equipment has been ordered and received. Hagaman and Jim Gillis from BCTV will visit ProVideo Systems in Perrysburg, Ohio later this month to check on the progress of the installation. It is expected that the van will be completed by the end of the month.

#### **MLAC15/P18 REPORT**

Helwig outlined the program production schedule for Channel 15 and 18 over the last month. She indicated that 140 MLAC guides are distributed every month to the municipalities, Baldwin Library, BASCC, the BBAC and the Community House. BCTV distributes 120 Channel 18 guides to the same locations each week.

Helwig followed up on the quality of the live broadcast of the Beverly Hills Council meetings and reported that everything went well at the last meeting.

BCTV sent a letter to the City of Birmingham in response to an inquiry regarding taping and playback of planning commission meetings.

The weekend broadcast of meetings has been discussed with the PEG committee. In previous discussions, it was agreed to wait until the BCTV studio was updated and more digital playback equipment was added. There will be more physical space to add decks for MLAC weekend playback. Helwig reported that BCTV is starting to move on this. The purchase of four digital decks will allow BCTV to play back meetings over the weekend.

**OLD BUSINESS**

Borgon thanked Martinico for providing the Board with detailed information on grant expenditures. Martinico mentioned that she will plan a tour of the high school studio for the Board when everything is in place.

**NEW BUSINESS**

Borgon reviewed that the Cable Board met in the Village of Beverly Hills Council chamber in November to determine if the attendees could fit comfortably in that facility. The board is welcomed to use the Beverly Hills meeting room for its monthly meetings. The main benefits of meeting in that venue is that it is set up for a live broadcast, and it would be easier for BCTV to broadcast Cable meetings at the Beverly Hills location.

Helwig commented that BCTV would prefer holding Cable Board meetings at the Beverly Hills chambers because it would require fewer staff people and would not require use of the mobile production van. She added that the production would look better from that facility.

Woodard understands the benefits of meeting in Beverly Hills but will not support the move only because she works at Baldwin Public Library.

Laidlaw was of the opinion that meetings should be held in Birmingham occasionally. He understands the production issues and costs.

It was suggested to hold Cable Board meetings in Beverly Hills for a six month trial period.

Motion by Ettenson, seconded by Lacroix, to change the venue for monthly Cable Board meetings to the Beverly Hills municipal building for the next six months.

Yes: Bello, Borgon, Brower, Delaney, Ettenson, Lacroix, Laidlaw, Lane, Spivak  
No: Woodard and Kokubo

Motion passed.

**BOARD COMMENTS**

Lane stated that he produces a show at the BCTV studio for Channel 15 that covers topics that are of interest in the area. The topics include anything from term limits to development issues in Birmingham. Last night the panel talked about Comcast cable issues, which generated a lot of interest. That show will be broadcast next Thursday at 7 p.m.

Woodard thanked Comcast and Mike DiMaria for hosting a successful children's program at First Night in Birmingham.

Laidlaw thanked Comcast for being a major benefactor of the First Night New Year's Eve celebration. He commended the staff of BCTV for its holiday programming and on its quality and creativity.

At Borgon's request, Hagaman will follow up on Franklin's appointment of a representative to this board and the recent lack of attendance of Birmingham member Alec Applebaum.

**PUBLIC COMMENTS**

W. A. Zimmerman of 22191 Camelot Court in Beverly Hills commented that he has been advised by his legal counsel that Comcast has a valid claim for a 5% franchise fee. He has agreed to pay that fee subject to the condition that it be verified by a statement justifying the amount claimed by Comcast. Zimmerman proceeded to relate specifics regarding his unpaid balance and communications with Comcast regarding the balance due.

Pfeifer commented as an individual and not as a representative of the Cable Board or Beverly Hills Council. For a number of months, Mr. Zimmerman has appeared at both Cable Board meetings and Beverly Hills Council meetings. He has been treated courteously and his questions have been answered. Mr. Zimmerman has been requesting justification for paying the franchise fee. Pfeifer stated that Comcast is acting as an agent for the communities in collecting those franchise fees that are due to the communities.

Pfeifer remarked that Mr. Zimmerman has tried to make enablers of the Cable Board and Beverly Hills Council. She believes that his frustrations have become frivolous at this point, and he is on the edge of abusing his consumer rights. Pfeifer does not think the Cable Board can do anything more for him. He is taking a great deal of time from Beverly Hills Council business and this Board's business as well as time from the Village and Cable Board administrative staff. The attorney fees generated by Mr. Zimmerman are charged back to the communities and this board, which has become unconscionable. Pfeifer requests that he cease and desist.

Motion by Ettenson, seconded by Delaney, to adjourn the meeting at 9:54 p.m.

Motion passed unanimously.